



# Presidium

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Guidelines on the time factor regarding the remuneration and the procedure for remuneration of case-by-case part-time judges

Dusseldorf, 20 December 2022

**Guidelines of the Presidium**  
of 20 December 2022

Guidelines on the time factor regarding the remuneration and the procedure for remuneration of case-by-case part-time judges of the Unified Patent Court

THE PRESIDIUM OF THE UNIFIED PATENT COURT

HAVING REGARD to the Agreement on a Unified Patent Court (UPCA) and in particular Articles 16 – 17 thereof;

HAVING REGARD to the Statute of the Unified Patent Court (UPCS) 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;

HAVING REGARD to the Concept for the remuneration and the procedure for remunerating case-by-case part-time judges of the Unified Patent Court (AC/11/08072022\_E),

HAS ADOPTED THE FOLLOWING GUIDELINES:

Preamble

1. The Concept for the remuneration and the procedure for remunerating case-by-case part-time judges of the Unified Patent Court (AC/11/08072022, hereafter The Concept) provides guidelines for the determination of the remuneration of case-by-case part-time judges. The Concept 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.
2. According to the Concept, the amount of remuneration for each respective month shall be determined by multiplying a time factor by a money factor. In the following, the Presidium issues guidelines on the determination of the time factor.
3. For the purpose of these guidelines, the Presidium assumes that until further notice only technically qualified judges will be appointed as case-by-case part-time judges. Therefore, the following guidance only apply to them.
4. Remuneration of legally qualified part-time judges on a case-by-case basis thus shall be subject to separate guidelines by the Presidium, if required.
5. Should the case-by-case part-time judges be entitled to receive a remuneration for their participation in a training, a time factor is also determined by the present guidelines for this purpose.

## Article 1

The remuneration of case-by-case part-time judges (hereafter: judges) is calculated and paid on a monthly basis, whereas the amount of remuneration for each respective month is determined by multiplying a time factor by a money factor.

## Article 2

1. The time factor is counted in time-units of hours as declared by the judge, whereby only full hours shall be taken into account.
2. After allocation of the technically qualified judge to the panel (Article 8 (5) UPCA) upon request or, if the panel sits in a composition with one or two technically qualified case-by-case part-time judges (Articles 8 (6) and 9 (1) UPCA), before closure of the written procedure, the judge-rapporteur shall, preferably after consultation with the presiding judge, as soon as practicable classify the case with regard to the expected amount of time needed by the judge for preparing and deciding the case, considering in particular the difficulty and the complexity of the case, in one of the three categories: category 1 “Easy”, category 2 “Medium” and category 3 “Complex”. In addition to the possibilities to increase or decrease the contingent as mentioned in Appendix I, the judge-rapporteur may review his classification before the closure of the interim procedure.
3. Depending on the category attributed to the case, the judge is given a maximum amount of billable hours for the case (hereafter: contingent) from which he or she may invoice hours as spent on the case on a monthly basis (see Appendix I).
4. If there is an entitlement to remuneration for participation in a training, the time factor is calculated on a daily basis, starting from the beginning of the training until the end (excluding any extra activities).

## Article 3

The money factor shall be determined by the Budget Committee.

## Article 4

1. The judge may request payment for the hours spent on the case or, where applicable, on a training, and shall provide a specification of the hours spent.
2. The request shall be lodged at the latest by the end of the month following the month for which the payment is to be made and addressed to the Registrar.
3. The request shall be checked by the Registrar with regard to compliance with the contingent, the number of hours of training and the underlying money factor.
4. The payment shall be made at the latest by the end of the month following the receipt of the request for payment.

#### Article 5

1. If the contingent attributed to the case does not cover all hours spent on it by the judge because the preparation and the decision of the case turned out to be more difficult or complex, he or she may apply for an extension thereof.
2. The application for an extension of the contingent shall give reasons why the hours spent on the case exceed the contingent attributed to the case and be lodged immediately after the judge has finished his or her work on the case.
3. The panel shall decide on the application as soon as is practicable. The judge concerned shall not take part in the decision.
4. An extension of the contingent is precluded if the application is not lodged two months after service of the decision on the merits. If the proceedings are not terminated by a decision on the merits, the judge-rapporteur shall inform the judge about the end of the proceedings. The service of this notice shall be deemed service of the decision on the merits for the purpose of this Article.

#### Article 6

The Registrar shall publish the money factor, the time factor and any amendments on the intranet of the UPC and inform all judges individually.

#### Article 7

1. These guidelines are subject to review.
2. The first review shall take place at the latest 12 months after the entry into force of the Agreement on a Unified Patent Court.

#### Article 8

These guidelines shall enter into force on 1 June 2023.

Done at Düsseldorf on 20 December 2022.

For the Presidium

signed Klaus Grabinski

The Chairman

**Appendix I**

1. Without prejudice to any other factors (see below), the contingent referred to in Art. 2(3) of this decision is determined as follows:

<b><u>Category 1</u></b> <b><u>(Easy)</u></b>	<b><u>Category 2</u></b> <b><u>(Medium)</u></b>	<b><u>Category 3</u></b> <b><u>(Complex)</u></b>
16 hrs	26 hrs	36 hrs

This contingent includes all activities of the judge during the proceedings.

2. In the event of a counterclaim for revocation or infringement, an additional contingent shall be determined in accordance with paragraph 1.
3. The contingent mentioned under paragraph 1 with regard to infringement proceedings may be increased in particular in the following situations:
- (a) An action for provisional and protective measures and injunctions is lodged after main proceedings on the merits have been filed.
  - (b) A FRAND objection has been raised.
  - (c) A counterclaim concerning licenses has been filed.
4. The contingent mentioned under paragraph 1 may be increased when, in the event of a claim or counterclaim for revocation, an application to amend the patent has been lodged.
5. The contingent mentioned under paragraph 1 may be reduced, in particular for the following procedures:
- (a) Procedures for the award of damages;
  - (b) Actions for damages or compensation derived from the provisional protection conferred by a published European patent application;
  - (c) Actions relating to the use of the invention prior to the granting of the patent or to the right based on prior use.