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UPC Agreement Ratification Process and Local or Regional Divisions

Before the Unified Patent Court Agreement (UPCA) can enter into force, it needs to be ratified by 13 Member States, including Germany, France and the UK (Art 89(1) UPCA). The **epi**'s Litigation Committee members from the various EU Member States have contributed information on the latest developments in their respective countries with regard to the ratification process. The input has been summarised in the attached table, which also contains news about the potential establishment of local or regional divisions (Art 7 UPCA) and the corresponding languages of proceedings (Art 49 UPCA). This table comprises data from all Signatory States to the UPCA. In addition, Poland, Croatia and Spain are included, being Member States of the European Union and potential candidates for joining the UPC in the future.

	Ratification Process	Local or Regional Division
AT	Austria deposited its instrument of ratification on 6 August 2013.	In January 2015, it was decided by the Council of Ministers to establish a local division in the premises of the Austrian Patent Office in Vienna. It is not yet sure whether, and to what extent, English will be admitted as an additional language of proceedings.
BE	Belgium deposited its instrument of ratification on 6 June 2014.	Belgium is committed to establishing a local division in Brussels, which will operate in the three national languages (French, Dutch and German) plus English.
BG	Bulgaria deposited its instrument of ratification on 3 June 2016.	Bulgaria is not considering the establishment of a local division, but under certain conditions the establishment of a regional division could be supported. In Bulgaria, there are no court cases on infringement of a European patent. Taking this lack of disputes into consideration, the opinion of the Bulgarian competent authorities is that the benefits of a regional division would be insignificant.
CY	In Cyprus, there is no progress with regard to ratification.	Cyprus has not made proposals for a local or regional division.
CZ	In the Czech Republic, for the moment, no steps are taken for ratification. A study is expected to be carried out on the impact of the UPC on Czech firms and on the Czech economy and budget. It is moreover noted that the present quality of machine translation into Czech must be improved.	There are furthermore no measures for a local or regional division. Discussions with Slovakia in this regard are only at the beginning.
DE	In Germany, a draft law for ratification has been brought before the Parliament.	It is planned to have four local divisions in Germany: Munich, Düsseldorf, Mannheim and Hamburg. The premises have been announced. Munich will most likely have English as the second language of proceedings (besides German). Düsseldorf appears to be more reluctant in this respect. It is thus not clear that all local divisions will accept English.



DK	Denmark deposited its instrument of ratification on 20 June 2014.	A local division in Copenhagen with English and Danish as the languages of proceedings is envisaged.
EE	The Ministry of Justice of Estonia has made a draft law for ratification. This has been circulated at the end of September 2016 among Estonian patent attorneys for opinion. The date for ratification is not yet known.	Estonia has concluded an agreement with Sweden, Latvia and Lithuania to set up a regional division (the "Nordic-Baltic" division) seated in Stockholm. Its premises have been announced. This will enter into force when two of these countries, including at least Sweden, have ratified the UPC. The Nordic-Baltic division is expected to constitute a flexible organisation which allows for proceedings to also be held in other locations than the seat of the division. The language of the proceedings will be English with interpretation to and from the national languages.
ES	The main political parties in Spain are against the unitary patent package. This has not changed after the decision of the CJEU dismissing Spain's actions. The Spanish profession is divided in this respect. The general elections have been repeated at the end of June 2016. A new government is expected to be formed soon, whose position needs to be awaited. There are two new political parties whose position is not known.	
FI	Finland deposited its instrument of ratification on 19 January 2016.	Finland intends to establish a local division in Helsinki with Finnish, Swedish and English as the languages of proceedings. This is presented in Government Bill 87 2016 (still before the Parliament). The local division will be at the same premises as the Market Court. In preparatory work conducted in relation to recent amendment of national law, it was suggested that Finland has no intention of applying provision of Rule 14 (2)(c), in other words, judges should be able to conduct the proceedings in any of the three languages (FI, SE, EN) mentioned. Other relevant legislation, such as the Finnish Patent Act and the

		Market Court Act, have already been amended based on the previous Government Bill 45 2015, which laid the basis for the Finnish ratification. The amendments will enter into force when the UPCA enters into force.
FR	France deposited its instrument of ratification on 14 March 2014.	A prestigious building for both the local and the central division has been found. The first instance court that is currently located therein will have to move to another location when the UPC starts operating. There will probably be a provisional building for the beginning. French and English will be the languages of proceedings. There are ongoing discussions to also accept German.
GB	<p>The UK Parliament adopted the Statutory Instrument [SI] in March 2016. This SI adapts the national patent law with respect to the UP and the UPC. It will enter into force when the UPCA enters into force. A second SI is required to implement to the Protocol on Privileges and Immunities. This is expected to be finished within short time.</p> <p>Due to the outcome of the “Brexit” referendum on 23 June 2016, it is unclear whether the UK will still ratify the UPCA. There is a legal path to securing UK’s continued participation in the UPC and the UP following “Brexit” but the major obstacles to the UK joining and remaining part of the UPC are political not legal.</p> <p>The UK may only continue to participate in the Unitary Patent by entering into a new international agreement with the participating EU Member States.</p> <p>Further, it is legally possible for the UK to continue to participate in the UPC after “Brexit” and to host the Life Sciences/Chemistry section of the court, but changes would have to be made to the UPC Agreement. The</p>	The UK plans to have a local division in London. The premises for both the local and the central division will be the “Aldgate Tower”, which is already being prepared.

	UK's continued participation would require it to submit to EU law regarding proceedings before the Court. It would also need to sign up to an appropriate jurisdiction and enforcement regime.	
GR	In Greece there is no progress, until now, regarding the ratification.	
HR	Croatia has a new government. For this reason, there is currently no news on potential plans to join the enhanced cooperation on unitary patent protection.	
HU	It is assumed that Hungary will ratify the UPCA, but it is not known when. A study on the impact of the UPC on the Hungarian economy, ordered by the Hungarian Patent Office, was conducted by PWC. The outcome of this study was negative. However, a new study, ordered by the Ministry of Justice, as the competent body, is under preparation by EY. The result of the study will not be binding.	Hungary may establish a local division with Hungarian and English as the languages of proceedings. Another option is to take part in a regional division.
IE	Before Ireland is able to ratify the UPCA, a referendum will be necessary. Ireland has a new government, but the referendum is not expected any time soon due to a lack of political will at the moment.	If the Agreement is ratified, it is expected that a local division will be established in Ireland.
IT	On 30 Sept 2015 Italy has joined the unitary patent and become the 26th member of the enhanced cooperation on unitary patent protection. After approval by the Government, the Italian Parliament, consisting of the Chamber of Deputies and the Senate, has approved the UPCA ratification instrument.	Italy intends to have a local division with seat in Milano. The Ministry of Justice has announced that the premises will be an existing court building at via San Barnaba 50, which is in the centre of Milano.
LT	Draft legislation to ratify the UPCA, to amend the patent law and to establish the regional division has been	Lithuania will take part in the "Nordic-Baltic" division (see above under "Estonia").

	submitted to Parliament. However, due to elections, there will be a new Parliament, which will start working on 14 November 2016. Thus, ratification is not expected until at the earliest spring 2017.	
LU	Luxembourg deposited its instrument of ratification on 22 May 2015.	Luxembourg will not have a local or regional division. This means that all cases will be brought before the central division (Art 33(1) UPCA). The premises of the Court of Appeal have been decided.
LV	In Latvia, currently the Ministry of Justice is planning to submit documents on the ratification to the Cabinet of Ministers in the first half of year 2016.	Latvia will take part in the “Nordic-Baltic” division (see above under “Estonia”).
MT	Malta deposited its instrument of ratification on 9 December 2014.	Malta will not have a local or regional division. This means that all cases will be brought before the central division (Art 33(1) UPCA).
NL	The Netherlands deposited its instrument of ratification on 14 September 2016.	The Council of Ministers formally decided that there will be a local division in The Hague. A study commissioned by the Ministry of Economic Affairs had pointed to rather limited benefits (or even an overall cost) of having an own local division, but there are expected to be substantial indirect benefits.
PL	Even though Poland participated in the enhanced cooperation concerning unitary patent protection, it decided not to sign or ratify the UPCA. This position has not changed.	
PT	Portugal deposited its instrument of ratification on 28 August 2015.	There are discussions about the establishment of a local division and the costs thereof.
RO	In Romania, the ratification process is ongoing. The Protocol on provisional application was signed on 14 September 2016. The ratification law will be brought before Parliament. Ratification by Romania is expected to be finished in the second half of 2016.	At the present moment, Romania is taking into consideration setting up a regional division in cooperation with Greece, but other countries are not excluded. A final decision in this respect has not yet been taken.
SE	Sweden deposited its instrument of ratification on 5 June 2014.	Sweden will take part in the “Nordic-Baltic” division (see above under “Estonia”).



SI	In Slovenia the legislation for ratification of the UPCA has been approved by Parliament. The Government is expected to deposit the instrument of ratification shortly, as it announced at the meeting of the EU Competitiveness Council on 29 September 2016.	A tripartite expert meeting with respect to forming a potential regional division was held in 2014 with the representatives of Hungary and Croatia, which expressed their interest for partnership in the regional division. Croatia would join such regional division subsequently, following the signing and ratification of the UPCA.
SK	The Slovak Republic has not moved to ratifying the UPCA. It will wait until the system is operational. Officials are discussing whether a study on the impact of the UPC on the Slovak economy should be conducted. There are concerns about the increase in density of patents, the level of the fees and the pro-patent approach of the UPC. The Ministry of Justice will look into the CJEU decisions.	There are no concrete steps for a local or regional division. The Ministry of Justice is involved in formal discussions with Czech colleagues in this regard. Brno has been considered as a possible seat of the local division.