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Justice Huber: decision on German constitutional complaint against Unified Patent Court Agreement in first quarter of 2020

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The constitutional complaint holding up the start of the Unified Patent Court will be decided upon in the first quarter of next year. Justice Peter Huber of the German Federal Constitutional Court (FCC), who is overseeing case 2 BvR 739/17, has said this in an [exclusive interview with Managing IP](#).

Huber added that the time frame will depend on the time it takes for him and other judges at the FCC to deliberate on the case. “It is quite a detailed process that we follow because we have to look at every detail of how we formulate and word the [ruling],” he said according to the interview of Managing IP. “But it is likely that we will get along with it.”

In the interview, Huber denied that the FCC has been delaying its decision because of the Brexit. According to Managing IP, he described the allegation as “bullshit”.

The German complaint against the Unified Patent Court Agreement was filed late March 2017 and led to the suspension of the German ratification procedure. This in turn delayed the entry into force of the whole UP system, as Germany is one of the member states that has to ratify before it can start.

If the complaint is dismissed, this doesn't necessarily mean Germany will immediately complete the ratification procedure, as there is great uncertainty about the consequences for the UP system of the upcoming Brexit. Earlier this year, the German Ministry of Justice stated: “The issue of the withdrawal of the United Kingdom from the European Union (so-called Brexit) and its implications for European patent reform play an important role in the further implementation process of the Unified Patent Court Agreement. The real and legal implications of withdrawing must be examined with regard to the Agreement and agreed at European level. This opinion forming is currently not finalized, not least because significant factors of the expected exit are not yet known.” ([see also this post](#))

If the complaint is admitted by the FCC, considerable delays and even the end of the Unitary Patent project are possible.

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