

The Unified Patent Court

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What have we been doing since 2016

- **”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!**

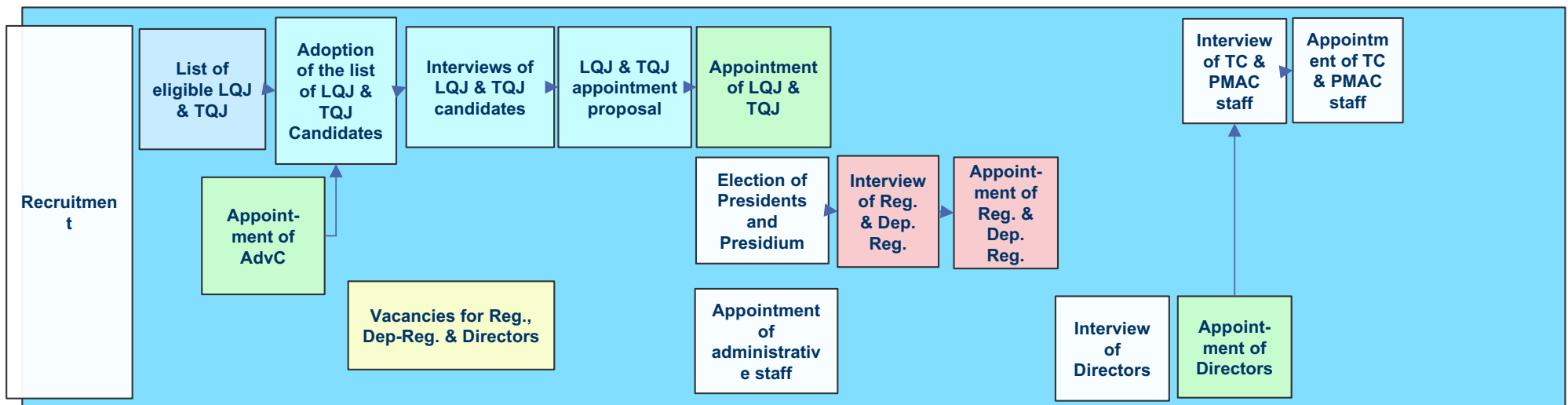
What is the next phase

– Provisional Application Period

- 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

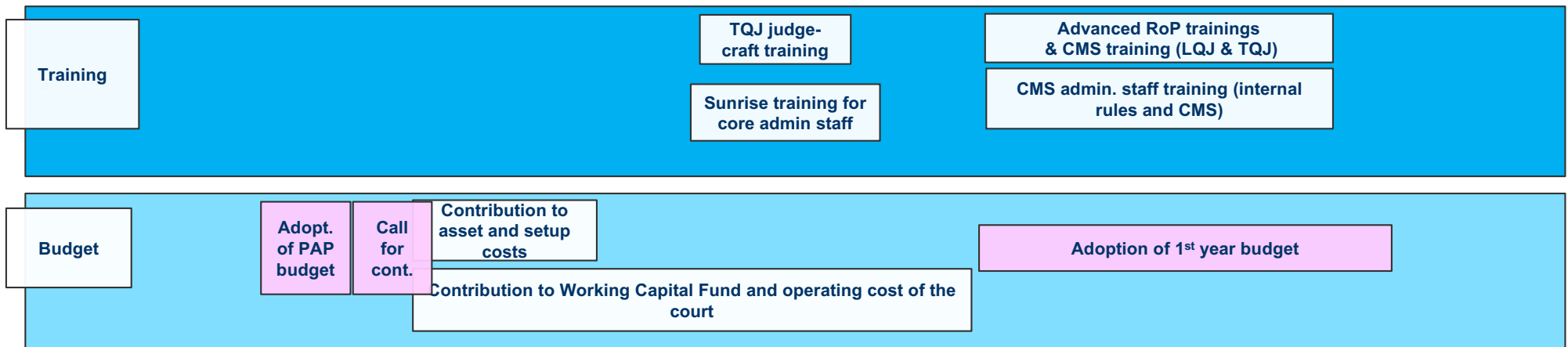
UPC Global Roadmap: recruitment

Preparation Phase	PAP					PAP - Sunrise			Entry into force
PAP-M1	PAP+M1	PAP+M2	PAP+M3	PAP+M4	PAP+M5	PAP+M6	PAP+M7	PAP+M8	UPCA
	★ UPCA is provisionally applicable (PAP) ★ Inaugural meetings (AC, BC, AdvC)					★ Go-live for Sunrise ★ CMS and support team ready			★ UPCA entry into force ★ Opening ceremony



UPC Global Roadmap: training & budget

Preparation Phase	PAP					PAP - Sunrise			Entry into force
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Budget Committee

Other



Ratification status – what we need!

- 12MS (FI, FR, SE, LU, DE, DK, NL, IT, EE, BE, BG SI) have signed or declared to be bound and need to take no further measures
- AT is coming in - before the end of the year
- Ratification requirement fulfilled by start of 2022

The entry into force clauses

- **Article 3 of the PA-Protocol: “*This Protocol shall enter into force the day after 13 Signatory States of the Agreement on a Unified Patent Court including Germany, France and the **United Kingdom**, have....”***
- **Article 89 of the UPC Agreement requires thirteen ratifications including those of **the three Member States in which the highest number of European patents had effect in the year preceding the year in which the signature of the Agreement took place****

The reasoning

- Any former understanding that Article 89 of the UPCA referred to the United Kingdom becomes obsolete.
- The three Member States of the European Union in which the highest number of European patents had effect is now France, Germany and Italy.
- The State Parties are the masters of the Agreement – Vienna Convention on the law of Treaties (VCLT)
- Any provision of a treaty has to be **read in its context based on the purpose and objective** which was pursued (Article 31, paragraph 1 of the VCLT).
- The Protocol is ancillary to the UPCA. The Signatory States wanted the entry into force clause of the Protocol to mirror the entry into force clause of the UPC Agreement - Article 89.
- **Interpretation in good faith** in accordance with Article 31 of the VCLT .

Thank you for your attention!