German Constitutional Court Partly Slows Down The Unified Patent Court Agreement Process

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On Friday 20 March 2020, the German Federal Constitutional Court announced its decision in the complaint against the German implementation of the Unified Patent Court Agreement (UPCA). The outcome of the decision is a clear yes-and-no!

The complaint is upheld partly. First, the UPCA as a law assigning sovereign rights to a supranational institution should have been passed in German parliament with a two thirds-majority, instead of a simple majority. For this reason, Germany’s passing of the bill is void.

Second, the court dismissed the complaint partly as being inadmissible regarding the allegation of a violation of fundamental democratic rights and of the principle of separation of powers. The appeal is further inadmissible in so far as it concerns the fixing of a ceiling on reimbursement as defined in the UPCA.

These are good news for friends of the UPCA. The German government may present the bill again to the parliament and if it is passed with a two-thirds-majority, Germany will be able to ratify the UPCA soon.

As all other claims have been dismissed, the UPCA is in a stronger position that...
before, especially in view of further attacks.

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