



# Presidium of the Unified Patent Court

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Rules governing the Registry of the Unified  
Patent Court (Amended)

Date: 31 July 2023  
Place: Luxembourg

# Amendments to the Rules governing the Registry of the Unified Patent Court

## Explanatory Note

### Access to the register

#### Rule 37 paragraphs 1 and 4

Parts of the register are not public due to applicable data protection requirements. There can, however, be duly justified reasons to access information contained in these parts, as may be the case when a third party wishes to verify the validity of the opt-out of a patent before challenging it. Rule 262.1(b) of the Rules of Procedure provides for public access to information directly related to proceedings before the Court but is not applicable on information not directly related to such proceedings. To fill the gap, paragraph 4 is added to Rule 37 containing a procedure where a respective request can be filed with the Registrar. The Registrar's decision, as far as adversely affecting the applicant, may be subject to an Application for review to the President of the Court of Appeal within one month of the decision's notification.

### Electronic address for purpose of service

#### Rule 43.2

In the first phase of operation of the Unified Patent Court, users have approached the Registry with the desire to have an electronic address registered for the purpose of electronic service according to Rule 271.1 of the Rules of Procedure in prospective proceedings. As the Rules of Procedure only apply to pending and not to prospective proceedings, it has been deemed necessary to include a statutory basis in the Registry Rules to respond to the requests. This allows the court to facilitate service as much as possible by electronic means and provides users with the possibility to have influence upon where service is effected.

For ease of reading, all proposed amendments have been implemented and highlighted into the text of the **Rules governing the Registry** of the UPC (as adopted on 6 April 2023).

**DECISION OF THE PRESIDIUM OF 31 July 2023**

**ADOPTING AMENDMENTS TO THE RULES GOVERNING THE REGISTRY OF THE UNIFIED PATENT COURT**

THE PRESIDIUM OF THE UNIFIED PATENT COURT

HAVING REGARD to the Agreement on a Unified Patent Court and in particular Article 10(4) thereof and to the Statute of the Unified Patent Court and in particular Articles 15(3)(e) and 24(1) thereof,

HAS DECIDED AS FOLLOWS:

The following amendments are adopted:

the amendments to Rules 37 and 43 of the Rules governing the Registry of the Unified Patent Court, as adopted on 6 April 2023.

Done on 31 July 2023

For the Presidium

signed Dr. Klaus Grabinski

The Chairperson

THE PRESIDIUUM OF THE UNIFIED PATENT COURT,

HAVING REGARD to the Agreement on a Unified Patent Court and in particular Article 10(4) thereof  
and to the Statute of the Unified Patent Court and in particular Articles 15(3)(e) and 24(1) thereof,

HAS ADOPTED RULES GOVERNING THE REGISTRY OF THE UNIFIED PATENT COURT AS SET FORTH  
BELOW:

## **PART I: GENERAL PROVISIONS**

### **Rule 1 Definitions**

For the purposes of these Rules:

- (a) “Agreement” means the Agreement on a Unified Patent Court;
- (b) “Financial Regulations” means the Financial Regulations of the Court;
- (c) “Staff Regulations” means the Staff Regulations of the Court;
- (d) “Registry” means the Registry at the Court of Appeal;
- (e) “sub-registry” means the branch of the Registry situated at a local or regional division or at the seat or one of the sections of the central division of the Court of First Instance;
- (f) “Registrar” means the Registrar of the Court;
- (g) “Deputy-Registrar” means the Deputy-Registrar of the Court;
- (h) “EPO” means the European Patent Office;
- (i) “CJEU” means the Court of Justice of the European Union;
- (j) “IT system” means the information technology system of the Court;
- (k) “judge” means, depending on the context, the presiding judge, the judge-rapporteur, the single judge or the panel of judges;
- (l) all further terms are used in accordance with the definitions given in Article 2 of the Agreement.

**Rule 2**  
**Subject-matter**

These Rules shall govern the management of the Registry, including the sub-registries, the keeping of the register and the duties of the Registrar and the Deputy-Registrar.

**Chapter I: Registry and register**

**Rule 3**  
**Registry opening hours**

1. The central division, the local and the regional divisions of the Court of First Instance and the Court of Appeal shall be open to the public during opening hours, except on Saturdays and Sundays and local holidays at the respective location. Opening hours shall be determined by the President of the Court of First Instance for the seat of the central division, by the presiding judge of a section of the central division for the respective section, by the presiding judge of the local or regional division for the respective division and by the President of the Court of Appeal for the Court of Appeal. Opening hours of each division of the Court of First Instance and of the Court of Appeal shall be published on the UPC website.

2. Notwithstanding the applicability of Rule 4 of the Rules of Procedure, paper documents and physical evidence may be submitted in person during opening hours of the competent division of the Court of First Instance or of the Court of Appeal.

**Rule 4**  
**Storage of evidence and hard-copy pleadings**

The Registry and each sub-registry shall have the required means for the storage of physical exhibits, pleadings or any other items filed in hard-copy form by the parties.

*(Ref.: R. 170-172 RoP)*

**Rule 5**  
**Information technology system of the Court**

1. The IT facilities of the Court shall be suited to the requirements of the Court's various functions and shall in particular include:

- (a) An electronic case management system, in accordance with the requirements laid down in these Rules;
- (b) the Court's communication system, including the Court's email and videoconference system;
- (c) budget and finance software;
- (d) software for the general organisation and administration of the Court;
- (e) software for administrative files;

- (f) the Court's website;
- (g) the Court's electronic library;
- (h) the Court's scanning facility;
- (i) a security system for the protection and safeguarding of electronic data, including a backup system for the IT system;
- (j) an archive for the storing of case files and the administrative files of the Court.

2. The IT facilities of the Court shall have a separate part for the Arbitration and Mediation Centre.

### **Rule 6** **Case management system**

1. The case management system shall comprise:

- (a) the register of the Court;
- (b) the lists referred to in Rule 16.

2. The case management system shall in particular:

- (a) provide that, for each written pleading, document or other item filed with the Court, an electronic notification is issued to the Registrar or the Deputy-Registrar;
- (b) provide that, for each written pleading, document or other item filed in relation to proceedings brought before the Court, an electronic notification may be issued to the judges to whom said proceedings have been assigned and to other staff of the Court as required;  
*(Ref.: R. 345.3, R. 345.6 RoP)*
- (c) provide for a system of deadline notification for the Court;
- (d) allow for the electronic signing and authentication of documents of the Court by the Registrar, Deputy-Registrar and judges of the Court;
- (e) provide a search function which allows all documents of the Court to be searched and accessed;
- (f) provide that no entry can be deleted from the register and that following any amendment or rectification the original entry is preserved, and provide that amendments made in the register can be identified as such;
- (g) provide access to data needed to establish statistics on the Court's activities as appropriate.  
*(Ref.: Art. 44 UPCA, Art. 23(2)(e) of the Statute)*

**Rule 7**  
**Content of the register**

The register shall contain the following items:

- (a) the case files, which shall be a complete and accurate recording of the proceedings before the Court and shall include:
  - i. a compilation of proceedings-related information;
  - ii. all written pleadings, documents and other items filed with the Court [via the case management system];
  - iii. all orders and decisions by the Court;
  - iv. the receipt of a written pleading or document filed in a hard-copy form and lodged in a situation provided for in Rule 4.2 of the Rules of Procedure;
  - v. the receipt of physical exhibits, documents or any other item and the information where the exhibit, document or item is stored;
  - vi. recordings of interim conferences and oral hearings;
  - vii. statements made by witnesses;
  - viii. reports written by court experts;
  - ix. translations provided by the parties or ordered by the Court;
  - x. applications for legal aid and related orders or decisions of the Court;
  - xi. any information pertaining to fees due, fee payments and fee reimbursements, witness expenses, court and party expert expenses, penalties paid and securities;
  - xii. decisions and orders of the Court and any corrections thereof, and settlements before the Court;
  - xiii. preliminary rulings of the CJEU;
- (b) the list of registered Applications to opt out and Applications to withdraw an opt-out;
- (c) the Protective letters received by the Court;
- (d) any other document deemed appropriate by the Registrar.  
*(Ref.: R. 4, 106, 115, 170 RoP)*

**Rule 8**  
**Language of the register**

1. The register platform shall be provided in English, French and German.
2. Irrespective of translations filed by the parties or ordered by the Court, written pleadings and other documents, including written evidence, shall be entered in the register in the language of the proceedings unless the Court or the Rules of Procedure provide otherwise.  
*(Ref.: R. 7 RoP)*

**Rule 9**  
**Administrative files**

The administrative files of the Court contain information about court-relevant administrative processes, which are not part of the case management system and shall include:

- (a) all documents, forms, notifications and any other items relating to the administration of the Court;
- (b) all forms, templates, explanatory remarks and guidances used for the proceedings of the Court.
- (c) any other documents deemed appropriate by the Registrar.

## **Chapter II: Registrar and Deputy-Registrar**

### **Rule 10 The Registrar**

1. The general duties of the Registrar shall be to manage the Registry, to provide support for the general administrative functions of the Court, including budget and finance matters and external communications of the Court, and to provide support for the proceedings before the Court of Appeal.
2. Other duties of the Registrar shall be those that are entrusted to him by a decision of the Administrative Committee and, regarding budget or finance matters only, by a decision of the Budget Committee.
3. Notwithstanding his judicial independence under Article 17(1) of the Agreement, the Registrar shall perform his duties under the authority of the President of the Court of Appeal.  
*(Ref: Art. 10, 17(1) UPCA, Art. 23, 24, 26(3) and (4) of the Statute)*

### **Rule 11 The Deputy-Registrar**

1. The general duties of the Deputy-Registrar shall be to organise the activities of the sub-registries, under the authority of the Registrar and the President of the Court of First Instance, to provide administrative and secretarial assistance to the divisions of the Court of First Instance and to provide support for the proceedings before the Court of First Instance.  
*(Ref.: Art. 25 of the Statute)*
2. The office of the Deputy-Registrar shall be set up at the seat of the central division of the Court of First Instance.  
*(Ref.: Art. 25(3)-(4) and 35(5) of the Statute)*

## **Chapter III: Data Protection**

### **Rule 12 Data protection**

The Registrar and Deputy-Registrar shall comply with the applicable data protection requirements and provisions when performing their duties.



## **PART II: SUPPORT FOR ADMINISTRATIVE FUNCTIONS OF THE COURT**

### **Chapter I: General**

#### **Rule 13**

##### **Maintenance of the Court's IT system**

1. The Registrar shall be responsible for maintaining the IT system of the Court. The performance of this duty may be delegated by contract to an external service provider under the supervision of the Registrar.

2. In the case of delegation of duties, the Registrar shall ensure that an external service provider is informed about and contractually bound to comply with the applicable data protection requirements and provisions.

*(Ref.: Art. 5 UPC GDPR Guidelines, Art. 28 EU GDPR).*

#### **Rule 14**

##### **Electronic library of the Court**

1. The Registrar shall be responsible for maintaining and regularly updating the electronic library of the Court.

2. He shall ensure that Judges of the Court have access to the electronic library.

#### **Rule 15**

##### **Document formats**

On instruction of the Presidium the Registrar shall determine and publish document formats and maximum file size accepted by the Court for Court filings

*(Ref.: Art. 44 UPCA and R. 4 RoP)*

#### **Rule 16**

##### **Keeping of lists**

1. The Registrar shall be responsible for keeping and regularly updating:

(a) a list of the legally qualified and technically qualified judges composing the pool of judges, together with an indication of each judge's linguistic skills, experience, seniority, other place of employment and cases previously handled, and each technically qualified judge's field of technology;

(b) a list of European patent attorneys entitled to represent parties before the Court;

(c) an indicative list of court experts;

- (d) a list of the available languages of proceedings in accordance with Rule 14.3 of the Rules of Procedure;
- (e) an indicative list of translators and interpreters;
- (f) a list of all vacancies and forthcoming vacancies for judges, the Registrar and Deputy-Registrar and staff of the Court;
- (g) a list of official holidays, and absences and leave of judges, the Registrar, Deputy-Registrar and staff of the Court.  
*(Ref.: Art. 20(1) and 23(2)(b) of the Statute, Art. 18, 48(3), 57(2) and Art. 49(1) and 49(2) UPCA, R. 14.3, 185(9) RoP)*

2. The lists indicated under paragraph 1. (a), (c), (e) - (g) are not to be made public.

#### **Rule 17**

##### **Registration of European patent attorneys**

The Registrar shall be responsible for the registration of European patent attorneys entitled to represent parties before the Court in accordance with the Rules on the European Patent Litigation Certificate.

#### **Rule 18**

##### **Managing administrative files**

1. The Registrar shall be responsible for opening and maintaining the administrative files of the Court.
2. He shall record the administrative files in chronological order, providing a number identifying the file, and the date it was opened.
3. He shall provide a date for each item added in the administrative file and ensure that items related to the same matter are consolidated in one file.

#### **Rule 19**

##### **Archiving**

1. At the earliest one year after a case file has been closed, the Registrar shall archive said case file.
2. The Registrar shall archive the administrative files of the Court after a period determined by the Presidium.
3. The Registrar shall delete the archived files, in full or in part, on the basis of guidelines established by the Presidium.

#### **Rule 20**

##### **Secretarial support**

1. At the request of the President of the Court of Appeal, the Registrar shall provide secretarial

support to the Administrative Committee, the Budget Committee and the Advisory Committee.

2. The Registrar may attend the deliberations of the Administrative Committee, the Budget Committee and the Advisory Committee.

### **Rule 21** **Staff recruitment**

After the end of the transitional period under Article 83 of the Agreement, the Registrar shall be responsible for the recruitment of staff for the Registry, in accordance with the Staff Regulations.

*(Ref.: Art. 37(1), 83 UPCA)*

## **Chapter II: Budget and Finance**

### **SECTION 1: PREPARATION AND IMPLEMENTATION OF THE BUDGET**

#### **Rule 22** **Assistance with the preparation of the budget**

1. The Registrar shall assist the Presidium with the preparation of the draft budget of the Court and of any amending or supplementing budgets.

*(Ref.: Art. 26 and 30 of the Statute, Art. 21 and 28 of the Financial Regulations (F.R.))*

2. The Registrar shall furnish all the supporting documents required for the drafting of the budget.

*(Ref.: Art. 32 F.R.)*

#### **Rule 23** **Budget implementation**

1. The Registrar shall be responsible for the implementation of the budget in accordance with the Statute and the Financial Regulations.

2. The Registrar shall be responsible for the quarterly drawing-up and submission to the Presidium of:

(a) budget implementation statements;

(b) statements of comprehensive income;

(c) statements setting out the contributions and advances made by, and outstanding contributions and advances from, the Contracting Member States.

*(Ref.: Art. 26(3) of the Statute, Art. 12(3) F.R.)*

**Rule 24**  
**Participation in the Budget Committee’s deliberations**

The Registrar may attend all deliberations of the Budget Committee and shall propose to the Presidium that such items be placed on the agenda as he deems necessary to ensure the correct and efficient implementation of the budget.

*(Ref.: Art. 26(1) of the Statute)*

**SECTION 2: COURT ACCOUNTS AND AUDITING**

**Rule 25**  
**Accounting officer**

1. The Registrar is the accounting officer of the Court and shall keep the accounts in accordance with the Financial Regulations.

2. The Registrar may delegate his duties as accounting officer to assistant accounting officers.

*(Ref.: Art. 26(3) of the Statute and Art. 65 F.R.)*

**Rule 26**  
**Annual statement on the accounts**

1. The Registrar shall make an annual statement on the accounts of the preceding financial year, which he shall submit to the Presidium for approval.

2. The Registrar shall include, in the annual statements on the accounts, the complete set of financial statements, supported by notes and relevant observations by the Registrar, as well as the budget implementation statement and the statement of comprehensive income, all in accordance with the Financial Regulations.

*(Ref.: Art. 26(4) of the Statute, Art. 1(2), 32(3), 66(5), 67, 68 F.R.)*

3. The Registrar shall furnish all documents necessary to enable independent auditors to examine the annual financial statement of the Court in accordance with the Statute.

*(Ref.: Art. 32 of the Statute)*

**SECTION 3: PROCUREMENT AND EXECUTION OF RECEIPT AND PAYMENT ORDERS**

**Rule 27**  
**Procurement**

1. With the prior authorisation of the authorising officer, as defined in the Financial Regulations, the Registrar shall place all contracts for the purchasing of materials and services necessary for the fulfilment of his duties in accordance with the Financial Regulations.

2. The Registrar shall be entitled to incur obligations in the name of the Court, up to the ceiling specified in Annex 1 to the Financial Regulations, without prior authorisation by the authorising officer, as long as said obligations pertain to the normal activities of the Registry.

*(Ref.: Art. 52-58 F.R.)*

#### **Rule 28**

##### **Recovery of receipt orders and recording of receipts**

1. The Registrar shall receive the receipt orders issued by the authorising officer, as defined in the Financial Regulations, and shall proceed to their recovery, except when ordered otherwise by the Presidium.

*(Ref.: Art. 19(3) and 37(3), 38 F.R.)*

2. The Registrar shall send the receipt orders to the debtor together with information on the bank account to which the debtor should transfer the amount owing.

3. Once the amount owing has been duly paid by the debtor, the Registrar shall record receipt of the amount in the accounts of the Court and issue a receipt to the debtor.

4. If the debtor fails to pay, the Registrar shall inform the Presidium.

#### **Rule 29**

##### **Payments**

1. The Registrar shall receive the payment orders issued by the authorising officer and shall proceed to the payment of expenditure, both in accordance with the Financial Regulations.

*(Ref.: Art. 46-48 and 50-52 F.R.)*

2. The Registrar shall draw up yearly a list of payments which he has effected and shall submit it to the Presidium for approval, both in accordance with the Financial Regulations.

*(Ref.: Art. 26(4) of the Statute, Art. 52(4), 51(3)-(4) and 38 F.R.)*

#### **SECTION 4: OTHER PAYMENTS**

#### **Rule 30**

##### **Remuneration**

The Registrar shall be responsible for execution of the payment of the remuneration of judges, the Registrar and the Deputy-Registrar, and of the staff of the Court as applicable.

*(Ref.: Art. 12 of the Statute)*

## SECTION 5: ADMINISTRATION OF CONTRIBUTIONS FROM CONTRACTING MEMBER STATES

### **Rule 31 Contributions**

1. The Registrar shall invite the Contracting Member States to make their contributions and advances, in accordance with the Agreement.

*(Ref.: Art. 36 and 37 UPCA)*

2. The Registrar shall collect and keep a record of all contributions and advances to the Court from the Contracting Member States.

*(Ref.: Art. 36 and 37 UPCA, and Art. 6-13 F.R.)*

3. The Registrar shall prepare quarterly statements setting out the contributions and advances made by, and the outstanding contributions and advances due from, the Contracting Member States, in accordance with Rule 23(2)(c).

*(Ref.: Art. 12(3) F.R.)*

## **Chapter III: External Communication**

### **Rule 32 Communication**

The Registrar shall prepare and publish the official communications and correspondence of the Court under the responsibility of the President of the Court of Appeal.

### **Rule 33 Annual report**

The Registrar shall draw up the Court's annual report, including all information of public interest, and shall publish it after approval by the Presidium.

*(Ref.: Art. 23(2)(e) of the Statute)*

### **Rule 34 Website**

1. The Registrar shall be responsible for the regular updating of the website of the Court.

2. He shall ensure that the website contains the relevant information concerning the Court's activities, in particular:

- (a) a link to the register of the Court;
- (b) the date, time and location of all public hearings at the Court;

- (c) the collection of the final decisions and orders of the Court of general interest, as well as any corresponding translations of the headnotes and/or decisions in English, French and German;
  - (d) any official communications of the Court;
  - (e) administrative decisions of the President of the Court of Appeal and the Court of First Instance, as far as they are of public interest;
  - (f) at the request of the President of the Court of Appeal, decisions of the Presidium, the Administrative Committee, the Advisory Committee and the Budget Committee, as far as said decisions are of public interest;
  - (g) all Court fees;
  - (h) list of judges, including the information as determined by the Presidium;
  - (i) the document formats and the maximum file size for Court filings;
  - (j) the list of available languages of proceedings at the Court;
  - (k) vacancies and forthcoming vacancies at the Court;
  - (l) new appointments;
  - (m) the Court's annual report;
  - (n) relevant statistics on the activities of the Court.
- (Ref.: Art. 17(1), Art. 23(2)(c) - (e) of the Statute, R. 14(3) RoP)*

3. The Registrar shall be responsible for the publication of any additional information as ordered by the Court.

### **PART III: SUPPORT FOR PROCEEDINGS BEFORE THE COURT**

#### **Chapter I: General**

##### **Rule 35**

##### **Applications to opt out and withdrawal of opt-outs**

The Registrar shall receive any Application to opt-out and all related Applications in accordance with the Rules of Procedure.

*(Ref.: R. 5, 5A RoP)*

##### **Rule 36**

##### **Protective letters**

1. The Registrar shall receive and record in the register the Protective letters filed with the Court.
  2. No Protective letters shall be made public by the Registrar other than in accordance with the Rules of Procedure.
  3. After expiry of the period specified in Rule 207.9 of the Rules of Procedure, the Registrar shall remove any Protective letter from the register, except when:
    - (a) a corresponding Application for provisional or protective measures has been filed in due time with the Court, or
    - (b) an application for extension has been filed in due time with the Court and the corresponding fee has been paid.
- (Ref.: R. 207, 208 RoP)*

**Rule 37**  
**Access to the register**

1. The Registrar shall ensure access to the register in accordance with the Rules of Procedure and with due regard to applicable data protection requirements.

2. The Registrar shall ensure that any information ordered to be kept confidential by the Court is subject to the appropriate access restrictions in the register.

3. The Registrar shall give effect to a decision of the Court to allow access to any information classified as confidential, by providing the appropriate access.

4. If access to the register is restricted in parts not directly related to a proceeding before the Court, an application to access duly specified information contained in these parts of the register may be filed with the Registrar. The Registrar shall decide on the application as soon as practicable. The decision of the Registrar may be subject to an application for review to the President of the Court of Appeal. The Application for review shall be lodged with the Registrar in one of the official languages of the European Patent Office, within one month of the notification of the challenged decision setting out the request, facts, evidence and arguments. If the Application for review is allowable, the President of the Court of Appeal shall order the Registrar to provide the requested information to the applicant.

*(Ref.: Art. 10, 45, 58 UPCA, 262 RoP)*

**Rule 38**  
**Correction of the register**

The Registrar shall rectify obvious mistakes in the register at any time.

**Rule 39**  
**Access to stored items and archived case files**

1. Upon request, the Registrar shall ensure access to physical exhibits, pleadings and any other items filed in hard-copy form, as well as archived case files.

2. Rule 37 shall apply *mutatis mutandis*.

**Rule 40**  
**Communications to the EPO**

The Registrar shall communicate to the EPO any information of relevance to the EPO, in particular:

(a) any registered opt-out for a European patent granted or applied for or for a supplementary protection certificate;

*(Ref.: Art. 83 UPCA, Art. 23(2)(f) of the Statute, R. 5(5), (6) and (12) RoP)*

(b) any registered withdrawal of an opt-out for a European patent granted or applied for or for a supplementary protection certificate;



*(Ref.: Art. 83 UPCA, Art. 23(2)(f) of the Statute, R. 5(8) and (12) RoP)*

- (c) any action for revocation, infringement, declaration of non-infringement of a patent, or any appeal, filed with the Court and any request for the EPO to inform the Court if any opposition or appeal regarding the same patent is pending before the EPO;  
*(Ref.: R. 47.2 RoP, OJ EPO 4/2008, pp. 220 and 221)*
- (d) when there is a request for accelerated processing before the EPO in relation to pending opposition or appeal proceedings;  
*(Ref.: OJ EPO 2008, p. 220/221)*
- (e) any invitation of the judge-rapporteur to the President of the EPO to comment in writing on any questions arising in proceedings concerning a decision of the EPO;  
*(Ref.: R. 94, 97(4) RoP)*
- (f) any final decision of the Court relating to European patents or European patents with unitary effect or supplementary protection certificates.  
*(Ref.: Art. 65(5) UPCA, R. 97(6) RoP)*

#### **Rule 41**

#### **Communications to Contracting Member States**

The Registrar shall ensure that the national patent offices of any Contracting Member States concerned be informed of any final decision revoking a European patent in full or in part, or a supplementary protection certificate.

*(Ref.: Art. 65(5) UPCA)*

#### **Rule 42**

#### **Transmission of requests for preliminary rulings to the CJEU**

When the Court of First Instance or the Court of Appeal requests a preliminary ruling by the CJEU, the Registrar shall be responsible for transmitting this request to the CJEU, along with any request to apply the expedited procedure.

*(Ref.: Art.21 UPCA, Art. 38 of the Statute, R. 266(4) RoP)*

### **Chapter II: Management of Proceedings**

#### **SECTION 1: MANAGEMENT OF PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE**

#### **Rule 43**

#### **Service**

**1.** The Deputy-Registrar shall ensure the service and supply of written pleadings, documents and any other items, as well as decisions and orders of the Court of First Instance, are in accordance with the Rules of Procedure and that they comply with the applicable data protection requirements and provisions.

**2.** Any prospective defendant or representative of a prospective defendant pursuant to Rule 8.1 RoP may provide an electronic address for the purpose of service according to Rule 271.1 RoP in any such prospective proceeding before the Unified Patent Court. By communication of the electronic address

according to this provision any reservations with regard to Regulation (EU) 2016/679 shall be deemed waived as far it contains personal data and as far as that personal data is used for the purpose of service in the proceedings. It is the sole responsibility of the prospective defendant and/or its representative to keep that electronic address up to date. The electronic address will be communicated to the prospective claimant. The electronic address provided in accordance with this Rule will be used for the purpose of service in the proceedings. The prospective claimant may object to that address being used, if he has received another address for service under Rule 271.1 RoP and has reason to believe that this should be used instead. The Court of First instance will decide which address shall be used for service in the proceedings and shall instruct the Deputy-Registrar accordingly.

*(Ref.: R. 270- 279 RoP, Art. 17 UPC GDPR Guidelines)*

#### **Rule 44 Notifications**

The Deputy-Registrar shall ensure that all notifications in court proceedings are issued in the language of the proceedings unless the Court of First Instance decides otherwise.

*(Ref.: Art. 49, 51 UPCA; R. 14 RoP)*

#### **Rule 45 Security**

1. Where the Court of First Instance has ordered a party to provide adequate security by bank guarantee or deposit, the Deputy-Registrar shall either:

- (a) examine the bank guarantee and, in case of doubt, submit it to the judge, or
- (b) ensure that the security can be paid to the Court.

2. The Registrar shall record in the case file the type of security provided and shall safeguard it until he has been instructed by the Court of First Instance as to how to proceed further.

3. The Registrar shall pay back any security or deposit as ordered by the Court of First Instance.

*(Ref.: R. 154, 158-159 RoP)*

#### **Rule 46 Fee payment and recording**

1. The Deputy-Registrar shall record in the case file:

- (a) any fees due from a party or an applicant, and
- (b) any fees paid by a party or an applicant, and
- (c) any fee reimbursements paid to a party or an applicant.

2. If a party or an applicant fails to pay a prescribed fee to the Court of First Instance in due time, the Deputy-Registrar shall inform the judge.

*(Ref.: Art. 36(3) UPCA, Art. 70 UPCA)*

**Rule 47**  
**Access to public proceedings**

1. The Deputy-Registrar shall arrange for access to public proceedings.
2. He shall publish the dates, times and locations of public proceedings in advance on the website.  
*(Ref.: Art. 45 UPCA, R. 105(2), 115 RoP)*

**Rule 48**  
**Recording of proceedings and use of electronic means**

1. The Deputy-Registrar shall ensure that proceedings before the Court of First Instance are recorded as provided for in the Rules of Procedure.
2. He shall ensure that the necessary electronic means, such as video conferencing tools are provided if the judge notifies him of his decision that an interim conference or the oral hearing or parts thereof are held by way of electronic means in accordance with the Rules of Procedure.
3. He shall ensure that all recorded proceedings are added to the case file and ensures the confidentiality of the recordings, in accordance with the Rules of Procedure.  
*(Ref.: R. 105, 106, 115, 112/3, 188 RoP)*

**Rule 49**  
**Expenses**

The Deputy-Registrar shall reimburse the expenses of witnesses, experts of the parties and court experts upon their request, in accordance with the Rules of Procedure, and shall add the relevant information to the case file.  
*(Ref.: R. 180, 181, 188 RoP)*

**Rule 50**  
**Simultaneous interpreting and translation**

1. The Deputy-Registrar shall arrange for any simultaneous interpreting ordered by the judge.  
*(Ref.: Art. 51 UPCA, R. 109 RoP)*
2. At the request of the Court of First Instance, the Deputy-Registrar shall arrange for the translation of documents for the Court of First Instance and shall add the translations to the case file.  
*(Ref.: Art. 49, 51 UPCA, R. 109, 150(1), 323(3), 324 RoP)*

**Rule 51**  
**Monitoring of deadlines**

The Deputy-Registrar shall monitor deadlines as set in the Agreement, in the Rules of Procedure or in these Rules or with any other deadlines set by the Court of First Instance and shall inform the judge as required.

*(Ref.: Art. 300, 301 RoP)*

**Rule 52**  
**Applications for legal aid**

1. The Deputy-Registrar shall receive and record in the case file any application for legal aid.
2. If an application for legal aid meets all requirements, the Deputy-Registrar shall forward said application to the judge.  
*(Ref.: R. 377-379 RoP)*
3. If the application does not meet the requirements, the Deputy-Registrar shall invite the applicant to correct the deficiencies of the application within 14 days.  
*(Ref.: R. 379(2) RoP)*
4. If the applicant fails to correct said deficiencies in due time, the Deputy-Registrar shall inform the judge.  
*(Ref.: R. 379(3)-(6) RoP)*

**Rule 53**  
**Payment of legal aid**

1. The Deputy-Registrar shall be responsible for execution of the payment of legal aid granted by the Court of First Instance.  
*(Ref.: R. 375-379 RoP)*
2. Where the Court of First Instance has ordered another party to pay the costs of the applicant for legal aid, the Deputy-Registrar shall be responsible for recovering any sums advanced by way of legal aid.  
*(Ref.: R. 382 RoP)*

**Rule 54**  
**Recording of information on legal aid**

1. The Deputy-Registrar shall record in the case file any order or decision of the Court of First Instance pertaining to legal aid.
2. He shall ensure the confidentiality of the proceedings on legal aid in the case file, in accordance with the Rules of Procedure.  
*(Ref.: R. 379 RoP)*

## **SECTION 2: MANAGEMENT OF PROCEEDINGS BEFORE THE COURT OF APPEAL**

### **Rule 55 Applicable rules**

For the management of proceedings before the Court of Appeal, the Registrar shall have the duties set out in Rules 43-55, *mutatis mutandis*.

### **Chapter III: Management of case files**

#### **SECTION 1: MANAGEMENT OF CASE FILES BEFORE THE COURT OF FIRST INSTANCE**

### **Rule 56 Case file entries**

The Deputy-Registrar shall make all entries in the case files of proceedings brought before the Court of First Instance and shall ensure that said case files are complete and accurate recordings of the proceedings. The Deputy-Registrar may rely on the entries in the electronic case management system of the court made by the parties.

*(Ref.: Art. 25.3(a) of the Statute)*

### **Rule 57 Initial examination of competence and representation**

In any proceedings before the Court of First Instance, the Deputy-Registrar shall verify as soon as practicable if:

- (a) one or more of the patent applications, patents or supplementary protection certificates concerned is the subject of an opt-out. In the event of an opt-out, the Deputy-Registrar shall as soon as practicable inform the claimant and the judge concerned;  
*(Ref.: Art. 83(3) and (4) UPCA, R. 5, 16(1), 260(1) RoP)*
- (b) in the case of an Application for provisional or protective measures, a corresponding Protective letter has been recorded in the register. Where a Protective letter has been registered, the Deputy-Registrar shall forward it to the judge concerned, as well as to the applicant;  
*(Ref.: R. 207(5)(d), 207(7), 208 RoP)*
- (c) an action concerning the same patent or patents have been initiated before another division. In such cases, the Deputy-Registrar shall as soon as practicable inform the presiding judges of the panels concerned;  
*(Ref.: 260(2) RoP)*
- (d) the applicant's representative has filed a certificate under Rule 286 of the Rules of Procedure.  
*(Ref.: Art. 48 UPCA, R. 8, 286 RoP)*

**Rule 58**  
**Opening of a case file**

1. The Deputy-Registrar shall open a new case file for each written pleading or document initiating proceedings before the Court. Each case file shall be identified by an action number composed as follows:

- (a) first, a code indicating the preliminary nature of the action number;
- (b) second, the abbreviation of the Court: UPC;
- (c) and third, the serial number and the year in which the action was brought.  
*(Ref.: Art. 25(3)(a) of the Statute)*

2. Applications for a decision on costs and for legal aid relating to pending cases shall be given an action number referring to the principal action, followed by a reference to indicate that the proceedings concerned are special forms of procedure.

**Rule 59**  
**Receiving and recording of written pleadings, documents and any other items**

The Deputy-Registrar shall receive via the case management system all written pleadings, documents or other items filed with, or issued by, the Court of First Instance, and shall record them in chronological order in the relevant case file using a registration reference composed as follows:

- (a) the action number;
- (b) the date and local time of receipt of the written pleading, document or item.  
*(Ref.: R. 4(1), 17(1), 90, 97, 135, 207, 208, 230 RoP)*

**Rule 60**  
**Receipt**

After the receipt of electronic and physical written pleadings, documents or any other items, an acknowledgement indicating the date and local time of receipt, as well as the action number or preliminary action number, shall be issued by the Deputy-Registrar.

*(Ref.: R. 4.1, 2, 17 RoP)*

**Rule 61**  
**Receiving and recoding of written documents filed in hard-copy form**

Upon receiving any written pleadings filed pursuant to Rule 4.2 of the Rules of Proceedings or documents lodged in hard-copy form the Deputy-Registrar shall:

- (a) attach a copy of the receipt to the hard-copy indicating the division where the hard-copy was lodged and preserve the hard copy for evidence purposes;

- (b) verify that a copy of the receipt is uploaded in the case management system;
- (c) back-date the written pleadings or documents to the date and local time of the receipt of the hard-copy once they have been recorded in the relevant case file in accordance with Rule 60.  
*(Ref.: R. 4 RoP)*

### **Rule 62**

#### **Receiving and recording of any other items filed in hard-copy form**

If any other items are filed in hard-copy form the Deputy-Registrar shall record a reference to said other items in the relevant case file in accordance with Rule 60 indicating the division where the item is stored.

### **Rule 63**

#### **Examination of formal requirements**

The Deputy-Registrar shall as soon as practicable examine whether the formal requirements for filing written pleadings, documents or any other items with the Court of First Instance have been complied with and executes all relevant actions pertaining to the examination of the formal requirements, in accordance with the Rules of Procedure.

*(Ref.: R. 16, 27, 47, 65, 89, 97, 134, 141, 193, 207, 208, 320, 321 (2), 355, 371, 379 (1) RoP)*

### **Rule 64**

#### **Allocation of actions brought before the Court of First Instance**

1. When an action is filed before a local or regional division of the Court of First Instance, the Deputy-Registrar shall assign the action to a panel following an action distribution scheme established by the presiding judge of the competent division.

*(Ref.: R. 345(3) RoP)*

2. When an action is filed before the central division of the Court of First Instance, the Deputy-Registrar shall:

- (a) allocate the action in accordance with the Agreement and the Rules of Procedure;

*(Ref.: Annex II, UPCA, R. 17(3) RoP)*

- (b) assign the action to a panel following an action distribution scheme established by the presiding judge of the competent seat or section.

*(Ref.: R. 17(2), R. 345(3), 345(6) RoP)*

3. When a judge-rapporteur has been designated, the Deputy-Registrar shall notify the parties of the identity of the judge-rapporteur.

*(Ref.: R. 18 RoP)*

**Rule 65**  
**Application to annul or alter a decision of the EPO**

1. The Deputy-Registrar shall forward to the EPO any admissible application to annul or alter a decision taken by the EPO in carrying out the tasks referred to in Article 9 of Regulation (EU) 1257/2012.

*(Ref.: R. 88, 90(d) RoP)*

2. The Deputy-Registrar shall invite the EPO to examine whether it considers the action to be well-founded and the decision to be rectifiable.

*(Ref.: R. 91(1) RoP)*

3. If the EPO rectifies the contested decision, the Deputy-Registrar shall inform the judge.

*(Ref.: R. 91(1)(b) RoP)*

4. The Deputy-Registrar shall inform the claimant if the Court, following the decision of the EPO, has closed the action.

*(Ref.: R. 91(2) RoP)*

5. If the Court has not closed the action, the Deputy-Registrar shall assign said action to a panel of the competent seat or section of the central division and shall notify the claimant as soon as practicable of the identity of the judge-rapporteur.

*(Ref.: R. 92 RoP)*

**Rule 66**  
**Access to the case file**

The Deputy-Registrar shall ensure access to the case file by third parties in accordance with the Rules of Procedure.

**Rule 67**  
**Headnotes and keywords**

When forwarding decisions and orders of the Court of First Instance, the Deputy-Registrar shall add a reference code in accordance with the European Case Law Identifier and, where appropriate, invite the judge-rapporteur to provide headnotes and keywords. The drafting of headnotes and keywords shall be appropriate where the decisions or orders of the Court are of general interest to the public and will be published on the Website in accordance with Rule 68.

**Rule 68**  
**Publication of decisions on the Website**

The Deputy-Registrar shall anonymize the decisions and orders to be published on the Website in accordance with the applicable data protection requirements and provisions.



**Rule 69**  
**Orders for enforcement**

1. The Deputy-Registrar shall, upon request of the enforcing party, issue an authentic copy of an enforceable decision or order.
2. The sub-registry of the division of the Court of First Instance, which has delivered the decision or issued the order to be enforced issues such authentic copy.
3. In case of a decision on the merits the Deputy-Registrar shall, upon request of the claimant, issue an authentic paper copy of the decision only after the claimant
  - has notified the Court which part of the orders referred to in Rule 118.1 and 118.2(a) of the Rules of Procedure he intends to enforce,
  - a certified translation of the orders in accordance with Rule 7.2 of the Rules of Procedure, where applicable, into the official language of a Contracting Member State in which the enforcement shall take place has been provided by the claimant and,
  - where applicable, a certified translation of the orders has been served on the defendant by the sub-registry.
4. The Deputy-Registrar shall append (on the same or a separate paper) to the decision or order an order for the enforcement of the decision or order in the following wording: “The present copy is issued to the ... (name of the party) for the purpose of enforcement.” physically stamp and sign the order for the enforcement and record it electronically.
5. If the enforcement of the decision or order is subject to the provision of a security incumbent on the enforcing party, the Deputy-Registrar shall issue the authentic paper copy and append an order for the enforcement only after provision of the security has been proven by documentary evidence, which has already been served on the other party.  
*(Ref.: Art. 82 UPCA, 35(5) of the Statute; R. 354 RoP)*

**Rule 70**  
**Rectification of decisions and orders**

- Any rectification of decisions and orders of the Court of First Instance shall be executed by the Deputy-Registrar, at the order of the judge. The Deputy-Registrar shall serve any rectified decision or order on the parties concerned.  
*(Ref: R. 353 RoP)*

**Rule 71**  
**Closing of case files**

1. Once the period for filing an appeal on a decision on the merits and any other decisions or orders in the same case has lapsed the Deputy-Registrar shall close the case file.
2. To close the case file, the Deputy-Registrar shall perform the following tasks:

- (a) ensure that all required procedural tasks pertaining to the case file are executed;
- (b) invite the parties to claim within 1 month any physical exhibits provided to the court in case such evidence has not been returned and notifying the parties that in case such physical exhibits have not been collected within 1 month, the court will dispose of it at the cost of the party who had deposited it;
- (c) mark the case file as closed, indicating of the date of the closure.  
(Ref.: R. 354 RoP)

**Rule 72**  
**Re-opening of a case file**

At the request of the Court of First Instance to re-open a case file, the Deputy-Registrar shall open a new case file including a reference to the original case file.

**SECTION 2: MANAGEMENT OF CASE FILES BEFORE THE COURT OF APPEAL**

**Rule 73**  
**Applicable rules**

For the management of case files before the Court of Appeal, the Registrar shall have the duties set out in Rules 56, 58-63 and 65-70 *mutatis mutandis*.

**Rule 74**  
**Assignment of appeals, requests and applications**

1. The Registrar shall assign an appeal brought before the Court of Appeal to a panel, in accordance with the distribution scheme established by the President of the Court of Appeal.  
(Ref.: R. 230(2) in conjunction with R. 345(3) and (8) RoP)
2. The Registrar shall notify the parties of the identity of the judge designated as judge-rapporteur.  
(Ref.: R. 231 RoP)
3. The Registrar shall assign appeals against a decision of the standing judge on an application to annul a decision of the EPO to reject a request for unitary protection, requests for discretionary review, applications for leave to appeal against cost decisions, applications for suspensive effect in cases of extreme urgency to the standing judge.  
(Ref.: R. 97(5), 220(4), 221(3), 223(4) RoP)

**Rule 75**  
**Closing of case files**

1. The Registrar shall close the case file as soon as practical after the decision on the merits and on any

decision in the case were served to the parties.

2. In order to close the case file the Registrar shall apply Rule 71(2) *mutatis mutandis*.

**Rule 76**  
**Re-opening of a case file**

In order to re-open a case file the Registrar shall apply Rule 72 *mutatis mutandis*.

**PART IV: FINAL PROVISIONS**

**Rule 77**  
**Entry into force**

These Rules shall enter into force on 1 June 2023.

Done at Paris, on 6 April 2023

For the Presidium

The Chairperson