



Comité administratif

Modifications du règlement régissant les conditions de service des juges, du greffier et du greffier adjoint de la Juridiction unifiée du brevet
et
des règles relatives aux missions et déplacements de la Juridiction

Luxembourg, le 8 février 2023

NOTE EXPLICATIVE

Le comité administratif est invité à prendre acte de la lettre adressée le 22 décembre 2023 par le président de la cour d'appel de la JUB au président faisant fonction du comité administratif. Cette lettre, qui figure en annexe au présent document, propose de préciser les règles relatives aux missions et déplacements de la JUB en ce qui concerne les juges à temps partiel de la Juridiction qualifiés sur le plan juridique et de modifier le règlement régissant les conditions de service des juges, du greffier et du greffier adjoint de la Juridiction unifiée du brevet.

Le comité administratif est invité à adopter les modifications proposées.

**DÉCISION DU COMITÉ ADMINISTRATIF DU 8 FÉVRIER 2023 MODIFIANT LES RÈGLES
RÉGISSANT LES CONDITIONS DE SERVICE DES JUGES, DU GREFFIER ET DU GREFFIER ADJOINT
DE LA JURIDICTION UNIFIÉE DU BREVET
ET
LES RÈGLES DE LA JURIDICTION RELATIVES AUX MISSIONS ET DÉPLACEMENTS DE LA JURIDICTION**

LE COMITE ADMINISTRATIF

VU l'accord relatif à une Juridiction unifiée du brevet, et notamment ses articles 17 et 18;

VU les statuts de la Juridiction unifiée du brevet, et notamment leurs articles 3 et 4;

RAPPELANT le règlement régissant les conditions de service des juges, du greffier et du greffier adjoint, et notamment ses articles 39 et 40,

CONSIDÉRANT la demande formulée par le présidium,

A ARRÊTÉ LA PRÉSENTE DÉCISION :

Article premier

Le règlement régissant les conditions de service des juges, du greffier et du greffier adjoint de la Juridiction unifiée du brevet est modifié comme suit:

À l'article 40, paragraphe 2, la deuxième phrase suivante est ajoutée:

«Pour un juge à temps partiel, nommé pour un pourcentage maximal de 50 % de son temps de travail, le lieu de travail au niveau national ou, le cas échéant, son lieu de résidence est réputé être le lieu de travail».

Article 2

Les règles relatives aux missions et déplacements de la Juridiction unifiée du brevet sont modifiées comme suit:

1) Le premier alinéa de la règle 2, paragraphe 1, point i), est remplacé par le texte suivant:

- «pour les juges qualifiés sur le plan juridique», *nommés pour un pourcentage supérieur à 50 % de leur temps de travail: la ville dans laquelle est située l'instance ou la division de la Juridiction dans laquelle le juge est nommé (article 3, paragraphe 5, des statuts de la JUB), ou, le cas échéant, son lieu de résidence;*»

2) Un deuxième alinéa est ajouté à la règle 2, paragraphe 1, point i), comme suit :

- *«pour tous les autres juges qualifiés sur le plan juridique: leur lieu de travail au niveau national, ou, le cas échéant, leur lieu de résidence;»*

Article 3

La présente décision entre en vigueur le 8 février 2023.

Fait à Luxembourg, le 8 février 2023

Pour le comité administratif

signé Johannes Karcher

Le président

Annexe — Lettre de M. Klaus Grabinski, président de la cour d’appel de la JUB, à M. Johannes Karcher, président faisant fonction du comité administratif de la JUB



Luxembourg, 22 December 2022

Mr Johannes Karcher

Acting Chairman of the Administrative Committee

Subject: Request for clarification on Rules on Duty Travel of the UPC (AC/12/08072022_E) regarding legally qualified part-time judges of the Court

Dear Mr Karcher,

The Presidium would like to draw the Administrative Committee’s attention to a point related to the Rules on Duty Travel of the UPC, 8 July 2022 (AC/12/08072022_E), which might call for clarification. It specifically concerns the provisions applicable to part-time judges who are appointed in a division different from their place of employment at the national level.

According to R. 2.1(i) of the Rules on Duty Travel of the UPC

the **“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.

In addition, Article 40 of the Service Regulation (AC/07/22022022_E) "**Mission expenses**" provides that:

1. A judge, the Registrar or the Deputy-Registrar travelling on mission and holding an appropriate travel order shall be entitled to reimbursement of travel expenses and to daily allowance in accordance with these Regulations and in line with the rules agreed upon by the Administrative Committee.
2. The reimbursement of travel expenses shall be limited to the cost of the most appropriate but economical journey between the place of employment and the place of mission.

These provisions will apply to a number of part-time judges - 20% and 50% - who are notably appointed in the Court of Appeal or in the Central Division (seat in Paris or section in Munich) to ensure a multinational composition of the panels in accordance with Articles 8 and 9 UPCA.

As, for example, the Italian and German judges appointed in the Central Division will have to travel from Rome and Munich to Paris, the French judge will have to travel from Paris to Munich, and the judges of the Court of Appeal will have to travel from their respective place of domicile or national court to Luxembourg. The Estonian judge appointed in the Nordic Baltic Regional Division will have to travel to Stockholm. The two German judges that are located in Dusseldorf and appointed in the Central Division in Munich and in the Local Division of Hamburg will also have to travel.

As these various situations may not specifically be covered by the provisions cited above, this ambiguity calls for a clarification regarding the entitlement to reimbursement of the costs incurred by these duty travels.

Assuming the application of the provisions to these situations is already encompassed by R. 2.1 (i) mentioned above, such entitlement should preferably be based on objective criteria in order to facilitate the case-by-case decisions on requests for reimbursement of the related expenses.

A definition allowing for the remuneration of travel expenses in the aforementioned situations would further the attractiveness of the UPC for current and future part-time judges and avoid late drop-outs in individual cases of 20% or 50%-judges. The travelling costs for these judges may even exceed their net salary of the UPC. Furthermore, as it is very likely that the percentage of working time for the UPC will significantly increase for a considerable number of these judges in the near future, the effects on the budget of the court will be moderate.

Therefore the Presidium suggests to amend the provisions cited above as follows:

Article 40 of the Service Regulation (AC/07/22022022_E)

1. A judge, the Registrar or the Deputy-Registrar travelling on mission and holding an appropriate travel order shall be entitled to reimbursement of travel expenses and to daily allowance in accordance with these Regulations and in line with the rules agreed upon by the Administrative Committee.
2. The reimbursement of travel expenses shall be limited to the cost of the most appropriate but economical journey between the place of employment and the place of mission. *For a part-time judge, being appointed for a percentage of up to 50% of his working time, the place of employment at national level, or, where appropriate, his place of residence, shall be deemed his place of employment.*

Rule 2.1(i) Rules on Duty Travel:

(i) “place of employment” means

- for legally qualified judges *being appointed for a percentage of more than 50% of their working time*: 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 all other legally qualified judges: their place of employment at national level or, where appropriate, their 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; ...

I would be very grateful if you could pass this suggestion for clarification of the Presidium on to the Administrative Committee.

Yours faithfully,

Mr Klaus Grabinski

President of the UPC Court of Appeal