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Italy ratifies the Unified Patent Court Agreement

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Italy has ratified the Unified Patent Court Agreement. It is the 12th member state of the Unitary Patent project to do so. The instrument of ratification, the formal final step in the procedure, was deposited with the EU Council on 10 February 2017.

The two chambers of the Italian Parliament had approved the ratification bill in September and October 2016; it was published in the Official Gazette of the Italian Republic last November. Apart from ratifying the UPCA, Italy introduced new provisions in the IP Code, concerning contributory/indirect infringement and patent infringement exceptions. A local division of the UPC will be established in Milan.

Before the UP system can start functioning, 13 ratifications of the UPC Agreement are needed, included those of France, Germany and the UK. The UPC Preparatory Committee has already [announced the UPC will start its operations on 1 December 2017](#), ‘provided with the clear disclaimer’ that the UK and Germany will ratify in time and that the Provisional Protocol (PPA) can enter into force soon – presumably in May, under which parts of the UPCA can be applied early. This is necessary for the practical set up of the Court, for instance the appointment of judges and testing of IT systems. 13 signatures or so-called declarations to be bound by the Protocol are needed, but during a [conference this week](#), UPC Preparatory Committee chairman Alexander Ramsay said so far no more than 10 member states that have ratified the UPCA, have given their support to the PPA.

France [ratified the UPC Agreement](#) in 2014. Austria, Belgium, Bulgaria, Denmark, France, Luxembourg, Malta, Netherlands, Portugal, Sweden and Finland have ratified as well. The UK is expected to ratify in March, although after the Brexit vote this remains a sensitive issue, because of

the role of the CJEU in the Unitary Patent system. Yesterday a [popular newspaper in the UK](#) wrote a ‘secret plan to tie Britain to EU after Brexit is being kept ‘under the radar’.

The UK Government argues the UPC is not an EU institution and [has declared](#) the ‘decision to proceed with ratification should not be seen as pre-empting the UK’s objectives or position in the forthcoming negotiations with the EU.’

The German parliament is expected to ratify this spring. As this ratification will trigger the start of the UPC, Germany will postpone the formal deposit of its instrument of ratification until August, so the Court can indeed open its doors on 1 December 2017. As is outlined in Article 89 UPCA, the agreement enters into force on (...) ‘the first day of the fourth month after the deposit of the thirteenth instrument of ratification (...).’

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