

Uncertainty about Irish referendum on Unified Patent Court

Kluwer Patent Blog
October 12, 2017

[Kluwer Patent blogger](#)

Please refer to this post as: *Kluwer Patent blogger, 'Uncertainty about Irish referendum on Unified Patent Court'*, *Kluwer Patent Blog, October 12, 2017*, <http://patentblog.kluweriplaw.com/2017/10/12/uncertainty-irish-referendum-unified-patent-court/>

Although the Irish government scheduled a [series of referendums for 2018 and 2019](#) last month, the referendum on Irish participation in the Unitary Patent system was not one of them.



This was confirmed by the Department of Business, Enterprise and Innovation in Ireland. The press office of the ministry stated: 'The Government deferred making a decision on the timing of the Unified Patent Court referendum which remains a commitment in the Programme for Government. This issue will be kept under review.'

In reaction to questions by Kluwer IP Law about the reason for the postponement, and whether it means there will definitely not be a referendum on the UPC in 2018 or 2019, the press office stated 'there is no further clarification available at this time'.

Though the ministry remains silent about its motivation, it seems likely the delay is linked to the uncertainty about the future of the Unitary Patent and Unified Patent Court, which has been created by the Brexit vote. It is broadly discussed (see [here](#) and [here](#) for instance) whether the UK can stay in the UP system and whether it can keep its branch of the central division of the UPC, once it exits the European Union. The constitutional complaint against the German ratification of the UPC Agreement is a source of uncertainty as well.

Although these issues may be clarified in the upcoming two years, it seems unlikely Ireland will schedule the UPC referendum in 2018 or 2019 after all. According to the Irish online newspaper [thejournal.ie](#), the Irish Taoiseach - prime minister - Leo Varadkar has said: 'Any amendment to our Constitution requires careful consideration by the people. They should be given ample time to consider the issues and to take part in well-informed public debate. Setting a timetable for the referendums to be held over the next two years will allow all involved in campaigning on the issues to plan ahead and to facilitate that public debate.'

Ireland is one of the few member states of the UP system where a referendum is held as part of the ratification formalities. In Denmark a referendum was held on 25 May 2014. 62.5% of the Danish voters approved joining the UPC. So far, [14 member states have ratified the UPCA](#). If the UK and Germany ratify as well, the system will start. The UK may complete the ratification process later this year, but in Germany this depends on the decision of the Federal Constitutional Court about the complaint that has been filed against ratification.

For regular updates on the Unitary Patent and the Unified Patent Court, subscribe to this [blog](#) and the free [Kluwer IP Law Newsletter](#).