

# Kluwer Patent Blog

## Interviews with candidate judges for the Unified Patent Court have started

Kluwer Patent blogger · Wednesday, April 6th, 2022

Another [constitutional complaint against the Unified Patent Court Agreement](#)? Is Italy [withdrawing from the UPC](#)? If even April fools' day doesn't go by without a proportion of jokes on the Unitary Patent project, one can be certain that after years of stagnation the Unified Patent Court and the Unitary Patent are fully back on the agenda. The Advisory Committee [announced today](#) that it has started to interview candidates for the positions as judges of the Court. 'These interviews are foreseen to be ongoing until May.'

Since the period of provisional application (PPA or PAP) of the UPCA started on 19 January, preparations for the court have geared up. The three governing bodies of the court: the Administrative Committee (more or less the successor of the Preparatory Committee; both were/are chaired by Alexander Ramsay), the Advisory Committee and the Budget Committee were inaugurated and started their activities in February.



### Selection of UPC judges

The Administrative Committee [appointed the Advisory Committee](#), which has the task to select candidate judges for the UPC. Chairman is attorney at law and professor in IP law Willem Hoyng from the Netherlands. He was a member of the drafting committee of the Rules of Proceedings of the UPC and advises the Dutch Ministry of Economic Affairs on UPC matters. Deputy head is Sylvie Mandel, honorary judge at the Cour de Cassation in Paris. Almost all members of the committee are judges with IP experience, who are or were active at the highest courts in their country.

According to today's announcement on the UPC website, the Advisory Committee started to interview candidates and 'will provide its recommendations to the Administrative Committee, which eventually will appoint the judges of the Court. According to the current planning, the appointment of the judges will take place before the summer break.

After their appointment, the judges will elect the two Presidents of the Court and form a Presidium.

Thereafter, the Registrar and the Deputy Registrar will be recruited. Once appointed, the judges will be offered an extensive training program covering e.g., the Case Management System and the secondary legislation of the Court.'

In September 2021, Alexander Ramsay told Kluwer IP Law: 'We will recruit approximately 50 legally qualified judges and approximately 50 technically qualified judges.' Apart from five full-time judges, all future judges will work part-time for the court. The first president of the Court of First Instance shall be French.

### **European patent attorneys**

Although British judges cannot be appointed and participate in the Unified Patent Court as a consequence of the UK's withdrawal from the Unitary Patent project due to the Brexit, this is different for European patent attorneys from the UK. The [Rules on the European Patent Litigation Certificate and other appropriate qualifications](#), which were published by the Administrative Committee late February, clarify that UK European Patent Attorneys may represent clients before the UPC, if they gained one of the UK qualifications mentioned in the Rules before the end of the Brexit transition period, in other words before 31 December 2020.

After this date they can still represent clients before the UPC, as long as they have a European Patent Litigation Certificate. This is true for patent attorneys from all member states of the EPC but not (yet) the UPC, such as Spain and Switzerland (Rule 2).

### **Budget Provisional Period**

In the meantime, the Budget Committee published a [Draft Decision concerning the budget for the period of provisional application of the Agreement on a Unified Patent Court](#). At the start it is explained that: 'All figures contained in the present budget for the PAP are pragmatic and prudent estimates which aim above all at ensuring that sufficient funds will be available to the UPC during the period of provisional application. Focus has been on ensuring the UPC's sustainability in the 8 months of that period while at the same time offering the necessary level of accountability'.

The document makes clear that the budget of the UPC for the period of provisional application is EUR 6 333 883 euro, including the budget of the Pension and Social Security Schemes, totalling EUR 226 491.

Two more interesting paragraphs: 'Recruitment for UPC personnel is foreseen to start in month five of the PAP, with a total of nine fulltime equivalents (FTEs) to be recruited until the end of the PAP. For the PAP, recruitment of only a limited number of seven judges is foreseen. These seven judges (President of the Court of Appeal, two legally qualified judges of the Court of Appeal, President of the Court of First Instance, three legally qualified judges of the Court of First Instance, corresponding to six FTEs) will form the UPC's Presidium, in accordance with Article 15(1) of the UPC Statute. In addition, the registrar and the deputy-registrar, as well as the director of the training centre, will be appointed during the PAP. These nine FTEs (corresponding to ten heads) will already take up their duties and receive salary payments during the PAP. The remaining judges will be appointed during the PAP but will only start receiving salary payments with the entry into force of the UPC Agreement. However, all judges will receive preparatory training during the PAP, the costs of which are borne by the UPC. In total, it is planned to appoint 92 judges with a reserve list of 45 judges.'

‘These IT set-up expenses are estimated to have reached the amount of EUR 2 942k at the start of the PAP. (...) During the PAP, additional IT investments in the amount of EUR 568k will be needed to cover completion and update of the IT systems.’

Late February, the budget committee asked member states to make their contributions for the provisional application period within six weeks.

### **Medical and social security plan**

Although it may not seem the most exciting document for patent experts, the [call for tenders for the provision of medical and social services](#) at the UPC, which was launched on 22 March 2022, contains some interesting numbers.

‘A very tentative projection of demographics for Years 2 to 5 is displayed’ in the document, ‘based on estimates on the UPC’s caseload from 2011’. According to these projections, the number of full-time judges will grow with 5 every year to 25 and a total number of 165 full-time and part-time in the fifth year (page 13/14).

### **When???**

Today’s announcement doesn’t contain a starting date for the UPC. ‘The UPC Agreement will enter into force on the first day of the fourth month after the deposit of the German instrument of ratification. This will happen when the Administrative Committee is confident that the Court is operational. The German deposit will also mark the start of the sunrise period during which it will be possible to opt out existing European patents from the jurisdiction of the Court.

The timing of the start of operations of the Court depends on the progress of the preparatory work. It is a reasonable assessment that this will happen during the last quarter of 2022 or early 2023.’

---

*To make sure you do not miss out on regular updates from the Kluwer Patent Blog, please [subscribe here](#).*

## **Kluwer IP Law**

The **2022 Future Ready Lawyer survey** showed that 79% of lawyers think that the importance of legal technology will increase for next year. With Kluwer IP Law you can navigate the increasingly global practice of IP law with specialized, local and cross-border information and tools from every preferred location. Are you, as an IP professional, ready for the future?

Learn how **Kluwer IP Law** can support you.

---

79% of the lawyers think that the importance of legal technology will increase for next year.

**Drive change with Kluwer IP Law.**

The master resource for Intellectual Property rights and registration.



2022 SURVEY REPORT  
The Wolters Kluwer Future Ready Lawyer  
Leading change

This entry was posted on Wednesday, April 6th, 2022 at 6:52 pm and is filed under [European Union, Unitary Patent, UPC](#)

You can follow any responses to this entry through the [Comments \(RSS\)](#) feed. Both comments and pings are currently closed.