

The Unified Patent Court

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Chairman of the Preparatory Committee of
the Unified Patent Court
Digital lecture CEIPI, 5 May 2020



The Unified Patent Court

- **ONE Court**
 - Court of first instance
 - Central division in **Paris**, sub-section(s) in **London**,
Munich
 - Several local divisions and one regional division
 - Court of Appeal in **Luxembourg**
 - Facilities and staff provided by the hosting state
 - Judges employed by the UPC

Preparatory Committee

- Inaugural meeting March 2013
- Establish the Unified Patent Court without undue delay
- Technical preparations
- Organisation – five working groups
 - Legal, Finance, HR, IT, facilities
- Last meeting March -17

Next Phase – Provisional Application Period (PAP)

- Protocol on Provisional Application (PPA)
- Apply the institutional, organisational and financial provisions of the Agreement provisionally
- Before the UPCA enters into force
- Giving the UPC a pilot phase
 - Preparing the functionality
 - Establishing the international organisation
 - Setting up the formal structure of the organisation
 - Approximately eight months

Preparatory phase

March																April																																								
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	
Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th

Advisory Panel
Preliminary list of eligible LQJ & TQJ candidates



Chair of PC
Gets the list & transfers later to AdvC

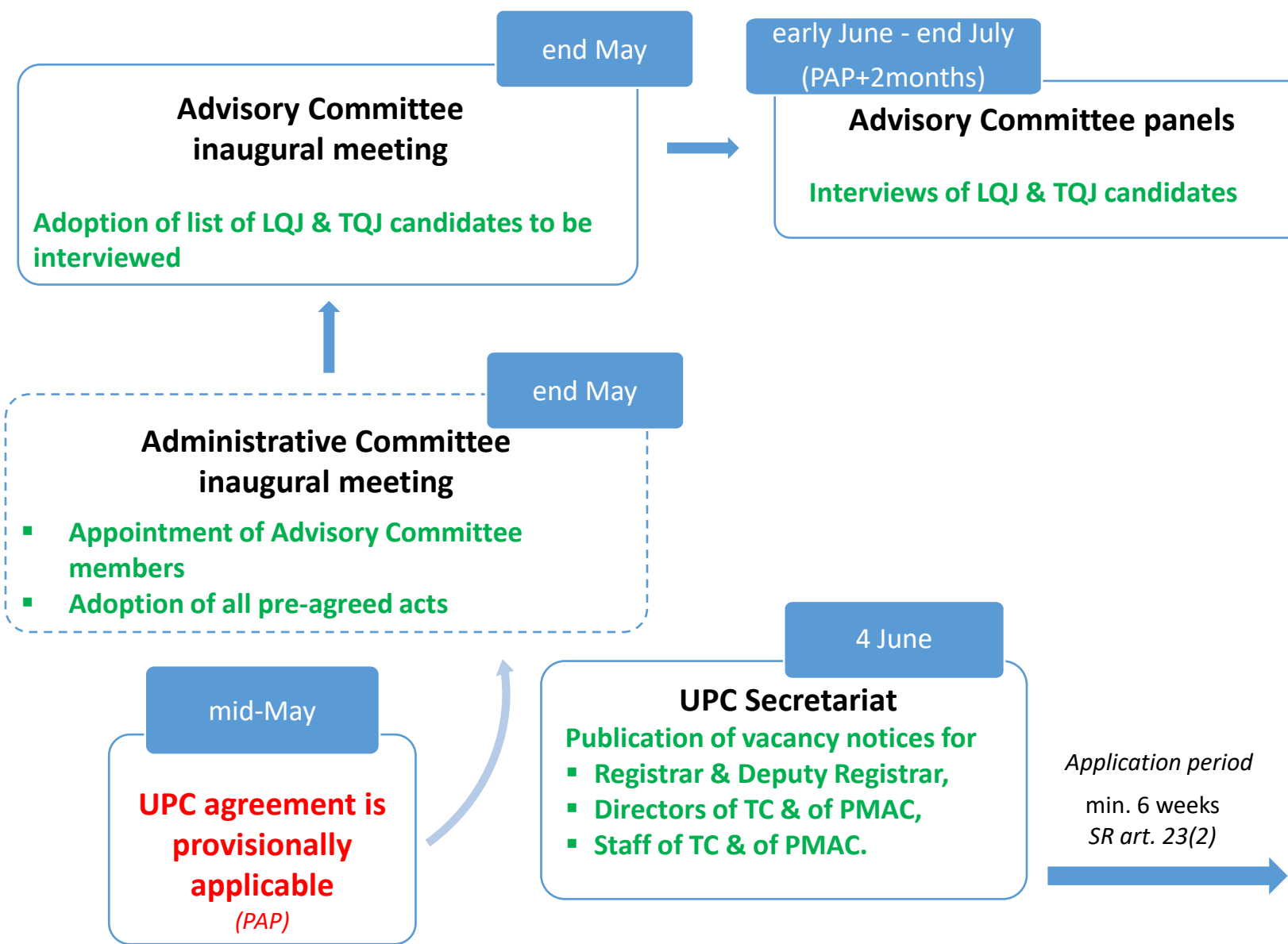


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Preparatory phase

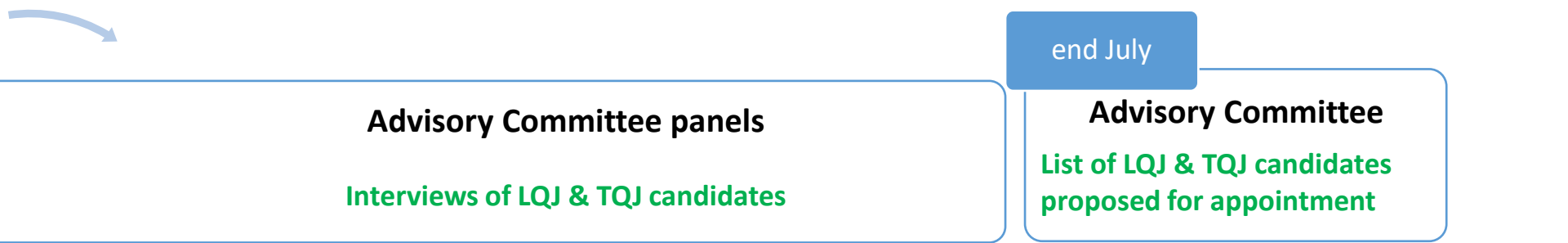
Provisional Application

April					May																															June																		
26	27	28	29	30	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu



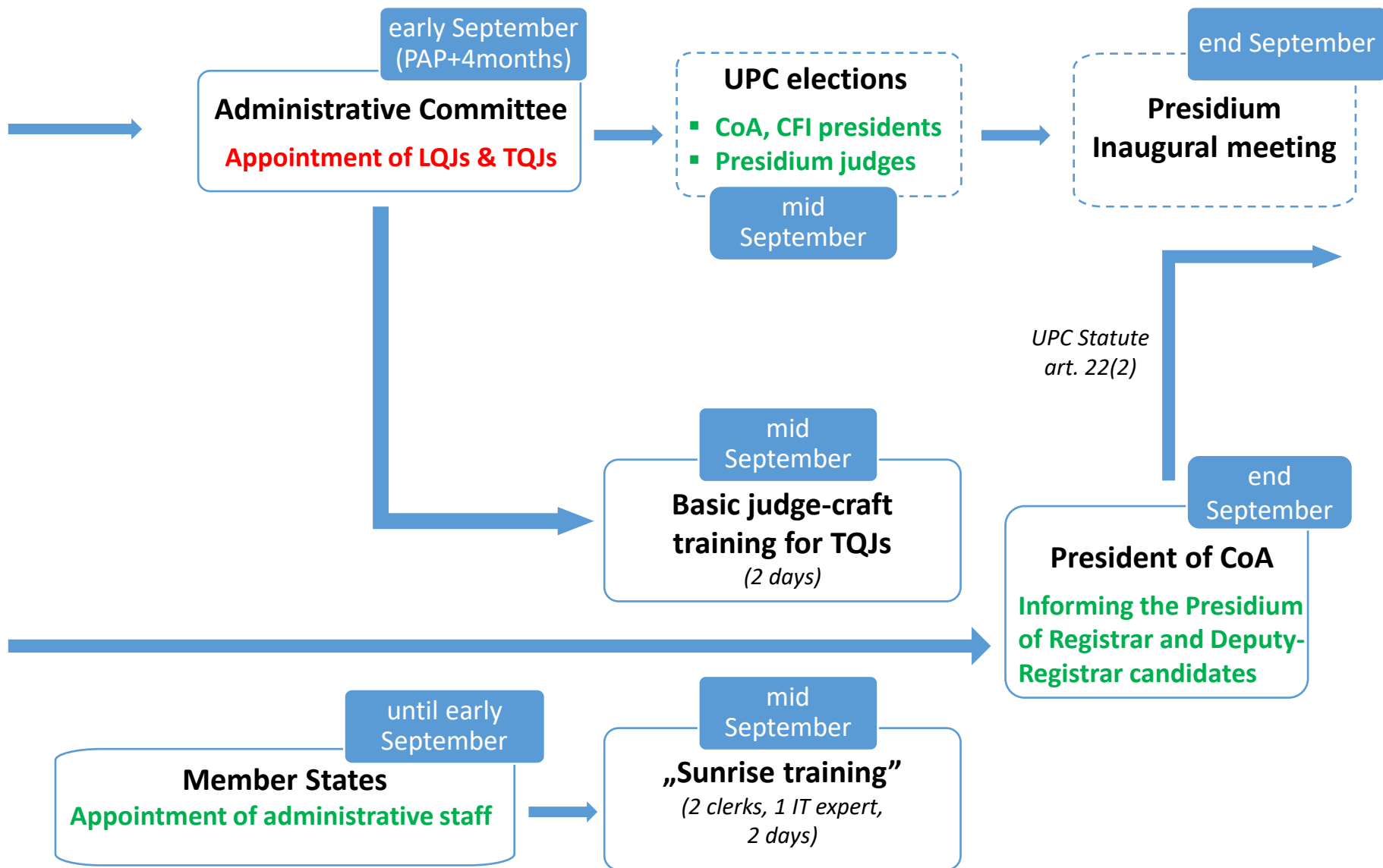
Provisional Application

June										July											August																																		
20	21	22	23	24	25	26	27	28	29	30	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	1	2	3	4	5	6	7	8	9	10	11	12	13	14
We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu							



Provisional Application

August														September																																
15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fri	Sa	Su



Provisional Application

October															November																																													
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr							

early October

mid October

November

(PAP+6months)

end October

November

Presidium
Interviews for the post of Registrar and Deputy Registrar

Presidium
Appointment of Registrar and Deputy Registrar
[min. 8 weeks after deadline for application, SR art. 23(2)]

Training Centre
(3 weeks)

LQJs & TQJs:

- RoP training, judge-craft training, mock trial *(4days/group)*
- UPC internal rules training *(2days/group)*

Registrar, Deputy-Registrar, admin staff:

- UPC internal rules training *(3days/group)*

UPC Secretariat
Informing the Registrar, CoA President & CFI President of the applications for posts of Directors of TC & of PMAC

Registrar, Deputy-Registrar, CoA President & CFI President
Interviews for the post of Directors of TC & of PMAC

Operational phase

February																												March																														
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su							

1st February

Registrar

Introduction to office by the Registrar:

- Proposed venue: CoA-Registry Luxembourg
- Opening ceremony with all judges and staff
- Oath

early February

Presidents, full-time
LQJs, staff of the sub-
registries occupy
their offices

Judge candidates – round 1

- 840 applicants from all MS
- ~40% DE (332), 16% FR (132), 13% IT (110), 7% UK (61), ~3% NL, AT, BE, DK, SE each
- 17% female, 83% male
- age: 42% between 25-45, 52% 46-60, 6% 61+
- LQJ 33%, TQJ 62%, both 5%

Judge candidates – round 2

- 154 applicants from all MSs
- DE (35), FR (33), IT (31), UK (12), (AT, BG, EL, HU, IE, NL, PT, RO, SK, SE, SI)
- 32% female, 68% male
- age: 18 under 40, 125 btw 40 and 60, 11 over 60
- (Some of these are duplicates from round 1)

Interim teams

- **The UPC not a paper product**
- **”Boots on the ground”**
- **Interim teams making sure it works in practice**
 - IT
 - HR & Training
 - Registry
 - Corporate functions
 - Finance
- **Workshops – engaging with the divisions and the future staff of the UPC – head start the PAP!**

2016-2020 development

- June 16 Brexit referendum (!)
- September -16 report to council, the SC/PC ready to move into next phase (!)
- November -16 UK communicate intention to ratify (!)
- March -17 final meeting of the PC
- May/June -17 UK notifies the depositary of parliamentary approval – UK ready to start PAP (!)
- May/June -17 German Federal Constitutional Court (FCC) asks German President to halt ratification(!)
- Summer/early fall -17 more MS ratifying UPCA and/or signing/approving the PPA, EE, LT, BG (!)
- December 31 deadline -17 for observations DE constitutional Court
- January -18 LV ratifies the UPCA(!)
- Case came up on the FCC list of cases to be dealt with during 2018(!)
- UK deposition its instrument of ratification on 26 of April 2018
- July -18 BG ratifies the PPA (!)
- Case came up on the FCC list of cases to be dealt with during 2019(!)
- January -19 AT signs the PPA(!)
- February 2020 UK informs that UK will withdraw from the UPC (!)
- March 2020 FCC rules, need for DE to re-vote is established (!)
- March 2020 German Government announces its intention to bring it back to parliament for a new vote within the legislature period (!)

Ratification status – what we need!

- **Start in ? - depends on ratifications**

- **UPCA**

- 16 MS (FR, AT, SE, BE, FI, DK, MT, PT, NL, BG, LU, IT, LT, EE, LV and UK) have ratified the UPCA
- DE) likely to ratify in ?
- Other MS are allegedly close; RU, EL, SI, HU (?)

- **PPA**

- 11 MS (FI, FR, SE, LU, UK, DK, NL, IT, EE, BE, BG) have signed or declared to be bound and need to take no further measures
- A number of MS have signed but not yet ratified EL, HU, RU, SI, DE and AT.
- Still lack DE + 1 MS! (AT close to complete its ratification process)

UK withdrawal – practical consequences

- **London section of the central division**
 - Article 7.2 UPCA and Annex II “...central division...seat in Paris....sections in London and Munich...”
- **Entry into force clause**
 - Article 89 “...three Members States...highest number of European patentets...”
- **Revision clause**
 - Article 87.1 “...seven years...or...2000 cases...broad consultation... Administrative Committee may ...revise this Agreement with a view to improving the functioning of the Court...”
 - Article 87.2 “The Administrative Committe may amend...bring it in line with international treaty or Union law.”

Thank you for your attention!