

Unified Patent Court now expected to open in early 2018

The UK General Election on 08 June 2017 may delay the UK's ratification of the UPC Agreement but it is not expected to delay the launch of the Unified Patent Court by more than a month or so.

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The Unified Patent Court (UPC) had been on track to open for business in December 2017. The UK General Election called for 08 June 2017 may delay the UK's ratification of the UPC agreement but is not expected to delay the launch of the new court by more than a month or so.

Only the UK and Germany now need to ratify the UPC agreement in order for the Unified Patent Court to open for business.

The next key step in the implementation process will be German parliamentary approval of provisional application of the UPC agreement which would enable the Court to start hiring staff and appointing judges. This is still expected to occur sometime in May. Formal German ratification was then expected to occur in August 2017 which, with UK ratification occurring sometime over the summer, would have enabled the UPC to come into existence in December 2017.

The original timetable for ratification was based on the assumption that the UK legislation on privileges and immunities needed for the UK to ratify the UPC agreement would be ready to lay before Parliament shortly after Easter. Since the legislative process to approve this legislation requires at least 21 days, there will not now be enough time to do this before parliament is dissolved ahead of the election.

It is still possible that the legislation on privileges and immunities could be laid before parliament after the general election and prior to the summer recess. The general election, however, makes this less likely to happen. If the legislation is not laid before parliament until after the summer recess then UK ratification is likely to take place somewhat later in the year, probably in October or November. This is likely to delay the opening of the Court by a few months, so a start date in early 2018 now seems realistic.

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