



Administrative Committee

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

Luxembourg, 8 July 2022

EXPLANATORY NOTE

The Regulations Governing the Conditions of Service of Judges, the Registrar and the Deputy-Registrar of the Unified Patent Court were adopted by the Administrative Committee on its inaugural meeting of 22 February 2022.

During the provisional application period, the following circumstances arose, which necessitate the amendment of certain provisions of the already adopted rules:

- In Article 22, by deleting the reference to establishing a reserve list of appointable candidates at the same time, when the Administrative Committee appoints the judges of the UPC, the Administrative Committee will be given more flexibility to gradually establish said list.
- Articles 27(4) and 48 are proposed to be amended with regards to the outcome of the call for tenders of the UPC's Medical and Social Security Plan (MSSP). The MSSP will cover, in particular, reimbursement of healthcare expenses, maintenance of salary in case of sickness or maternity, capital payments in the event of partial and total permanent invalidity and payment of birth grants. Nonetheless, the MSSP only functions as a primary coverage for full-time judges, the Registrar and the Deputy-Registrar, while for all other judges, it will be a complementary coverage for those costs, which are not covered by the primary, national medical and social security insurance, which the judges are required to maintain. Considering that according to the already adopted provisions in Article 27(4), part-time judges working on a small % base or on a case-by-case would also need to contribute to the MSSP, while, considering their national coverage, they would rarely, if never benefit therefrom, for the benefit of these judges, it is proposed to exclude from the MSSP those judges, whose worktime will be less than 50%.
- Article 31(3) is proposed to be amended, due to the unique remuneration concept for case-by-case appointed judges. These judges will request the payment of their remuneration for the hours invested in a case, differing from month to month, with no certainty as regards when such request will be submitted to the Court. Thus, it cannot be guaranteed that their remuneration can be paid by the end of the month when such request is submitted.
- Amendments concerning Articles 39 and 40 are of technical nature. Originally, the detailed rules governing the terms of reimbursement of expenses related to trainings and missions were foreseen to be included in Annex IV to the Regulations Governing the Conditions of Service of Judges, the Registrar and the Deputy-Registrar of the Unified Patent Court. Now, it is proposed instead, to adopt a separate set of Rules on duty travel, therefore, an indirect reference to such an annex became superfluous.

The Administrative Committee is invited to adopt the proposed amendments to the Regulations Governing the Conditions of Service of Judges, the Registrar and the Deputy-Registrar of the Unified Patent Court.

**DECISION OF THE ADMINISTRATIVE COMMITTEE OF 8 JULY 2022 ON AMENDING
THE REGULATIONS GOVERNING THE CONDITIONS OF SERVICE OF JUDGES,
THE REGISTRAR AND THE DEPUTY-REGISTRAR OF THE
UNIFIED PATENT COURT**

THE ADMINISTRATIVE COMMITTEE

HAVING REGARD to the Agreement on a Unified Patent Court and in particular Articles 15 – 17 thereof;

HAVING REGARD to the Statute of the Unified Patent Court and in particular Articles 2 – 4, 6 –7 and 9 – 12 thereof;

HAVING REGARD to the Statute of the Unified Patent Court and in particular Article 8 thereof, which together with the Protocol on the Privileges and Immunities of the Unified Patent Court and in particular Article 9 thereof defines the privileges and immunities of the judges, as well as of the Registrar and Deputy-Registrar of the Court;

RECALLING that the Regulations Governing the Conditions of Service of Judges, the Registrar and the Deputy-Registrar should be such as to secure for the Court the services of judges, Registrar and Deputy-Registrar of the highest standard of independence, integrity and ability;

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:

1. Paragraph 1 of Article 22 is replaced by the following:

“1. To ensure the continuous functioning of the Court, for situations where further appointments are necessary, the Administrative Committee shall establish a reserve list of appointable candidates for posts of legally qualified judges.”

2. Paragraph 2 of Article 22 is replaced by the following:

“2. The reserve list shall contain at least the same number of appointable candidates of the same nationality as appointed to posts of legally qualified judges.”

3. Paragraph 4 of Article 27 is replaced by the following:

“4. Part-time judges shall be entitled to the benefits from the Court’s Medical and Social Security Plan, inasmuch as they have been appointed under point (b) of paragraph 2 at a rate of at least 50% and to the extent they have paid contributions to the Court’s Medical and Social Security Plan.”

4. Paragraph 3 of Article 31 is replaced by the following:

“3. All remuneration shall be expressed in euros. It shall be paid:

a) at the end of each month for which it is due, for judges appointed in line with Article 26 or 27(2)(b), for the Registrar and for the Deputy-Registrar;

b) at the latest by the end of the month following the month of the receipt of the request for payment by the judge appointed in line with Article 27(2)(a).

Judges, the Registrar and the Deputy-Registrar may opt to have sums due paid in the currency either of the country of which they are nationals or of their country of residence or of the country where the division which they serve has its seat; their choice shall remain operative for at least two years."

5. Article 39 is replaced by the following:

*"Article 39
Training costs of judges*

The costs of the training of judges offered by the Court shall be borne by the Court. A judge participating in such training shall be entitled to the reimbursement of his travel expenses incurred in connection with such training and to daily subsistence allowance, in accordance with the Rules on duty travel agreed upon by the Administrative Committee."

6. Paragraph 1 of Article 40 is replaced by the following:

"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 subsistence allowance in accordance with the Rules on duty travel agreed upon by the Administrative Committee."

7. Paragraph 2 of Article 40 is deleted.

8. Article 48 is replaced by the following:

*"Article 48
Medical and Social security Plan and Pension Plan*

1. A judge, the Registrar and the Deputy-Registrar of the Court shall be entitled:

a) to benefits in case of sickness, maternity, work accident, invalidity or death, under the Medical and Social Security Plan of the Court, in accordance with Annex I;

b) to benefits under the Pension Plan of the Court, in accordance with Annex II.

2. Part-time judges shall be entitled to the benefits under point a) subject to the conditions set out in Article 27, paragraph 4."

Article 2

This decision shall enter into force on 8 July 2022.

For the Administrative Committee

The Chairperson