

## UPC on hold!

*A constitutional complaint puts the ratification process for the European Unified Patent on hold.*

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A private person in Germany filed a constitutional complaint with the German Constitutional Court against the UPC. The name of the plaintiff and the complaint are not publicly available, yet. What became public within the last few days is that the Court had asked the German President not to execute the laws required to ratify the UPC, which had already passed both chambers of Parliament. This is a common procedure of the Court if the judges find that the complaint is probably admissible and might be justified. The reasoning behind this approach is that it is almost impossible to undo the ratification of the UPC, while it is less harmful to delay the coming into force of the UPC for a while. The Court will process the complaint in an expedited process. However, with the upcoming German elections in September and the uncertain duration of the court proceedings, it will be impossible that the UPC becomes effective until the end of the year as it was anticipated recently. Now it is more likely that the earliest possible date for the UPC to become effective is in about a year.

Without the ratification of the UPC by Germany, the entire UPC is on hold. Germany, France and the UK are the members, whose ratification is essential for the start of the UPC. In the worst case, the German proceedings delay the entire ratification process until Brexit becomes effective, which will be the case in March 2019 if there is no agreement between the UK and the EU at that time. This could jeopardize the entire UPC project, because it is absolutely uncertain what happens if the UK quits before the UPC is ratified. We will have to trust that the German Constitutional Court is aware of that issue and renders a decision soon.