



Administrative Committee

Concept for the remuneration and the procedure for remunerating case-by-case part-time judges of the Unified Patent Court

Luxembourg, 8 July 2022

EXPLANATORY NOTE

At the start of the operation of the Unified Patent Court (UPC), a number of judges will be allocated on a case-by-case basis to a panel hearing a case at one of the locations of the UPC, in line with Article 27(2)(a) of the Regulations Governing the Conditions of Service of Judges, the Registrar and the Deputy-Registrar of the UPC. Paragraph (3) of the same Article provides in this regard that these case-by-case appointed 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 aim of the tabled concept document is to provide guidelines for the determination of the remuneration of case-by-case part-time judges, in a transparent and foreseeable manner. For these reasons, it 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.

The Administrative Committee is invited to adopt the decision on the Concept for the remuneration and the procedure for remunerating case-by-case part-time judges of the Unified Patent Court.

**DECISION OF THE ADMINISTRATIVE COMMITTEE OF 8 JULY 2022 ON THE
CONCEPT FOR THE REMUNERATION AND THE PROCEDURE FOR REMUNERATING CASE-BY-
CASE PART-TIME-JUDGES OF THE UNIFIED PATENT COURT**

THE ADMINISTRATIVE COMMITTEE

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 and in particular Articles 27 and 31 thereof;

HAS ADOPTED THE FOLLOWING DECISION:

**CONCEPT FOR THE REMUNERATION AND THE PROCEDURE FOR REMUNERATING CASE-BY-CASE PART-
TIME JUDGES OF THE UNIFIED PATENT COURT**

Part-time judges of the Unified Patent Court (UPC) will be employed in two ways: for a fixed percentage of their working time or on a case-by-case basis (Article 27(2) of the Regulations Governing the Conditions of Service of Judges, the Registrar and the Deputy-Registrar of the UPC). For the former a pro rata salary can easily be calculated. The determination of the remuneration for a case-by-case employment is more challenging. Transparent procedures and foreseeable results are essential. For a case-by-case remuneration, the UPC will need two kinds of rules: **general principles** for assessing the right amount of remuneration for case-by-case employment and **specific rules** for determining the remuneration in individual, specific cases. The details of this procedure shall be defined by the Presidium.

Both sets of rules must be designed to:

- safeguard equal treatment, i.e. part-time case-by-case judges are not put at a disadvantage or favored in comparison to full-time judges and percentage-part-time judges,
- ensure that the remuneration of part-time case-by-case judges follows objective principles,
- keep control over the finances of the UPC and its budget for the remuneration of judges.

The following **general principles** should apply:

- Overcompensation should be avoided, which would be detrimental to the UPC's finances and would cause the resentment of fellow judges. Under-compensation should also be avoided, since good working conditions for part-time case-by-case judges are essential.
- **Remuneration of case-by-case judges** should be oriented **by guidelines, prepared by the Presidium** which **outline** a **standard** amount of time required to fulfill specific judicial tasks. **A**

standard amount of time should be determined for typical situations, e.g. a preliminary objection, interim conference, each type of action, expert involvement, etc.

In addition, the following **specific rules** are suggested:

- The remuneration should be calculated and paid on a monthly basis. The payment should 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 case-by-case part-time judge shall request payment for the hours invested in a case and where necessary motivate that amount of time.
- 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) **as declared by the judge, and oriented by the guidelines on the standard amount of time required to fulfill specific judicial tasks**, and the money factor representing the corresponding amount of gross-pay per time-unit (EUR/h).
- The money factor can be calculated as remuneration per time unit on the basis of the monthly remuneration for full-time judges. The Budget Committee should determine the money factor and update it whenever the salaries for full-time judges are amended.
- The guidelines **on the standard amount of time** required to fulfill typical judicial tasks should be determined by the Presidium during the Provisional Application Period of the UPCA. These guidelines should be updated on a regular basis. The Presidium is the appropriate authority to fulfill this task, since it is composed of judges of the Court of First Instance and the Court of Appeal. It would also respect the judges' independence to transfer this task to the Presidium.
- The **Registrar or Deputy-Registrar** will be involved in the procedure to approve the monthly amount of remuneration of case-by-case judges on the basis of the request and having due regard to the guidelines **on the standard amount of time required to fulfill specific judicial tasks** for specific procedural constellations.

This decision shall enter into force on 8 July 2022.

For the Administrative Committee

The Chairperson