


Preparatory Committee publishes update on Unified Patent Court project

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The preparations for the Unified Patent Court are going on so the court can start functioning as soon as possible if the German Constitutional Court rejects the challenges to the Unitary Patent project.

 The UPC Preparatory Committee has declared this in an [update](#) which was published on its website on 19 december 2018. It is the first report of the committee since 27 April 2018. The update makes no explicit reference to the situation in the UK, despite the fact that many observers agree changes to the Unitary Patent project will be inevitable because of the upcoming Brexit, whereas others think post-Brexit UK membership of the Unitary Patent is impossible - even more so in the case of a hard Brexit.

There is no reference either to a time schedule for the start of the functioning of the UPC. In a hearing before the House of Lords late October, Kevin Mooney, chair of the Drafting Committee of the Rules of Procedure, had said he believed the court could come into existence at the end of next year.

In its update the Committee writes:

'2018 has been a year of mixed highs and lows. This year has seen two more Signatory States ratify the Unified Patent Court Agreement, namely the UK and Bulgaria which means there are now 16 ratifications in total of the Agreement, well over the number required. We still await the outcome of the complaint pending before the Constitutional Court in Germany before the project can move into the next phase, the period of provisional application.

Despite the current, somewhat unpredictable environment, the technical and operational preparations are continuing allowing for the project to move at pace in the event of a positive outcome from the German Constitutional Court.

The status of the project is constantly being reviewed and the Chairman continues to meet with the Executive Group and the operational team on a monthly basis.

Those that have applied for judicial positions in the Unified Patent Court are being contacted separately.'