



Administrative Committee

Committee Rules of Procedure

Luxembourg, 22 February 2022

Explanatory Note

The Administrative Committee (AC), according to Article 12 paragraph 4 UPCA, shall adopt its rules of procedure.

The draft decision submitted in this document contains a proposal for such procedural rules. The proposal has been prepared by the Legal Working Group with the involvement of participating Member States. The rules have been presented to and discussed by the Preparatory Committee of the UPC on various occasions and were finally approved at its 8th meeting on 27 February 2015 on the basis of document PC/7/270215 which contained comprehensive explanatory footnotes. The outcome of these discussions has been included in the final document. The submitted draft is subject to no further changes.

Decision of the Administrative Committee
of 22 February 2022

RULES OF PROCEDURE OF THE ADMINISTRATIVE COMMITTEE
OF THE UNIFIED PATENT COURT

Article 1

Members

1. Each Contracting Member State shall be entitled to appoint one representative and one alternate representative (hereinafter referred to as “members”) to the Administrative Committee (hereinafter referred to as the “Committee”). The names of the members appointed by each Contracting Member State to the Committee shall be notified by that State to the President of the Court of Appeal. The President of the Court of Appeal shall notify the Contracting Member States thereof.
2. Members shall take up their duties on the date on which the President of the Court of Appeal receives the notification of their appointment, or, if a later date is indicated in the notification, on that date.
3. Members may take part in all deliberations of the Committee and may, without prejudice to Article 8(2), vote on behalf of their Contracting Member States.
4. Any member prevented from attending a meeting may arrange to be represented by another person in his delegation. The Committee Secretariat shall, in due time, be informed thereof in writing.

Article 2

Delegations

1. Unless the Committee decides otherwise in a particular case, members may be assisted by advisers or experts. The Committee Secretariat shall, in due time, be informed of their names in writing.
2. The delegation of each Contracting Member State shall be composed of its members together with their advisers and experts.

Article 3

Chairperson

1. The Chairperson of the Committee (hereinafter referred to as the “Chairperson”) elected in accordance with Article 12(5) of the Agreement on a Unified Patent Court (hereinafter referred to as

the “Agreement”) shall be responsible for the work of the Committee and the exercise of its functions. In fulfilling his duties, the Chairperson shall closely cooperate with the President of the Court of Appeal and the Chairpersons of the Budget Committee and the Advisory Committee. All the provisions of these Rules of Procedure concerning the Chairperson shall apply *mutatis mutandis* to the Deputy Chairperson and to the *ad hoc* Chairperson referred to in paragraph 5.

2. The Committee shall elect a Deputy Chairperson from among its members for a term of three years. That term of office shall be renewable.

3. The Deputy Chairperson shall *ex officio* replace the Chairperson if he is prevented from carrying out his duties.

4. If the office of Chairperson or Deputy Chairperson falls vacant, the Committee shall at its next meeting elect a new Chairperson or Deputy Chairperson, in accordance with Article 12(5) of the Agreement or paragraph (2). However, if the office of Chairperson or Deputy Chairperson falls vacant due to the expiry of the term of office, the election shall take place at a meeting of the Committee held before the expiry of that term.

5. In the event of neither the Chairperson nor the Deputy Chairperson being able to attend a meeting of the Committee, the meeting shall be opened by the longest serving member or, in the event of equal length of service, by the oldest member, who shall immediately invite the Committee to elect an *ad hoc* Chairperson. The *ad hoc* Chairperson shall then preside over the meeting while the Chairperson and Deputy Chairperson are absent.

Article 4

Committee Secretariat

1. The President of the Court of Appeal shall place a secretariat (for the purposes of the present Rules: the “Committee Secretariat”) at the disposal of the Committee.

2. The Committee Secretariat shall draft the minutes of Committee meetings, be responsible for all organisational aspects of the proceedings of the Committee and advise the Chairperson on organisational matters.

Article 5

Other participants

1. The President of the Court of Appeal shall take part in all the deliberations of the Committee. The President of the Court of First Instance shall take part in the deliberations of the Committee relating to the Court of First Instance. Unless the Committee decides otherwise in a particular case, they may be assisted by other members of the Presidium and by officials and other servants of the Unified Patent Court (hereinafter referred to as the “Court”).

2. The Chairpersons of the Budget Committee and the Advisory Committee shall have the right to attend the meetings of the Committee, and they may be invited to address the Committee concerning matters related to the competence of the committee they are chairing.

3. The Committee may invite the Chairperson of any subcommittee, working party or other subsidiary body established by the Committee to attend its meetings for matters of interest to that body.
4. Acting on a proposal from its Chairperson, the Committee may allow persons especially qualified in the matters to be discussed to attend its meetings.
5. A representative of the European Commission shall participate in the meetings of the Committee as an observer and shall take part in all its deliberations.
6. The Committee may invite any Member State of the European Union to appoint a representative to attend its meetings as an observer until its ratification or accession takes effect.
7. The Committee may invite other observers to participate in its meetings.
8. Unless the Committee decides otherwise in a particular case, representatives of observers other than the European Commission may participate in only those meetings or parts of meetings that do not relate to confidential items.

Article 6

Meetings

1. Meetings of the Committee shall be convened by its Chairperson.
2. The Committee shall hold at least two meetings per year. In addition, it shall also meet on the initiative of its Chairperson or at the request of at least one-third of the Contracting Member States.
3. The Committee shall define its work programme and schedule its ordinary meetings for each calendar year in advance.
4. Deliberations in the Committee shall be based on an agenda drawn up and adopted in accordance with Article 7.
5. The Chairperson shall give notice of convocation of the Committee's meeting no later than one month before the start of the meeting.
6. Where the Committee is to meet at the request of at least one-third of the Contracting Member States, the Chairperson shall convene a meeting, in accordance with paragraph 5, to take place within six weeks of the receipt of that request.
7. Meetings shall normally be held at the seat of the Court of Appeal.
8. When circumstances require, and provided a majority of the members does not object, the Chairperson may change the date or place of a meeting of the Committee. Notification of such change shall be given to members no later than three weeks before the original date of the start of the meeting or the revised date, if this date is earlier.
9. The chairperson may decide to hold a meeting in electronic or hybrid form.

Article 7

Agenda and working documents

1. A provisional agenda shall be drawn up by the Chairperson and shall be transmitted to members no later than one month before the start of the meeting. It shall contain, in addition to those questions whose inclusion is requested by a member, any question whose inclusion is requested by the President of the Court of Appeal, the President of the Court of First Instance, the Chairperson of the Budget Committee, the Advisory Committee or any subcommittee, working party or other subsidiary body established by the Committee. Requests to have items put on the provisional agenda from observers shall be submitted via the Chairperson or the President of the Court of Appeal.
2. The agenda items of the Committee shall be defined as confidential or as public. When adopting the agenda, the Committee shall indicate which items are public and which are confidential. If an agenda item is public, observers can be admitted in accordance with Article 5(8).
3. Questions to be included on the provisional agenda shall be submitted to the Chairperson not less than six weeks before the date of the start of the meeting.
4. When the Committee is to meet at the request of one third of the Contracting Member States, questions to be included on the provisional agenda shall be submitted to the Chairperson at the time of the request for a meeting.
5. Questions submitted after the time-limits specified in paragraphs 3 and 4 may be included on the provisional agenda at the discretion of the Chairperson.
6. The agenda shall be adopted at the beginning of each meeting.
7. With the agreement of the Committee, urgent questions may be added to the agenda at any time before the end of the meeting, and items on the agenda may be deleted or carried over to a subsequent meeting.
8. Working documents shall be made available to members no later than three weeks before the start of a meeting.
9. If any necessary working document is transmitted to the members outside the time-limit specified in paragraph 8, no decision shall be taken on the question to which it relates, unless the Committee decides otherwise by unanimous vote.

Article 8

Voting

1. The right to vote in the Committee shall be restricted to the Contracting Member States.

2. A member may authorise another person to vote on behalf of that member's Contracting Member State if both the representative and alternate representative of that State are prevented from participating in the vote. The Secretariat shall, in due time, be informed thereof in writing.

3. The Chairperson shall ensure that, before voting on any matter that may concern Union law, the representative of the European Commission has the opportunity to express its position on the proposal at issue.

4. The Committee shall take its decisions in accordance with Article 12(3) of the Agreement.

5. The presence of persons entitled to vote on behalf of a majority of the Contracting Member States is required to enable the Committee to vote. When the vote is taken, the Chairperson, with the Secretariat's assistance, shall check that there is a quorum. In the absence of a quorum, the Chairperson may close the meeting and convene another as soon as possible.

6. Votes shall be taken by show of hands. Votes may be taken electronically, regardless of whether or not the vote is taken by secret ballot.

7. Notwithstanding paragraph 6, the vote shall be taken by secret ballot

(a) for the election of the Chairperson, the Deputy Chairperson and the *ad hoc* Chairperson; or

(b) at the request of any member.

(8) For each decision adopted by the Committee, figures for the vote cast shall be recorded. A statement of the views of the minority shall be entered in the minutes along with the decision if the minority so requests. The Chairperson may authorise a member to speak briefly in explanation of a vote he has cast.

(9) On a proposal from either the Chairperson, or the President of the Court of Appeal or the President of the Court of First Instance, the Committee may take a vote by written procedure in accordance with paragraphs 10 to 14.

(10) If a vote is to be taken by written procedure, the Chairperson shall communicate the wording of the proposal at issue to the members, the President of the Court of Appeal, the President of the Court of First Instance and the representative of the European Commission, and, where appropriate under paragraph 3, shall invite the representative of the European Commission to give its position on the proposal at issue within seven calendar days. The Chairperson shall thereafter communicate any position of the representative of the Commission to the members and to the President of the Court of Appeal or the President of the Court of First Instance. At the same time or, where appropriate under paragraph 3, without prior consultation with the European Commission, the Chairperson shall invite the members to inform him, within fourteen calendar days,

(a) whether they agree to use the written procedure, and

(b) whether they approve the proposal.

(11) A proposal submitted for voting by written procedure may not be amended; it shall be approved or rejected in its entirety.

(12) The proposal shall be deemed to be adopted if

(a) no Contracting Member State has objected to the use of the written procedure, and

(b) the Contracting Member States have approved the proposal at issue by the majority required.

(13) If a proposal submitted for voting by written procedure fails to achieve the required majority, it may be included in the provisional agenda of the Committee's next meeting.

(14) The Chairperson shall maintain a list of decisions taken by written procedure. At the beginning of each meeting of the Committee, the Chairperson shall inform the participants of any decisions taken by written procedure since the last meeting.

Article 9

Proceedings

1. The proceedings of the Committee shall be public except for those agenda items which are confidential.

2. The Chairperson shall conduct the proceedings, giving priority to members wishing to propose a procedural motion or to raise a preliminary matter. At any time during the meeting, members may raise objections to the Chairperson's conduct of proceedings. If the Chairperson does not uphold the objection, any member may call for an immediate decision by the Committee.

3. If the Chairperson or any member contests the admissibility of a motion proposed by a member in the course of proceedings, the question of its admissibility shall be put to a vote.

4. If the Chairperson takes the view that a motion may delay the proceedings, he may put it to a vote immediately, without debate.

5. Where several motions on the same subject have been tabled, the broadest one shall be voted on first. In the case of amendments, the amendment which most extensively alters the original proposal shall be voted on first. An amendment to an amendment shall be voted upon before the main amendment, and where there are several amendments to the same amendment the broadest one shall be voted on first. The final vote shall be cast on the version of the text resulting from the previous vote(s).

Article 10

Languages of the Committee and interpretation in its meetings

1. The languages used in the deliberations of the Committee shall be English, French and German.

2. Unless the Committee decides otherwise, by unanimous vote and on grounds of urgency, the Committee shall deliberate and take decisions only on the basis of documents drawn up in the three languages specified in paragraph 1. The minutes of the deliberations of the Committee shall be drawn up in the three languages specified in paragraph 1.

3. Interpreting from each of the languages English, French and German into each of the other two languages shall be provided throughout each meeting of the Committee, unless the Committee unanimously decides to dispense therewith.

Article 11

Minutes

1. A summary of the decisions taken at each meeting of the Committee shall be forwarded to members and other participants no later than two weeks after the end of the meeting.
2. The draft minutes, to which the attendance list and the decisions taken with figures for the votes cast at each vote shall be attached, shall be forwarded to members and other participants not later than ten weeks after the end of the meeting. The draft minutes shall be available in the three languages specified in Article 10(1). The draft minutes shall be approved at the following meeting of the Committee, and the original copy of the minutes, as approved, shall be signed by the Chairperson. The signed copy of the minutes shall be kept in the archives of the Committee Secretariat.
3. The final text of the minutes shall be forwarded to members and other participants no later than four weeks after its approval.

Article 12

Confidentiality

1. The proceedings of the Committee shall be confidential for those agenda items defined as confidential. Members and other persons present at meetings of the Committee shall respect the confidential character of these proceedings.
2. Non confidential documents may be made available to third parties or to the public, unless the Committee decides otherwise in a particular case.
3. The Committee may decide, in accordance with the procedures and rules which it adopts, to publicise its decisions.

Article 13

Joint meetings

1. The Chairperson of the Committee (for the purposes of this Article: the Administrative Committee) and the Chairperson of the Budget Committee may agree to convene a joint meeting of the Administrative Committee and of the Budget Committee to discuss questions of common interest.
2. The joint meeting shall be chaired by the Chairperson of the Administrative Committee, or, in his absence, by the Chairperson of the Budget Committee.
3. Where a question is put to a vote, the delegation of each Contracting Member State, consisting of its Administrative Committee and Budget Committee members, shall have one vote.

4. Unless provided otherwise in paragraphs 1 to 3, the present Rules of Procedure shall apply to joint meetings.

Article 14

Subcommittees, working parties and other subsidiary bodies

1. The Committee may establish subcommittees, working parties or other subsidiary bodies to advise on it on particular questions. It shall determine their tasks and composition.
2. Unless provided otherwise in this Article, each subsidiary body shall establish its own rules of procedure on a proposal from its Chairperson.
3. The President of the Court of Appeal and the President of the Court of First Instance shall have the right to attend, or be represented at, any meeting of a subsidiary body. They may be assisted by other members of the Presidium and by officials and other servants of the Court.
4. Articles 3(5), 4, 8, 10 to 12 and 15 shall apply *mutatis mutandis* to subsidiary bodies.

Article 15

Communications

1. All correspondence with the Committee shall be addressed to the Committee Secretariat.
2. In the interests of rapid and efficient correspondence among members and other participants, the Committee shall, whenever possible, make use of generally available electronic communications facilities, especially electronic mail (e-mail) and the databases of the Court. The Committee Secretariat shall maintain a list of all e-mail addresses and databases relevant to the work of the Committee, and shall provide such information to members and other participants.
3. Where notices of convocation, notifications, documents and other communications subject to deadlines have to be transmitted, the relevant deadline shall be deemed to be met if, within the time limit, any of the above is transmitted by e-mail or made available in one of the databases of the Court.
4. The Committee Secretariat shall notify all members and other participants by e-mail when such documents have been made available in one of the databases of the Court.
5. The Committee Secretariat shall be responsible for ensuring access to such databases by members and other participants of the Committee.
6. Members, or other persons in their delegations, shall inform the Committee Secretariat by e-mail of all documents not received relating to notified meetings, within three calendar days after the relevant deadline has expired.

Article 16

Amendments

1. The Administrative Committee may amend these Rules of Procedure.
2. Amendments to the Rules of Procedure shall enter into force on the date fixed by the Administrative Committee.

Article 17

Entry into force

These Rules of Procedure shall enter into force on 22 February 2022.

Done at _____ on _____

For the Administrative Committee

The Chairman