



Administrative Committee

Rules of Operation of the Mediation and Arbitration Centre

Luxembourg, 8 July 2022

Explanatory Note

Under Article 35 UPCA a Patent Mediation and Arbitration Centre (PMAC) is established to provide facilities for the mediation and arbitration of patent disputes falling within the scope of the Agreement. In order to properly operate the PMAC will need to rely on Rules of Operation to be adopted by the Administrative Committee, Articles 35, 11 UPCA.

The draft decision submitted in this document contains a proposal for such 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 15th meeting on 14 April 2016 on the basis of document PC/03i/Apr2016. 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 8 July 2022

RULES OF OPERATION OF THE MEDIATION AND ARBITRATION CENTRE OF THE UNIFIED PATENT COURT

Rule 1 - Definition

“Centre” means Patent Mediation and Arbitration Centre of the Unified Patent Court (UPC).

Rule 2 - Status

1. The Centre forms part of the Unified Patent Court (UPC).
2. It operates independently, but carries out its tasks in close contact and cooperation with the committees/bodies of the UPC which will have to take decisions in relation to the operation of the Centre.

Rule 3 - Seats

The Centre has its seats in Ljubljana, Slovenia, and Lisbon, Portugal (Article 35 UPC Agreement). It will have a permanent address in both cities which can be used for official communications.

Rule 4 - Facilities

Mediation and arbitration proceedings can be held either at the seats or elsewhere. For this purpose appropriate facilities shall be provided for at the seats of the Centre, in Ljubljana and Lisbon.

Rule 5 - Objectives

1. The objective of the Centre is to promote mediation and arbitration in cases which fall wholly or in part within the competence of the UPC.
2. Its objective includes in particular:

- to make available institutional support for the mediation and arbitration proceedings,
 - to provide mediation and arbitration rules, fee schedules, model clauses for use in mediation and arbitration and other regulations,
 - to provide facilities which the parties can use to carry out mediation and arbitration proceedings,
 - to promote and to organize the training of mediators and arbitrators in cooperation with the UPC training centre in Budapest and if appropriate other institutions.
3. The Centre shall conduct information events, maintain a website linked to the UPC website, develop and distribute publications in the field of patent mediation and arbitration.
4. The Centre may develop any other activities within its competence which will contribute to efficiency and efficacy of the UPC.

Rule 6 - Working Languages

1. The working languages of the Centre shall be English, French and German
2. The Centre shall communicate in the working languages as indicated under Article 6.1. in which it is addressed.

Rule 7 - Finances

1. In accordance with Article 39 UPC Agreement the Centre's budget is part of the budget of the UPC. The financial regulations of the UPC apply to the Centre. The director prepares the draft annual budget for approval by the Budget Committee of the UPC.
2. The Centre shall be financed by the budget of the UPC.
3. The fees derived from the conduct of mediation and arbitration proceedings by the Centre and revenues from the conduct of events and the distribution of publications by the Centre will be part of the regular budget of the UPC.
4. The Centre shall make an annual financial Statement which contains its income and expenditures during the fiscal year.

Rule 8 - Organs of the Centre

The Organs of the Centre are:

- the director,
- the administrative committee (of the UPC),

- the budget committee and the auditors (of the UPC),
- the expert committee.

Rule 9 - Director

1. The Centre has a single director. The director represents the Centre and performs all duties not exclusively assigned to another organ.

2. The director shall carry out his duties at the seats or where necessary or appropriate elsewhere.

3. The director is independent in his functions and is responsible for the complete operational and organizational structure of the Centre including financial, secretarial and staffing issues.

4. In particular the director shall

- ensure that the facilities of the Centre are available,
- distribute the workload of the Centre including the fair distribution of cases to a specific seat,
- take the necessary decisions attributed to the Centre by the mediation and arbitration rules, including the appointment and removal of arbitrators and mediators -after consulting the expert committee-except if the circumstances of the decision to be taken would make such consultation not feasible,
- promote the Centre publicly,
- approve and maintain a list of arbitrators and mediators in cooperation with the expert committee,
- appoint such staff as necessary for the efficient running of the Centre with the assistance of the expert committee,
- develop the annual draft budget of the Centre,
- prepare an annual financial statement and a report on the activities of the Centre,
- propose possible changes to the Centre's structure, functioning or other aspects of the Centre including its rules and regulations in cooperation with the expert committee,
- promote the training of potential mediators and arbitrators and cooperate with the UPC training centre in Budapest or other institutions.

5. The director shall be employed by the UPC.

6. The director should have experience in the field of intellectual property law, alternative dispute resolution and in management. He will serve as director for five years. His contract may be renewed once.

Rule 10 - Administrative Committee

1. The Administrative Committee of the UPC will act as Administrative Committee of the Centre. The rules of procedure of the Administrative Committee of the UPC shall apply *mutatis mutandis*.

2. The duties of the Administrative Committee comprise *inter alia*:

- adopting the rules of operation of the Centre as well as possible changes,
- adopting the mediation and arbitration rules, the fee schedules and other important bylaws of the Centre as well as possible changes,
- approving the annual report of the Centre,
- appointing the director on proposal by the Contracting Member States,
- appointing the members of the expert committee on proposal by the Contracting Member States,
- accept the criteria and qualification for arbitrators and mediators.

Rule 11 - Budget Committee and the Auditors

1. The Budget Committee of the UPC will act as Budget Committee of the Centre. It approves the draft annual budget of the Centre and transfers such financial contributions necessary to set up, maintain and operate the Centre.

2. The Auditors of the UPC will act as auditors of the Centre. They will evaluate the annual financial statement of the director.

Rule 12 - Expert Committee

1. The expert committee is composed of experts in the field of patent law and mediation and arbitration law who will support the Centre.

2. The expert committee is independent and is not bound by any considerations other than what is provided for in these rules.

3. The duties of the expert committee comprise *inter alia*:

- cooperating with the director in establishing a list of arbitrators and mediators,
- proposing necessary or appropriate amendments to the Centre's rules,

4. The members of the expert committee shall be appointed by the Administrative Committee on the proposal of the Contracting Member States and this for a renewable term of six years

5. The number of persons serving on the expert committee will be 12 some of whom will be experts in mediation and others in arbitration.

6. The expert committee will be convened by the director at least once a year. He will be present at the meeting without the right to vote. The annual meetings will be held alternatively at the seats of the Centre, in Lisbon (Portugal) and Ljubljana (Slovenia).

7. The expert committee will reach its decisions by a majority of votes of its members present at the meeting. The quorum for decisions to be taken is eight.

8. The members of the expert committee will not be paid. They will be reimbursed for reasonable travel and accommodation expenses and will receive a daily allowance from the Centre's budget.

Rule 13 - Staff

1. The Centre will be run by its director and staff comprising case management support and secretarial assistance.

2. The case manager shall provide administrative support to any mediation and arbitration proceedings, as delegated to him by the director.

Rule 14 - List of Arbitrators and Mediators

1. The Centre shall establish and maintain a list of mediators and arbitrators in the field of patent law. The Centre will strive to enlist mediators and arbitrators of each contracting Member State on the list.

2. The director and the expert committee shall work together to determine the criteria and qualifications for arbitrators and mediators to be admitted to the list which have to be accepted by the administrative committee.

3. The Centre will update this list.

Article 17 - Entry into force

These Rules of Operation shall enter into force on 1st August 2022.

Done at Luxembourg on 8 July 2022

For the Administrative Committee

The Chairman