

Kluwer Patent Blog

Germany resumes preparations for Unitary Patent system

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Germany has resumed preparations for the ratification of the Unified Patent Court Agreement. A draft bill for the implementation of the UPCA was published on 9 December 2016 by Justice Minister Heiko Maas. Together with the UK, Germany is one of the two countries that still have to ratify the UPCA before the Unitary Patent system can start functioning.

Activities in both countries show the preparations for the new system have resumed in full since the slowdown and pessimism about the new system, which was caused by the Brexit vote of 23 June. On 28 November, the UK announced that it will proceed with preparations for ratification of the Unified Patent Court and it signed the [Protocol on Privileges and Immunities Unified Patent Court](#) on 14 December.



The [German draft bill](#) gives some interesting information about the expectations regarding the Unified Patent Court. According to the German government, the court will likely have about 180 cases in the first year of its existence up to somewhere between 1800 and 2200 cases after ten years. In the first year, some 20 judges will be needed, most of them part-time.

The costs for the Unified Patent Court will be about 15,4 million euro in the first year and climb to over 18 million in the fourth year. The expected revenues for the court will raise from less than 2 million in the first year to over 7 million in the fourth year.

It means the UPC will be far from self-financing in the first years – according to the plans, this should be achieved in 7 years. The draft explains member states will have to pay 13,6 million euro in the first year and between 10 and 11,4 million euro in the second, third and fourth year. Germany, as an important user of the system, will bear a considerable part of these costs: 6 million in the first year, and about 5 million euro in the years thereafter.

The German government had submitted a draft bill already in May, which included a statement that it was an issue of urgency. Such statement however is [not allowed](#) if the transfer of sovereign rights on intergovernmental bodies is at stake, according to the German legal website JUVE, The new draft doesn't include such a statement.

Almost as important as the UPC Agreement itself, the German parliament still has to approve the [provisional protocol](#) to the Agreement, which allows some parts of the agreement to be applied early. As is explained on the website of the UPC Preparatory Committee: ‘This includes final decisions on the practical set up of the Court, for example, the recruitment of judges and testing of IT systems. The provisional application phase will also be used to allow for early registration of opt-out demands.’

Recently UPC Preparatory Committee chairman Alexander Ramsay [told Kluwer IP Law](#) that starting the provisional application phase ‘as soon as possible’ is a top priority for the committee.

Based on government circles, [JUVE has written](#) the German Parliament will discuss the draft bill on the Unified Patent Court Agreement and the approval of the Protocol on provisional application of the UPCA in February or March 2017.

The Unitary Patent system is expected to start functioning in the second half of 2017. When the provisional period can start isn’t clear yet. Once Germany and the UK have ratified, the UPCA has enough support to enter into force, but this is not true for the provisional protocol (more details on this issue [here](#)).

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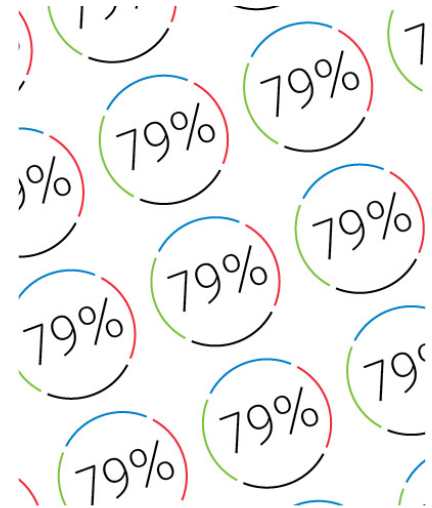
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