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THE UNITARY PATENT – THE NEXT SURPRISE

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Many spokes have already been put in the wheel of the project relating to a unitary patent protection in Europe. Brexit and the weakening of the British government due to the recent election results were considered as the hopefully last obstacles which have to be overcome on the home stretch.

However, nobody expected a veritable deep hit from Germany of all places. A plaintiff unknown to date has lodged a constitutional complaint against ratification of the agreement by means of which the Unified European Patent Court should be set up, and against the agreement itself. At request of Germany's Constitutional Court, the laws already passed by the German Bundestag therefor will not be signed by the German Federal President for the present.

Apparently, the Constitutional Court considers the constitutional complaint as not obviously unsubstantiated. There is no other explanation for this proceeding. Unfortunately, the contents of the constitutional complaint are however unknown to date.

We can only speculate concerning the delay resulting from the constitutional complaint. At best, a preliminary decision can be expected by the end of this year. The Unified European Patent Court could then possibly begin its work in the middle of next year, if Great Britain has also ratified by then. In case Great Britain does not ratify or Germany's Constitutional Court maintains its objections, we will probably have to be prepared for a delay of several years.



QUESTIONS?

If you have any questions regarding this topic, please feel free to get in touch with your personal contact or Jochen Sties at (j.sties@prinz.eu).

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