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German Bundestag approves legislation to ratify the Unified Patent Court Agreement

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The German Bundestag has approved [draft legislation to ratify the Unified Patent Court Agreement](#). 571 representatives support the UPCA, 73 voted against. It means the necessary 2/3 majority was easily achieved. There were three abstentions.

The vote is an important step towards introduction of the Unitary Patent system, which can enter into force only after Germany has completed the ratification procedure. The draft legislation will now go the Legal Committee of the Bundesrat and could be voted on by the Bundesrat in December (UPDATE 27/11: [according to the UPC Preparatory Committee](#) this is expected to take place on 18 December 2020). It will also have to be signed by the Bundespräsident, before Germany can formally deposit its instrument of ratification with the secretariat of the European Council and finalize the procedure.

It is the second time Germany is trying to ratify the UPCA. In 2017, after the Bundesrat's approval, a constitutional complaint against the previous ratification bill was filed; earlier this year the German Federal Constitutional Court [declared the ratification invalid](#) because only 35 member of the Bundestag were present during the vote.



It is [not unlikely that another constitutional complaint will be filed](#) this time.

Legal Committee

The UPCA draft legislation had been discussed yesterday by the Committee for Legal Affairs and Consumer Protection of the Bundestag, which [recommended its adoption](#). The AfD was the only party voting against. Its request for a public hearing because of the “abundance of critical voices in literature about the agreement and the uncertainties due to the Brexit” was turned down.

The CDU/SCU stated that the primacy of Union law provided for in Article 20 of the UPCA is not in conflict with the German constitution or the Federal Constitutional

Court's competence to review compliance with minimum constitutional standards in the case of a transfer of sovereign rights to European or intergovernmental institutions.

The SPD stated that the distribution of competences of the Unified Patent Court, particularly those of the London division with a view to the UK's exit from the European Union, can be regulated properly in the future in agreement.

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