



Administrative Committee

Rules of Procedure of the Unified Patent Court

Luxembourg, 8 July 2022

Explanatory Note

According to Article 41 UPCA, the Rules of Procedure of the Unified Patent Court shall be adopted by the Administrative Committee containing the details of the proceedings complementing the provisions in the Agreement and the Statute of the Court.

The process to establish Rules of Procedure for the Unified Patent Court has been long and thorough, the first draft dating back as early as Mid-2009. In this process the work of the Expert Group of judges and experienced practitioners chaired by Mr. Kevin Mooney, also known as the Drafting Committee, has played an eminent role. It was mandated by the Preparatory Committee aiming at a procedure which will live up to the high expectations of the user community. A comprehensive public consultation took place in 2013 with a turnout of some 600 written comments which have been thoroughly examined. Following the written consultation, the Legal Working Group of the Preparatory Committee together with the Expert Group consolidated the draft Rules of Procedure and held a public hearing in Trier on 26 November 2014 to which over 70 organisations and also judges had been invited.

After the consultation the eighteenth draft of the Rules of Procedure was presented to the Preparatory Committee of the UPC at its 10th meeting on 10 July 2015 (PC/05/100715) and discussed on numerous occasions: 12th meeting, 9 October 2015 (PC/04/191015); 17th meeting, 30 June 2016, (PC/03/June16); 18th meeting, 10 October 2016 (PC/03/Oct2016). The Rules of Procedure were finally approved by the Preparatory Committee in its 19th meeting on 15 March 2017 (PC/07/Mar2017).

This approved draft of the Rules of Procedure has been presented to the Administrative Committee at its inaugural meeting on 22 February 2022 together with the amendments issuing from the further implementation work since 2017 (AC/5/22022022) which were welcomed by delegations. The Rules are now presented for adoption. The final amendments to the text approved by the Preparatory Committee are made visible in mark-up mode and explained in Annex I. The text approved by the Preparatory Committee on 15 March 2017 is contained in Annex II.

Before the adoption of the Rules of Procedure by the Administrative Committee, according to Article 41 paragraph 2 UPCA, the opinion of the European Commission shall be requested on the compatibility of the Rules of Procedure with Union Law. The 2017 draft approved by the Preparatory Committee had already been provided to the Commission at the time. Also the amendments presented to the Administrative Committee at its inaugural meeting which in part relate to the implementation of

Union Law have been shared with the European Commission (e.g. the regulations on the service of documents (regulation (EU) 2020/1784), the taking of evidence (regulation (EU) 2020/1783) or the protection of personal data (regulation (EU) 2016/679)). The final amendments presented in Annex I are taking due note of the exchange with the Commission prior to the adoption of the Commission opinion.

After adoption by the Administrative Committee a consolidated version of the Rules of Procedure will be established and forwarded to delegations.

Decision of the Administrative Committee

of 8 July 2022

RULES OF PROCEDURE OF THE UNIFIED PATENT COURT

THE ADMINISTRATIVE COMMITTEE OF THE UNIFIED PATENT COURT HAS DECIDED AS FOLLOWS:

I. Rules of Procedure

The Rules of Procedure of the Unified Patent Court are adopted under Article 41 (2) UPCA with the amendments of Annex I to the text approved by the Preparatory Committee on 15 March 2017 contained in Annex II.

II. Entry into force

The decision shall enter into force on 1st September 2022.

Done at Luxembourg on 8 July 2022.

For the Administrative Committee

The Chairman