



# Administrative Committee

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## Rules on duty travel of the Unified Patent Court

Luxembourg, 8 July 2022

## **Explanatory note**

Duty travels will take an important part of the Unified Patent Court governance, management, training and operational activities. Rules governing duty travels are therefore necessary to provide clear, reliable and efficient guidelines for the involved persons, notably judges, staff, authorizing officer, accountant etc.

These rules have been prepared by the finance working group and the human resources working group on the basis of existing and proved rules in place in other comparable international organisations.

These rules seek for the best possible balance between, in one hand, the operational needs of the Court and the rights of the requesters to be compensated of their costs and, in the other hand, the seek to the highest efficiency and responsible use of transport means, and of a cautious and sustainable use of the budget of the Court. A dedicated provision schedules a regular review of these rules to adapt them after a due return of experience.

These rules will be applied for Judges and staff. They also take in account the specific scheme governing the duty travels of the Advisory Committee members. They contain also a dedicated provision (rule 10) for duty travels being decided and performed during the Period of Provisional Application, in particular for the needs of Advisory committee (meetings and hearings).

The Administrative Committee is invited to adopt these rules.

## DECISION OF THE ADMINISTRATIVE COMMITTEE

of 8 July 2022

### ON THE RULES ON DUTY TRAVEL OF THE UNIFIED PATENT COURT

THE ADMINISTRATIVE COMMITTEE

HAVING REGARD to the Agreement on a Unified Patent Court and in particular Article 36;

HAVING REGARD to the Statute of the Unified Patent Court and in particular Articles 15, 23 and 27;

HAVING REGARD to the Financial Rules of the Unified Patent Court and to the Financial Rules for the Provisional Application Period of the Unified Patent Court;

RECALLING that the Unified Patent Court should be in situation to organize the duty travels incurred by the activities of the Unified Patent Court and to ensure the reimbursement of the relevant costs incurred;

HAS ADOPTED the following decision

## Rules on duty travel

### Rule 1 – Scope of application

- (1) The present Rules are drawn up in application of
  - Article 40 of the Regulations governing the conditions of service of judges, the Registrar and the Deputy-Registrar of the Unified Patent Court,
  - Article 27 of the Staff Regulations of the Unified Patent Court, and
  - Article 15 of the Rules of Procedure of the Advisory Committee of the Unified Patent Court.
- (2) Unless otherwise provided, these Rules apply to judges, registrars and employees of the Unified Patent Court, as defined in Rule 2(1), (b) to (e). Duty travel costs of the administrative support staff working for the Unified Patent Court and employed by Contracting Member States under Article 37(1) of the Agreement on a Unified Patent Court shall be reimbursed by the respective Contracting Member State.
- (3) Rule 8 contains a specific provision applicable to members of the Advisory Committee of the Unified Patent Court.

### Rule 2 – Definitions and abbreviations

- (1) For the purpose of these Rules,
  - (a) “Court” or “UPC” means Unified Patent Court;
  - (b) “judges” means the Presidents of the Court of First Instance and of the Court of Appeal, all legally qualified judges and all technically qualified judges of the Court;
  - (c) “registrars” means the Registrar and the Deputy-Registrar of the Court;

- (d) “employees” means persons employed by the Court (e.g. at the Patent Mediation and Arbitration Centre and at the Training Centre) except the judges and the registrars;
- (e) “the Requester” means the person making the request for duty travel<sup>1</sup>;
- (f) “travel required for judicial activities” means travel which takes place in accordance with statutory requirements, such as e.g. hearings under Rules 104(g) and 112 of the Rules of Procedure of the Court;
- (g) “travel for other activities” means in particular travel to internal and external meetings, meetings of the Presidium, of the Advisory Committee, travel related to training, visits, conferences;
- (h) “budget-holder” means the Presidium (i.e., President of the Court of Appeal, President of the Court of First Instance, two legally qualified judges of the Court of Appeal, and three legally qualified judges of the Court of First Instance and the Registrar) and any officer (e.g. the Deputy-Registrar, Head of Finance) to whom the Presidium has delegated its powers of authorizing expenditure and issuing receipt orders (see Article 1(3) Financial Regulations of the UPC);
- (i) “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;
  - 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;
- (j) “Contracting Member State” means any State which has completed the ratification of the Agreement on a Unified Patent Court;
- (k) “DSA” means daily subsistence allowance;
- (l) “electronic means” means the applicable electronic means such as integrated IT system, intranet or e-mail chosen and notified by the Registry.

(2) Words in the masculine shall include all genders.

### **Rule 3 – Principles**

- (1) Limited funds are available for duty travel every year. The duty travel budget must be used with thrift and economy.
- (2) Priority should always be given, at a comparable level of service, to the most economical means of transport in terms of fossil energy consumption and CO2 emissions, in particular
  - (a) railways compared to planes or individual cars for long distance trip and
  - (b) collective transports or soft mobility in town.
- (3) Costs not covered by these Rules are not refundable. Exceptional circumstances may justify a discretionary reimbursement of other costs. Such circumstances have to be duly justified and addressed for decision by the Registrar, after hearing the Presidium.

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<sup>1</sup> E.g., judge, registrar, employee, member or alternate member of the Advisory Committee.

- (4) Except where required by the Court's judicial activities, duty travel should in principle only be approved if it is deemed necessary.

**Rule 4 – Approval of duty travel requests**

(1)

- (a) Before submitting a request for duty travel required for judicial activities, the Requester must inform the President of the Court of Appeal, for Court of Appeal judges, and the President of the Court of First Instance, for Court of First Instance judges, by electronic means. Unless the relevant President objects to the duty travel within 2 working days from the recorded time of information, it is deemed to be approved.
- (b) Before submitting a request for duty travel related to other activities, the Requester must obtain the approval of the Registrar by electronic means.
- (c) When application of Rule 3(3) is requested, approval of each item that differ from these Rules or cross a ceiling set up by these Rules, is mentioned in the approval.

(2) Once a duty travel has been approved under paragraph 1, a request for duty travel must be submitted by electronic means for approval by the budget-holder. No duty travel arrangements may be booked if the request has not been approved by the budget-holder. In exceptional cases (IT issue) the paper version and manual approval form can be used.

(3) Approval of the duty travel request by the budget-holder is communicated electronically, in the form of a duty travel order, to the Requester and to the approver under paragraph 1. Once the Requester has received the electronic approval, he shall make the necessary travel bookings and hotel reservation through the most appropriate booking platform, in accordance with the principles laid down in Rule 3.

(4) On returning from duty travel, the Requester shall submit his electronic duty travel claim by electronic means for final settlement, within a period of 3 months. The claim shall be expressed in EUROS using the exchange rate in the Contracting Member States in which the Requester resides at the date where he submitted the duty travel request.<sup>2</sup>

**Rule 5 – Daily subsistence allowance (DSA)**

- (1) The Requester holding a travel order shall be entitled to a DSA as compensation for costs incurred for:
- (a) overnight accommodation
  - (b) breakfast
  - (c) lunch
  - (d) dinner
  - (e) refreshments
  - (f) miscellaneous expenses; examples of miscellaneous expenses are administrative charges for use of a credit card, use of the internet, local transport at the travel destination (including collective transport to and from the airport, train station or port) and parking fees in general and at airport, train station or port and use of a private mobile phone.

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<sup>2</sup> For this purpose, the European Central Bank's exchange rate scheme will be used by the UPC.

- (2) The basis for the calculation of the DSA shall be:
- (a) If the Requester uses a collective transport (Rule 6(2) or 6(3)):
    - 120 minutes before the time of departure of the collective transport,
    - 60 minutes after the time of arrival of the collective transport,
  - b- If the Requester travels in his own car (Rule 6(4)):
    - the time of departure from the Requester's place of residence at the start of the duty travel and
    - the time of arrival at the Requester's place of residence at the end of the duty travel.
- (3) The amounts of the DSA payable shall be calculated as follows:
- (a) 100% for each complete 24-hour period.
  - (b) 25% for periods between 4 hours and 8 hours. The same shall apply in respect of any period of 4 hours or more but less than 8 hours in excess of a complete 24-hour period.
  - (c) 50% for periods of more than 8 hours, but without overnight accommodation. The same shall apply in respect of any period of 8 hours or more but less than 24 hours in excess of a complete 24-hour period.
  - (d) 100% for periods of more than 8 hours but less than 24 hours, but with overnight accommodation. The same shall apply in respect of any period of 8 hours or more but less than 24 hours in excess of a complete 24-hour period. In this specific case, the reduced DSA set out in Annex 1 applies if there is no justified additional allowance cost.
- (4) If the Court (including the Training Centre) or a third party compensates the Requester for any expenses (e.g., by providing meals or overnight hotel accommodation), the DSA shall be reduced as follows:
- (a) Reduction by EUR 150 of DSA for overnight hotel accommodation compensated.
  - (b) reduction by 15% of net DSA<sup>3</sup> for each main meal (i.e., lunch and dinner);
- (5) If the Requester has incurred unavoidable daily subsistence costs which cannot reasonably be considered as being covered by the DSA, the budget-holder may approve an exceptional reimbursement. Such a request for reimbursement must be mentioned in the reimbursement form, duly justified in writing and based on original receipts.
- (6) The rates of the DSA are set out in Annex 1. For States which are not Contracting Member States, the allowance shall be equivalent to that payable to officials of the United Nations applicable as per 1 January each year, converted into the equivalent EURO amount at the date where the Requester submitted the duty travel request.
- According to rule 9, the DSA rates are reviewed and adjusted periodically by Administrative Committee, if needed, to reflect increases in the Consumer Price Index of the different Contracting Members States.
- (7) Where the Requester has extended his travel for private reasons, the departure and arrival times for the DSA calculation are those which would have applied without such private arrangements.

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<sup>3</sup> After where appropriate, allowance covered deduction.

- (8) A Requester placed on sick leave during duty travel shall continue to draw the DSA. Should he be hospitalised, entitlement to the DSA shall terminate and his expenses shall be reimbursed in accordance with the Court's medical and social security plan.

#### **Rule 6 – Reimbursement of travel expenses**

- (1) A Requester holding a travel order shall be entitled to reimbursement of the cost of the journey for the shortest standard route and the most economical mode of transport allowing for flexible booking of departure time.
- (2) For a journey of 400 km or less and involving no sea crossing, first-class travel by train early booked when possible is considered to be the most appropriate and economical mode of transport.
- (3) For a journey of over 400 km, or without relevant train solution, the Requester may travel by air. The tariff chosen should be the cheapest flexible fare at the time of the booking for a flight ticket providing the flexibility to reschedule.
- (4) Where the Requester at his own risks travels by his own car, he is entitled to the kilometric allowance as set out in Annex 2. The kilometric allowance is a lump-sum reimbursement for all cost incurred, special charges, such as tolls or car ferry charges and parking fees included.
- (5) For duly justified reasons, the budget-holder may require the Requester to travel by a different mode of transport or a different class from that applicable under these Rules.
- (6) Taxi costs or equivalents will be reimbursed to judges, registrars and employees of the UPC in the following circumstances:
- (a) for travel to the airport, port or train station: if the plane, boat or train is scheduled to depart before or after normal service, i.e. when transports do not run according to normal schedule (at least before 09:00 hrs or after 20:00 hrs);
  - (b) for travel from the airport, port or train station: if the plane, boat or train arrives before or after normal service, i.e. when transports do not run according to normal schedule (at least before 09:00 hrs or after 20:00 hrs);
  - (c) in exceptional and duly justified cases when the usual public transport service is severely disrupted.
- (7) Whenever possible, taxis should be shared with other Requesters and the Requester who paid the taxi driver shall claim the fare reimbursement.
- (8) Reimbursement of taxi costs must be claimed on the basis of original receipts.
- (9) The budget-holder may authorise the use of a rental car, if this is the most economical mode of transport. The car rental must include full insurance and cover accidents involving any passenger who may make use of the car in the interests of the Court. If the car rental period includes private travel time, a proportional amount will be charged to the Requester for the number of kilometres or days driven for private reasons. Any fine or penalty should be supported by the Requester.

(10) Transport between Court premises at the place of employment shall be excluded from these Rules.

#### **Rule 7 – Receipts**

- (1) It is not necessary to submit receipts for any duty travel expenses compensated for by lump-sum amounts under Rule 6(4) or covered by the DSA referred to in Rule 5.
- (2) For reimbursement of duty travel expenses not falling under paragraph 1, the Requester must attach scanned evidence to his electronic statement of duty travel expenses for amounts in excess of EUR 25 per item.
- (3) Expenditure not exceeding EUR 25 per item may be reimbursed on the basis of a personal declaration by the Requester.
- (4) In order to enable checks, the Requester must keep:
  - (a) original receipts of duty travel expenses not covered by a lump-sum;
  - (b) (electronic) boarding passes of flights.Such evidence must be kept until the full reimbursement of the duty travel expenses is made.
- (5) When duty travel is funded by a third party, the budget-holder may require original receipts of all the duty travel expenses incurred.

#### **Rule 8 – Duty travel of members of the Advisory Committee**

- (1) According to Article 15 of the Rules of Procedure of the Advisory Committee, a specific provision is set out as follows:
  - (a) Members of the Advisory Committee entitled to reimbursement of their duty travel expenses under Article 15 of the Rules of Procedure of the Advisory Committee and Rule 6, and shall receive a DSA calculated in accordance with Rules 5 and Annex 1, point 2;
  - (b) Members of the Advisory Committee who are entitled to a reduced daily subsistence allowance under Article 15 of the Rules of Procedure of the Advisory Committee shall receive a DSA calculated in accordance with Rule 5 and Annex 1, point 3; the DSA does not include compensation for costs incurred for overnight accommodation;
- (2) The duty travel request is submitted by the Requester to the Chairperson of the Advisory Committee by electronic means, for approval. The decision of Chairperson of the Advisory Committee is communicated by electronic means to the Requester.
- (4) Once the Requester has received the electronic approval, he shall make the necessary travel bookings and hotel reservation through the most appropriate booking platform, in accordance with the principles laid down in Rule 3.
- (5) On returning from duty travel, Rules 4(4) and 7 shall apply *mutatis mutandis*.



### **Rule 9 – Regular review**

(1) These Rules are subject to regular review.

(2) The first review - including of the reimbursement scheme of duty travel costs of the administrative support staff working for the Unified Patent Court and employed by Contracting Member States under Article 37(1) of the Agreement on a Unified Patent Court - shall take place at the latest 12 months after the entry into force of the Agreement on a Unified Patent Court.

### **Rule 10 – Exceptional transitional Rule**

Given the urgency of the reimbursements for the members of the Advisory Committee of already incurred duty travel expenses during the period of provisional application of the Agreement on a Unified Patent Court, prior to the approval and adoption of these Rules and in order to allow for greater efficiency and flexibility during this period, a simplified procedure, where appropriate, should be followed to ensure the good functioning of the UPC.

Travel expenses, incurred before the adoption of these Rules and during the period of provisional application of the Agreement on a Unified Patent Court, shall be authorised by the Chairperson of the Administrative Committee subject to his own discretion but in accordance with the general principles of economy. Such approval shall comply with the provisions of Articles 14, 15 and 22 of the Decision of the Administrative Committee governing the financial management of the Unified Patent Court during the period of the provisional application (AC/11/22022022).

The Approval shall be documented in electronic or paper form.

Upon approval of the Chairperson of the Administrative Committee, and in case of non-objection by the Chairperson of the Budget Committee, the reimbursement shall be proceeded by the Chairperson of the Budget Committee in accordance with the general provisions laid down in the Decision of the Administrative Committee governing the financial management of the Unified Patent Court during the period of the provisional application (AC/11/22022022) and in the Financial Regulation of the UPC (AC/10/22022022\_E).

For the avoidance or doubt, this Rule applies to travel expenses of the members of the Advisory Committee, judges, registrars, and employees, incurred before the adoption of these Rules.

### **Rule 11 – Entry into force**

These Rules shall enter into force on 8 July 2022.

Done at Luxembourg on 8 July 2022

For the Administrative Committee

The Chairman

**Annex 1: Rates of daily subsistence allowances**

1.	EUR 257	for judges, registrars, employees, as defined in Rule 2(b) to (d)
2.	EUR 350	for members of the Advisory Committee who are travelling, see Rule 8(1)(a)
3.	EUR 200 (reduced DSA)	for members of the Advisory Committee who are not travelling, see Rule 8(1)(b)

**Annex 2: Rates for the kilometric allowance under Rule 6(4) and (9), for the car**

EUR 0.60
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The kilometric allowance covers an actual estimation of the fuel consumption cost, an estimation of the parking fees, the highway tolls, the full coverage car insurance and a participation in the car depreciation due to the business use.

The allowance calculation is based on the average Contracting Member States cost prices and statistics reports.

The kilometric allowance is reviewed and adjusted periodically, if needed, to reflect increases in the Consumer Price Index of the different Contracting Member States.

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