



Budget Committee

Decision regarding the remuneration of case-by-case part-time judges

Date: 03 May 2023

Place: online (video conference)

Explanatory Note

BACKGROUND

A judge of the Unified Patent Court (UPC) is appointed by the Administrative Committee either as full-time judge or as part-time judge. Part-time judges may work for the UPC either on a case-by-case basis or for a fixed percentage of their working time (Article 27(2) of the Regulations Governing the Conditions of Service of Judges, the Registrar and the Deputy-Registrar of the Unified Patent Court, AC/07/22022022_E, as amended by Decision on July 8th, hereafter Service Regulations).

Therefore, a number of judges (technically qualified) will be allocated on a case-by-case basis to panels at various locations of the UPC. Article 27(3) Service Regulations provides in this regard that case-by-case part-time judges will receive their basic salaries and any applicable allowances both on a pro rata basis corresponding to the working days spent on the cases attributed to them.

The Concept for the remuneration and the procedure for remunerating case-by-case part-time judges of the Unified Patent Court (AC/11/08072022, hereafter The Concept) defines the general principles for assessing the right amount of remuneration for case-by-case employment and sets out specific rules for determining the remuneration in individual, specific cases. Guidelines on time factor regarding the remuneration and the procedure for remuneration of case-by-case part-time judges (herein after “the Guidelines”) have been adopted by the Presidium on 20 December 2022. The Administrative Committee has been informed on its 08 February 2023 meeting.

1. According to the Concept, the rules are designed in order to:

- safeguard equal treatment, i.e. case-by-case part-time judges are not put at a disadvantage or favored in comparison to full-time judges and percentage-part-time judges, avoiding as much as possible overcompensation and undercompensation of the task required for dealing with a case;
- ensure that the remuneration of part-time case-by-case judges follows objective principles; and
- keep control over the finances of the UPC and its budget for the remuneration of judges.

2. The Guidelines implement these general principles as such:

- setting up a standardized classification of cases in three degrees of complexity and a transparent decision process;
- the amount of hours dedicated to each degree of complexity is defined prior to any request;
- exceptional situations are defined within the Guidelines;
- the commitment decision is checked by the Registrar with regard to compliance with hours allocated and the underlying money factor.

MONEY FACTOR PROPOSAL

The Concept under point (1) above calls for a decision of the Budget Committee in terms of money factor (gross-pay per time-unit (EUR/h)).

The Concept and Guidelines stipulate that the remuneration of case-by-case part-time judge is calculated and paid on a monthly basis. The payment shall be made at the latest by the end of the month following the receipt of the request for payment by the case-by-case judge.

The amount of remuneration for each respective month should be determined by multiplying a time factor by a money factor; the time factor (counted in time-units of hours considering the methodology set up by the Guidelines). The money factor shall be calculated as remuneration per time unit on the basis of the monthly remuneration for full-time judges.

According to the Service Regulations, in addition to their remuneration, judges may be entitled to certain allowances. The money factor takes in consideration irregularity and uncertainty by nature of the monthly remuneration of the case-by-case judges. In view of equal treatment, this document proposes to include a fair rate to cover for theoretical allowances that shall be included into the case-by-case judges' remuneration.

PARAMETERS DETERMINING THE MONEY FACTOR OF THE UPC

(i) Maximum number of Hours worked per Month:

Article 26(2) Service Regulations defines that one year of full-time service at the Court shall consist of 220 working days on average¹.

The hourly rate corresponding to a monthly salary can be computed, based on this annual number of 220 working days, the expected number of working hours per day (8 hours) and the number of months per year (12): 1.760 hours per year and of 147 hours per month. Therefore, the gross-pay per time-unit (EUR/h) can be expressed by dividing the monthly salary of a full-time-judge by 147.

Resulting of this rationale, the money factor (gross basic salary/hour) amounts to:

- **123.05** € per hour for work in the Court of First Instance² (18.089 €/147) and
- **136.48** € per hour for work in the Court of Appeal³ (20.062 €/147).

(ii) Entitlement to allowances and leaves:

¹ This amount of working days was computed by subtracting from 365 days the number of weekend' days, paid leave (30 days per year) and public holidays (on average 11 days per year).

² Salary as stipulated under Article 32(1) Service Regulation

³ *idem*

In order to facilitate the computation of the hourly entitlement to **allowances** and **leaves**:

- the budgeted amount for allowances in the year 2023 as per the current population of judges has been used; and
- an average amount of expected theoretical sick leave, birth and parental leave has also been taken into account.

Based on the above-mentioned, factors result in an increase of the hourly basic rate, as calculated under point (i) of **4.5%**.

Therefore, the proposed **hourly money factor** is as follows:

- $123.05 \text{ €} * 1.045 = \text{€ } 128.59$ per hour for work in the Court of First Instance and,
- $136.48 \text{ €} * 1.045 = \text{€ } 142.62$ per hour for work in the Court of Appeal.

(iii) Medical and Social Security Plan (MSSP) and Pension Plan

Case-by-case part-time judges do not take part in the Court's MSSP. Therefore, their remuneration by the Court does not include the contribution to be paid accordingly to this Plan. They are deemed to be covered by their primary employer or national scheme.

The monthly gross remuneration would result from multiplying the hourly basic salary as defined under point (ii) by the number of hours worked during a given month. The monthly contribution to the Pension plan (10.8%) would apply on 97%⁴ of the monthly gross remuneration.

(iv) Internal tax of the Court⁵

Article 31(5) of the Service Regulations foresees an internal tax regime which is stipulated in Annex III of the Service Regulations as a monthly tax system, based on gradual rates related to gross salary levels.

The detailed calculation of net-remuneration of case-by-case judges working for the Court of First Instance deriving from basic salary is illustrated in Annex II of the decision (based on 2022 data and rates).

⁴ 3% of the Hourly basic salary represents allowances that are exempt from staff contribution to the Pension Plan and to also from Internal tax.

⁵ see footnote 2 referring to Internal tax

ANNEX I

Decision of the Budget Committee

of 3 May 2023

Decision regarding the remuneration of case-by-case part-time judges

THE BUDGET COMMITTEE OF THE UNIFIED PATENT COURT HAS DECIDED

HAVING REGARD to the Agreement on a Unified Patent Court and in particular Article 16 – 17 thereof;

HAVING REGARD to the Statute of the Unified Patent Court and in particular Articles 3, 12 and 15 thereof;

HAVING REGARD to the Regulations Governing the Conditions of Service of Judges, the Registrar and the Deputy-Registrar (hereinafter: “the Service Regulations”) and in particular Articles 27 and 31 thereof;

HAVING REGARD to the Concept for the remuneration and the procedure for remunerating case-by-case part-time judges of the Unified Patent Court (AC/11/08072022_E);

HAVING REGARD to the Guidelines on the time factor regarding the remuneration and the procedure for remuneration of case-by-case part-time judges, as adopted by the Presidium on 20 December 2022,

HAS ADOPTED THE FOLLOWING DECISION:

DRAFT DECISION REGARDING THE REMUNERATION OF CASE-BY-CASE PART-TIME JUDGES

Article 1

1. For judges working on a case-by-case basis, the gross hourly rate for the basic salary is fixed at 1/147 of the monthly gross salary of a corresponding full-time judge according to Article 32(1) of the Service Regulations.
2. The gross hourly rate is raised to take into account any eligibility to allowances and relevant leaves under the Service Regulations by 4.5%.
3. Accordingly, the hourly rates for the basic salary are currently:
 - **128.59 €** per hour for work in the Court of First Instance;
 - **142.62 €** per hour for work in the Court of Appeal.

4. The resulting monthly remuneration is subject to a deduction of the staff contribution to the Pension Plan according to Annex II and to the regular internal tax according to Annex III of the Regulations Governing the Conditions of Service of Judges, the Registrar and the Deputy-Registrar.
5. The monthly ceiling of billable hours per month is 147 h / month.
6. It shall be the duty of the Registrar to publish the money factor and any amendments on the intranet of the UPC and inform all case-by-case part-time judges individually.

Article 2

This decision enters into force on 01 June 2023

Done online on 3 May 2023

For the Budget Committee

The Chairperson

ANNEX II

Calculation table from gross to net monthly remuneration working for Court of First Instance (2022)

Monthly Working hours	Gross Hourly Rate	Total Gross Remuneration	Pension Plan staff contribution	Internal Tax	Total Net Remuneration
1	128.59€	128.59€	13.47€	0.00€	115.12€
2	128.59€	257.18€	26.94€	5.90€	224.34€
3	128.59€	385.78€	40.41€	13.91€	331.45€
4	128.59€	514.37€	53.89€	21.92€	438.56€
5	128.59€	642.96€	67.36€	29.93€	545.67€
6	128.59€	771.55€	80.83€	37.95€	652.78€
7	128.59€	900.14€	94.30€	45.96€	759.89€
8	128.59€	1 028.73€	107.77€	53.97€	867.00€
9	128.59€	1 157.33€	121.24€	61.98€	974.11€
10	128.59€	1 285.92€	134.71€	69.99€	1 081.22€
11	128.59€	1 414.51€	148.18€	78.00€	1 188.33€
12	128.59€	1 543.10€	161.66€	86.01€	1 295.44€
13	128.59€	1 671.69€	175.13€	94.02€	1 402.55€
14	128.59€	1 800.29€	188.60€	102.03€	1 509.66€
15	128.59€	1 928.88€	202.07€	110.04€	1 616.77€
16	128.59€	2 057.47€	215.54€	118.05€	1 723.88€
17	128.59€	2 186.06€	229.01€	126.07€	1 830.98€
18	128.59€	2 314.65€	242.48€	134.08€	1 938.09€
19	128.59€	2 443.25€	255.95€	142.09€	2 045.20€
20	128.59€	2 571.84€	269.43€	150.10€	2 152.31€
21	128.59€	2 700.43€	282.90€	158.11€	2 259.42€
22	128.59€	2 829.02€	296.37€	166.12€	2 366.53€
23	128.59€	2 957.61€	309.84€	175.12€	2 472.64€
24	128.59€	3 086.20€	323.31€	185.13€	2 577.75€
25	128.59€	3 214.80€	336.78€	195.14€	2 682.86€
26	128.59€	3 343.39€	350.25€	205.15€	2 787.97€
27	128.59€	3 471.98€	363.72€	215.16€	2 892.08€
28	128.59€	3 600.57€	377.20€	225.17€	2 997.19€
29	128.59€	3 729.16€	390.67€	235.18€	3 102.30€
30	128.59€	3 857.76€	404.14€	245.19€	3 208.41€
31	128.59€	3 986.35€	417.61€	255.20€	3 312.52€
32	128.59€	4 114.94€	431.08€	268.21€	3 415.63€
33	128.59€	4 243.53€	444.55€	281.22€	3 517.74€
34	128.59€	4 372.12€	458.02€	293.23€	3 620.85€
35	128.59€	4 500.72€	471.49€	306.24€	3 722.96€
36	128.59€	4 629.31€	484.97€	320.25€	3 823.07€
37	128.59€	4 757.90€	498.44€	335.26€	3 923.18€
38	128.59€	4 886.49€	511.91€	350.27€	4 023.29€
39	128.59€	5 015.08€	525.38€	365.28€	4 123.40€
40	128.59€	5 143.67€	538.85€	381.29€	4 223.51€
41	128.59€	5 272.27€	552.32€	398.30€	4 323.62€
42	128.59€	5 400.86€	565.79€	416.31€	4 419.73€
43	128.59€	5 529.45€	579.27€	433.32€	4 516.84€
44	128.59€	5 658.04€	592.74€	451.33€	4 614.95€
45	128.59€	5 786.63€	606.21€	469.34€	4 710.06€
46	128.59€	5 915.23€	619.68€	489.35€	4 805.17€
47	128.59€	6 043.82€	633.15€	510.36€	4 900.28€
48	128.59€	6 172.41€	646.62€	530.37€	4 995.39€
49	128.59€	6 301.00€	660.09€	550.38€	5 090.50€
50	128.59€	6 429.59€	673.56€	573.39€	5 182.61€
51	128.59€	6 558.19€	687.04€	595.40€	5 275.72€
52	128.59€	6 686.78€	700.51€	618.41€	5 368.83€
53	128.59€	6 815.37€	713.98€	640.42€	5 460.94€
54	128.59€	6 943.96€	727.45€	664.43€	5 551.05€
55	128.59€	7 072.55€	740.92€	689.44€	5 641.16€
56	128.59€	7 201.14€	754.39€	714.45€	5 731.27€
57	128.59€	7 329.74€	767.86€	739.46€	5 821.38€
58	128.59€	7 458.33€	781.33€	765.47€	5 911.49€
59	128.59€	7 586.92€	794.81€	793.48€	5 998.60€
60	128.59€	7 715.51€	808.28€	820.49€	6 086.71€
61	128.59€	7 844.10€	821.75€	848.50€	6 173.82€
62	128.59€	7 972.70€	835.22€	876.51€	6 261.93€
63	128.59€	8 101.29€	848.69€	905.52€	6 346.04€
64	128.59€	8 229.88€	862.16€	935.53€	6 431.15€
65	128.59€	8 358.47€	875.63€	965.54€	6 517.26€
66	128.59€	8 487.06€	889.10€	995.55€	6 602.37€
67	128.59€	8 615.66€	902.58€	1 027.56€	6 685.48€
68	128.59€	8 744.25€	916.05€	1 059.57€	6 768.59€
69	128.59€	8 872.84€	929.52€	1 092.58€	6 851.70€
70	128.59€	9 001.43€	942.99€	1 124.59€	6 933.81€
71	128.59€	9 130.02€	956.46€	1 157.60€	7 016.92€
72	128.59€	9 258.61€	969.93€	1 192.61€	7 099.03€
73	128.59€	9 387.21€	983.40€	1 227.62€	7 176.14€

Monthly Working hours	Gross Hourly Rate	Total Gross Remuneration	Pension Plan staff contribution	Internal Tax	Total Net Remuneration
74	128.59€	9 515.80€	996.88€	1 262.48€	7 256.44€
75	128.59€	9 644.39€	1 010.35€	1 297.53€	7 336.51€
76	128.59€	9 772.98€	1 023.82€	1 335.91€	7 413.26€
77	128.59€	9 901.57€	1 037.29€	1 375.96€	7 488.32€
78	128.59€	10 030.17€	1 050.76€	1 416.02€	7 563.39€
79	128.59€	10 158.76€	1 064.23€	1 456.07€	7 638.45€
80	128.59€	10 287.35€	1 077.70€	1 497.02€	7 712.63€
81	128.59€	10 415.94€	1 091.17€	1 542.08€	7 782.69€
82	128.59€	10 544.53€	1 104.65€	1 587.14€	7 852.75€
83	128.59€	10 673.13€	1 118.12€	1 632.20€	7 922.81€
84	128.59€	10 801.72€	1 131.59€	1 677.26€	7 992.87€
85	128.59€	10 930.31€	1 145.06€	1 722.32€	8 062.93€
86	128.59€	11 058.90€	1 158.53€	1 767.38€	8 132.99€
87	128.59€	11 187.49€	1 172.00€	1 812.45€	8 203.05€
88	128.59€	11 316.08€	1 185.47€	1 857.51€	8 273.10€
89	128.59€	11 444.68€	1 198.94€	1 902.57€	8 343.16€
90	128.59€	11 573.27€	1 212.42€	1 947.63€	8 413.22€
91	128.59€	11 701.86€	1 225.89€	1 992.69€	8 483.28€
92	128.59€	11 830.45€	1 239.36€	2 037.75€	8 553.34€
93	128.59€	11 959.04€	1 252.83€	2 082.81€	8 623.40€
94	128.59€	12 087.64€	1 266.30€	2 127.88€	8 693.46€
95	128.59€	12 216.23€	1 279.77€	2 172.94€	8 763.52€
96	128.59€	12 344.82€	1 293.24€	2 218.00€	8 833.58€
97	128.59€	12 473.41€	1 306.71€	2 263.06€	8 903.64€
98	128.59€	12 602.00€	1 320.19€	2 308.12€	8 973.70€
99	128.59€	12 730.60€	1 333.66€	2 353.18€	9 043.76€
100	128.59€	12 859.19€	1 347.13€	2 398.24€	9 113.81€
101	128.59€	12 987.78€	1 360.60€	2 443.31€	9 183.87€
102	128.59€	13 116.37€	1 374.07€	2 488.37€	9 253.93€
103	128.59€	13 244.96€	1 387.54€	2 533.43€	9 323.99€
104	128.59€	13 373.55€	1 401.01€	2 578.49€	9 394.05€
105	128.59€	13 502.15€	1 414.48€	2 623.55€	9 464.11€
106	128.59€	13 630.74€	1 427.96€	2 668.61€	9 534.17€
107	128.59€	13 759.33€	1 441.43€	2 713.67€	9 604.23€
108	128.59€	13 887.92€	1 454.90€	2 758.74€	9 674.29€
109	128.59€	14 016.51€	1 468.37€	2 803.80€	9 744.35€
110	128.59€	14 145.11€	1 481.84€	2 848.86€	9 814.41€
111	128.59€	14 273.70€	1 495.31€	2 893.92€	9 884.47€
112	128.59€	14 402.29€	1 508.78€	2 938.98€	9 954.52€
113	128.59€	14 530.88€	1 522.26€	2 984.04€	10 024.58€
114	128.59€	14 659.47€	1 535.73€	3 029.10€	10 094.64€
115	128.59€	14 788.07€	1 549.20€	3 074.17€	10 164.70€
116	128.59€	14 916.66€	1 562.67€	3 119.23€	10 234.76€
117	128.59€	15 045.25€	1 576.14€	3 164.29€	10 304.82€
118	128.59€	15 173.84€	1 589.61€	3 209.35€	10 374.88€
119	128.59€	15 302.43€	1 603.08€	3 254.41€	10 444.94€
120	128.59€	15 431.02€	1 616.55€	3 299.47€	10 515.00€
121	128.59€	15 559.62€	1 630.03€	3 344.53€	10 585.06€
122	128.59€	15 688.21€	1 643.50€	3 389.60€	10 655.12€
123	128.59€	15 816.80€	1 656.97€	3 434.66€	10 725.17€
124	128.59€	15 945.39€	1 670.44€	3 479.72€	10 795.23€
125	128.59€	16 073.98€	1 683.91€	3 524.78€	10 865.29€
126	128.59€	16 202.58€	1 697.38€	3 569.84€	10 935.35€
127	128.59€	16 331.17€	1 710.85€	3 614.90€	11 005.41€
128	128.59€	16 459.76€	1 724.32€	3 659.96€	11 075.47€
129	128.59€	16 588.35€	1 737.80€	3 705.03€	11 145.53€
130	128.59€	16 716.94€	1 751.27€	3 750.09€	11 215.59€
131	128.59€	16 845.54€	1 764.74€	3 795.15€	11 285.65€
132	128.59€	16 974.13€	1 778.21€	3 840.21€	11 355.71€
133	128.59€	17 102.72€	1 791.68€	3 885.27€	11 425.77€
134	128.59€	17 231.31€	1 805.15€	3 930.33€	11 495.83€
135	128.59€	17 359.90€	1 818.62€	3 975.39€	11 565.88€
136	128.59€	17 488.49€	1 832.09€	4 020.46€	11 635.94€
137	128.59€	17 617.09€	1 845.57€	4 065.52€	11 706.00€
138	128.59€	17 745.68€	1 859.04€	4 110.58€	11 776.06€
139	128.59€	17 874.27€	1 872.51€	4 155.64€	11 846.12€
140	128.59€	18 002.86€	1 885.98€	4 200.70€	11 916.18€
141	128.59€	18 131.45€	1 899.45€	4 245.76€	11 986.24€
142	128.59€	18 260.05€	1 912.92€	4 290.82€	12 056.30€
143	128.59€	18 388.64€	1 926.39€	4 335.89€	12 126.36€
144	128.59€	18 517.23€	1 939.86€	4 380.95€	12 196.42€
145	128.59€	18 645.82€	1 953.34€	4 426.01€	12 266.48€
146	128.59€	18 774.41€	1 966.81€	4 471.07€	12 336.53€
147	128.59€	18 903.00€	1 980.28€	4 516.13€	12 406.59€