

# Kluwer Patent Blog

## 'If German complaint is dismissed, Unified Patent Court could be operation early 2021'

Kluwer Patent blogger · Thursday, November 28th, 2019

"If I listen to [judge rapporteur in the case against the Unified Patent Court Agreement] Peter Huber and the German Constitutional Court (FCC) rules at the end of March, I have the optimistic view the ruling will be a positive one." Alexander Ramsay, chairman of the UPC Preparatory Committee, has said this in an [interview with the JUVE website](#).

According to Ramsay, the announcement by judge Huber in an [MIP interview](#) earlier this month, that the FCC is likely to decide the UPCA case in the first quarter of 2020, is "very good news because it's fast approaching."



Ramsay thinks that in case of a dismissal of the complaint against the UPCA ratification, "it would be realistic to expect the UPC to be operational in early 2021", at least if the "German government then takes the decision to proceed with its ratification of the protocol on provisional application immediately (...)[, which] will run for at least eight months."

In the period of provisional application the three governing bodies of the court – the administrative, budgetary and advisory committees – will be set up and candidate judges of the UPC court can finally be interviewed. The recruitment process started in 2016 and according to Ramsay, a total of 900 to 1000 people applied for 100 positions (most of them part-time): 50 for legally qualified judges and 50 for technically qualified judges.

About the consequences of the Brexit, Ramsay told JUVE: "The UK has shown quite clearly that it wants to stay in the UPC, and I think there's a strong political will to try to keep them in." And even without them, Ramsay said, the "UPC will still be the UPC although it will be one less member state. Of course, there will be things to be done if that should happen. We'll cross that bridge when we come to it."

The JUVE interview raises several questions. Firstly, it is not clear what Ramsay's "optimistic view the ruling will be a positive one" is based on, as judge Huber didn't say anything about this in the interview with MIP. Apart from that, the German government stated [last August](#) it will not proceed with ratification of the UPCA until the consequences of the Brexit are entirely clear. So Ramsay's supposition that – in case of a dismissal of the constitutional complaint – Germany will trigger the start of the UPC by ratifying the protocol on provisional application, may reflect an

optimistic view as well, but not necessarily a realistic one.

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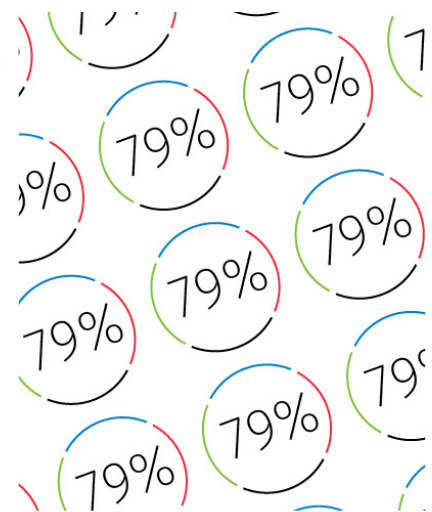
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