



Administrative Committee

Amendments to the Regulations Governing the Conditions of Service of Judges, the Registrar and the Deputy-Registrar of the Unified Patent Court

and

to the Duty Travel Rules of the Court

Luxembourg, 8 February 2023

EXPLANATORY NOTE

The Administrative Committee is invited to take note of the letter as submitted on 22 December 2023 by the President of the UPC Court of Appeal to the Acting Chairman of the Administrative Committee. This letter, found in the Annex to this document, presents a request for clarification on the Rules on Duty Travel of the UPC regarding legally qualified part-time judges of the Court and a proposed amendment to the Regulations Governing the Conditions of Service of Judges, the Registrar and the Deputy-Registrar of the Unified Patent Court.

The Administrative Committee is invited to adopt the proposed amendments.

**DECISION OF THE ADMINISTRATIVE COMMITTEE OF 8 FEBRUARY 2023 ON AMENDING THE
REGULATIONS GOVERNING THE CONDITIONS OF SERVICE OF JUDGES,
THE REGISTRAR AND THE DEPUTY-REGISTRAR OF THE
UNIFIED PATENT COURT
AND
THE DUTY TRAVEL RULES OF THE COURT**

THE ADMINISTRATIVE COMMITTEE

HAVING REGARD to the Agreement on a Unified Patent Court and in particular Articles 17 -18 thereof;

HAVING REGARD to the Statute of the Unified Patent Court and in particular Articles 3-4 thereof;

RECALLING that the Regulations Governing the Conditions of Service of Judges, the Registrar and the Deputy-Registrar in particular Articles 39-40 thereof;

CONSIDERING the request made by the Presidium,

HAS ADOPTED THIS DECISION:

Article 1

The Regulations Governing the Conditions of Service of Judges, the Registrar and the Deputy-Registrar of the Unified Patent Court are amended as follows:

The following second sentence is added to Article 40, paragraph 2:

“For a part-time judge, being appointed for a percentage of up to 50% of his working time, the place of employment at national level, or, where appropriate, his place of residence, shall be deemed his place of employment.”

Article 2

The Duty Travel Rules of the Unified Patent Court are amended as follows:

1) Rules 2(1)(i) first indent is replaced as follows:

- *“for legally qualified judges being appointed for a percentage of more than 50% of their working time: the city in which the instance or division of the Court to which the judge is appointed is located (Article 3(5) UPC Statute), or, where appropriate, his place of residence;”*

2) A second indent is added in Rules 2(1)(i) as follows:

- *“for all other legally qualified judges: their place of employment at national level or, where appropriate, their place of residence;”*

Article 3

This decision shall enter into force on 8 February 2023.

Done at Luxembourg on 8 February 2023

For the Administrative Committee

signed Johannes Karcher

The Chairperson

Annex – Letter from Mr Klaus Grabinski, President of the UPC Court of Appeal to Mr Johannes Karcher, Acting Chairman of the UPC Administrative Committee



Luxembourg, 22 December 2022

Mr Johannes Karcher

Acting Chairman of the Administrative Committee

Subject: Request for clarification on Rules on Duty Travel of the UPC (AC/12/08072022_E) regarding legally qualified part-time judges of the Court

Dear Mr Karcher,

The Presidium would like to draw the Administrative Committee's attention to a point related to the Rules on Duty Travel of the UPC, 8 July 2022 (AC/12/08072022_E), which might call for clarification. It specifically concerns the provisions applicable to part-time judges who are appointed in a division different from their place of employment at the national level.

According to R. 2.1(i) of the Rules on Duty Travel of the UPC

the "**place of employment**" means:

- **for legally qualified judges:** the city in which the instance or division of the Court to which the judge is appointed is located (Article 3(5) UPC Statute), or, where appropriate, his place of residence;
- **for technically qualified judges:** their place of residence.

In addition, Article 40 of the Service Regulation (AC/07/22022022_E) "**Mission expenses**" provides that:

1. A judge, the Registrar or the Deputy-Registrar travelling on mission and holding an appropriate travel order shall be entitled to reimbursement of travel expenses and to daily allowance in accordance with these Regulations and in line with the rules agreed upon by the Administrative Committee.
2. The reimbursement of travel expenses shall be limited to the cost of the most appropriate but economical journey between the place of employment and the place of mission.

These provisions will apply to a number of part-time judges - 20% and 50% - who are notably appointed in the Court of Appeal or in the Central Division (seat in Paris or section in Munich) to ensure a multinational composition of the panels in accordance with Articles 8 and 9 UPCA.

As, for example, the Italian and German judges appointed in the Central Division will have to travel from Rome and Munich to Paris, the French judge will have to travel from Paris to Munich, and the judges of the Court of Appeal will have to travel from their respective place of domicile or national court to Luxembourg. The Estonian judge appointed in the Nordic Baltic Regional Division will have to travel to Stockholm. The two German judges that are located in Dusseldorf and appointed in the Central Division in Munich and in the Local Division of Hamburg will also have to travel.

As these various situations may not specifically be covered by the provisions cited above, this ambiguity calls for a clarification regarding the entitlement to reimbursement of the costs incurred by these duty travels.

Assuming the application of the provisions to these situations is already encompassed by R. 2.1 (i) mentioned above, such entitlement should preferably be based on objective criteria in order to facilitate the case-by-case decisions on requests for reimbursement of the related expenses.

A definition allowing for the remuneration of travel expenses in the aforementioned situations would further the attractiveness of the UPC for current and future part-time judges and avoid late drop-outs in individual cases of 20% or 50%-judges. The travelling costs for these judges may even exceed their net salary of the UPC. Furthermore, as it is very likely that the percentage of working time for the UPC will significantly increase for a considerable number of these judges in the near future, the effects on the budget of the court will be moderate.

Therefore the Presidium suggests to amend the provisions cited above as follows:

Article 40 of the Service Regulation (AC/07/22022022_E)

1. A judge, the Registrar or the Deputy-Registrar travelling on mission and holding an appropriate travel order shall be entitled to reimbursement of travel expenses and to daily allowance in accordance with these Regulations and in line with the rules agreed upon by the Administrative Committee.

2. The reimbursement of travel expenses shall be limited to the cost of the most appropriate but economical journey between the place of employment and the place of mission. *For a part-time judge, being appointed for a percentage of up to 50% of his working time, the place of employment at national level, or, where appropriate, his place of residence, shall be deemed his place of employment.*

Rule 2.1(i) Rules on Duty Travel:

(i) "place of employment" means

- for legally qualified judges *being appointed for a percentage of more than 50% of their working time:* the city in which the instance or division of the Court to which the judge is appointed is located (Article 3(5) UPC Statute), or, where appropriate, his place of residence;
- *for all other legally qualified judges: their place of employment at national level or, where appropriate, their place of residence;*
- for technically qualified judges: their place of residence;
- for employees: the city in which the instance, division or centre of the Court is located, where the employee is employed, or, where appropriate, his place of residence; ...

I would be very grateful if you could pass this suggestion for clarification of the Presidium on to the Administrative Committee.

Yours faithfully,

Mr Klaus Grabinski

President of the UPC Court of Appeal