

ORGANISATION OF AFRICAN UNITY



ORGANISATION DE L' UNITE AFRICAINE

COUNCIL OF MINISTERS

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CM/170/Rev.2 (IX)

***RULES OF PROCEDURE FOR THE OAU
AD-HOC ADMINISTRATIVE TRIBUNAL***

DECISION OF THE NINTH ORDINARY SESSION OF THE COUNCIL OF MINISTERS

In order to ensure the operation of the OAU ad-Hoc Administrative Tribunal, the Ninth Ordinary Session of the Council of Ministers adopted those parts of the draft Statute for an Administrative Tribunal contained in Document CM/99/Rev.2 which attribute no permanent character to that Tribunal.

RULES OF PROCEDURE FOR THE OAU AD-HOC ADMINISTRATIVE TRIBUNAL

CHAPTER I

Organization

Article 1

Each year, the Council of Ministers shall nominate three Member States alphabetically, one of which, drawn by ballot, shall be replaced at the end of the year provided that no Member State shall be a member of the Tribunal for more than 3 years.

Each one of these States shall designate, from among members of its delegation, a qualified member to the office of Judge on the Ad-Hoc Administrative Tribunal. A judge thus appointed may be removed from office by decision of the Council of Ministers only on grounds of inability to perform the functions of his office or proved misconduct.

Article 2

Members of the Tribunal shall take office immediately upon designation as provided for in Article 1 of these Rules, and shall pursue the course of any process in which they have already taken part, until completed.

Article 3

The Tribunal shall, by consensus of opinion, designate a President. The President thereby designated shall immediately take office. The President's mandate is subject to renewal.

Article 4

The President shall direct the work of the Tribunal. He shall preside over hearings.

Article 5

The Tribunal shall have a Secretary and staff placed at its disposal by the Administrative Secretary General. The Secretary, if unable to act, shall be replaced by an official appointment by the Administrative Secretary General of the Organization of African Unity.

Article 6

The Secretary shall send to members of the Tribunal dossiers and other documentation relating to cases referred to them, within 10 days of receipt of applications filed by the parties concerned, in accordance with the relevant provisions of these Rules.

CHAPTER II

Sessions

Article 7

The Tribunal shall sit wherever the Council of Ministers meets in Ordinary Sessions.

Article 8

The Tribunal shall only sit when all three members are present. All decisions by the Tribunal shall be taken by majority.

Article 9

The Tribunal shall meet twice a year, at the end of each Ordinary Session of the Council of Ministers provided that the session shall not be held if in the opinion of the President there are no cases on the list which would justify the holding of a session.

Article 10

Notice of the convening of a session shall be given to the members of the Tribunal at the same time as the provisional agenda is communicated to the Council of Ministers.

CHAPTER III

Written Proceedings

Article 11 **Applications**

Applications instituting proceedings shall be submitted to the Tribunal through the Secretary in either English, French or Arabic or in any other African language accompanied by a translation into English or French. The said application shall comprise:

- (i) detailed information concerning the personal and official status of the applicant;
 - (ii) pleas;
 - (iii) explanatory statement;
 - (iv) annexes referred to in the three parts of the request.
1. The information concerning the personal and official status of the applicant shall be presented in the form contained in Annex I of these Rules.
 2. The pleas shall indicate all the measures and decisions which the applicant is requesting the Tribunal to order or take. They shall specify:
 - (i) any preliminary or provisional measures, such as the production of additional documents or the hearing of witnesses, which the applicant is requesting the Tribunal to order before proceeding to consider the merits;
 - (ii) the decision which the applicant is contesting;
 - (iii) the obligations which the applicant is invoking;
 - (iv) any other relief which the applicant may wish to request.
 3. The explanatory note shall set out the facts and the legal grounds on which the pleas are based. It shall specify, *inter alia*, the provisions of the Staff Rules and Regulations, clauses in the contract of employment, and the employment conditions, whose non-observance is alleged.
 4. The annexes shall contain the texts of all documents referred to in the first three sections of the application. They shall be presented by the applicant in accordance with the following rules:
 - (i) each document shall be annexed in the original, or failing that, in the form of a copy bearing the words "Certified true copy";
 - (ii) documents in an African language shall be accompanied by a translation into either English or French;

- (iii) each document, regardless of its nature, shall be annexed in its entirety, notwithstanding the provisions of paragraph 5, sub-paragraph (ii) of this Article, even if the application refers only to one part of the document;
 - (iv) each document shall constitute a separate annex and shall be numbered. The word “Annex”, followed by the number, shall appear on the top of the first page of each document.
5. (i) The applicant shall prepare four copies of the application, each copy containing a statement certifying that it is a true copy of the original application. An indexed list of all the documents constituting the application;
- (ii) The Secretary may grant the applicant, at the applicant’s request, permission to omit the text of an annex of unusual length.
6. The applicant shall file the duly signed original and the four copies of the application with the Secretary. The Secretary shall deliver a receipt showing the number of documents comprising the application and the date of receipt of the application.
7. (i) An application not connected with disciplinary matter shall not be receivable unless the staff member or the employee concerned has previously submitted a petition to the appropriate authority by registered delivery mail for re-examination of his case;
- (ii) Within 30 days of the receipt of the petition the appropriate authority shall notify the petitioner of its final decision;
- (iii) Silence by the appropriate authority during the 30 days following an applicant’s filing a petition, shall be interpreted as an implied rejection of this request;
- (iv) The application instituting proceedings, shall be filed with the Secretary within 30 days and this time limit shall be reckoned as from the days following notification of the final and unfavourable decision to the applicant taken in this regard by the appropriate authority.
8. The time-limit specified in sub-paragraph (iv) of paragraph 7 of this article shall be extended for 6 months in the case of an application filed by:
- (i) A dismissed staff member or employee who has already returned to his country of origin as a result of this act of dismissal;

- (ii) Any person who has succeeded to the staff member's rights on his death;
- (iii) The legal representative of a staff member who is not in a position to manage his own affairs.

Under such circumstances, or in the event that the application instituting proceedings has been despatched from a locality outside the Headquarters of the Permanent Bureau of the *Ad-Hoc* Administrative Tribunal's Secretariat, the post-mark stamped by the despatching post office will stand as the date on which the application is filed.

9. If the formal requirements of this article are not fulfilled, the Secretary may call upon the applicant to make the necessary corrections in the application and the copies thereof within a reasonable period which he shall prescribe. He shall return the necessary documents to the applicant for this purpose. He may also, with the approval of the President, make the necessary corrections himself when the substance of the application is in no way affected.

Article 12

The Answer

1. The General Secretariat's answer shall be submitted to the Tribunal through the Secretary, in one of the working languages of the OAU. The answer shall include pleas, an explanatory statement and annexes. The annexes shall contain the complete texts of all documents referred to in the other sections of the answer.
2. The provisions in Article 11, paragraph 4 relating to the presentation of documents annexed to the application shall be applicable to the documents annexed to the answer. The respondent shall prepare four copies of the answer. Each copy shall contain a statement certifying that it is a true copy of the original. However, the respondent may be granted permission, at his request, to omit the text of an annex of unusual length from a specified number of copies.
3. The original and the four copies of the answer duly signed shall be filed with the Secretary within the thirty days following transmission of the application.
4. After ascertaining that the requirements of this Article have been complied with, the Secretary shall immediately transmit a copy of the answer to the applicant, by registered delivery mail.

Written Observations on the Answer

Article 13

- (i) An applicant may, if he so considers it useful, file with the Secretary written observations on the answer during the 30 days following receipt of the answer;
- (ii) The rules to be observed for the preparation of the written observations are identical to those needed for the preparation of the application;
- (iii) Having ascertained that the requirements of this Article are complied with, the Secretary shall transmit immediately a copy of the written observations to the General Secretariat by registered delivery.

Article 14

- (i) The President may, on his initiative, or at the request of either party, call upon the parties to provide additional written statements or additional documents within a reasonable period which he shall fix;
- (ii) Preparation of the written statements or additional documentation shall be in accordance with the requirements governing the preparation of the application, the answer and the observations on the answer;
- (iii) In order to complete the documentation of the case the Tribunal may obtain any written or oral information necessary from any party, witness or expert.

CHAPTER V

Placing on the List

Article 15

When the President considers the documentation of a case to be sufficiently complete, he shall instruct the Secretary to place the case on the list. The Secretary, once the case is listed, shall immediately advise the two other members of the Tribunal and the parties concerned and, at the same time, proceed with the customary formalities of communicating the dossier.

CHAPTER VI

Notification

Article 16

- (i) The Secretary shall be responsible for transmitting all documents and making all notifications required in connection with proceedings before the Tribunal;
- (ii) The communication of the dossiers to the two parties shall be effected at least 15 days prior to the commencement of the proceedings;
- (iii) The Secretary shall make for each case a dossier which shall record all action taken in connection with the preparation of the case and the dates on which any document or notification forming part of the procedure is received or despatched from his office.

CHAPTER VII

Oral Proceedings

Article 17

- (i) The oral proceedings shall be given a full hearing;
- (ii) An applicant may present his case in person either in writing or orally. Subject to the provisions of Article 11 of these Rules he may either attend personally or be represented;
- (iii) The Administrative Secretary General of the OAU may be represented by a counsel retained to defend the Organization's point of view.

Article 18

The President may, when a party claims that he is unable to comply with any rule in this chapter, waive such rule if the waiver does not affect the substance of the application.

CHAPTER VII

Additional Documentation during the Proceedings

Article 19

The Tribunal may at any stage of the proceedings call for the production of documents or of such other evidence as may be required.

Article 20

The Tribunal may grant a hearing to duly authorized representatives of the Staff Council of the Organization of African Unity.

CHAPTER IX

Miscellaneous Provisions

Article 21

The Secretary shall, twice a year, send to all members of the Tribunal copies of all decisions taken by the Tribunal.

Article 22

All matters which are not expressly provided for in the rules, shall be dealt with by decision of the Tribunal upon the particular case. The Tribunal shall state the grounds on which that decision is based.

Article 23

These rules may be amended at the recommendation of the Tribunal by a decision of the OAU Council of Ministers.

ANNEX I

**FORM OF FIRST SECTION OF APPLICATION
INFORMATION CONCERNING THE PERSONAL AND
OFFICIAL STATUS OF THE APPLICANT**

Case

Against

1. Designation of respondent:
2. Designation of applicant:
 - (a) Name and first names:
 - (b) Date and place of birth:
 - (c) Marital status:
 - (d) Nationality:
 - (e) Address for purposes of the proceedings:
3. Designation, as appropriate, of applicant's representative before the Tribunal
4. Administrative status of applicant:
 - (a) Department of which the applicant was a staff member at the time of the decision contested:
 - (b) Date of employment:
 - (c) Title and grade at time of decision contested:
 - (d) Applicant's status:

5. Application by successor to staff member's rights on his death, or by staff member's legal representative:
- (a) The name, first names, nationality and administrative status of staff member whose rights are relied on:
 - (b) The relation of the applicant to the said representative which entitles the former to come before the Tribunal:
6. Answer the following questions if the dispute deals with a disciplinary measure taken against applicant:
- (a) Date on which the disciplinary measure was taken:
 - (b) Date on which the Staff Council was petitioned to examine the measure taken:
 - (c) Opinion of the Staff Council on the measure taken: *favourable* or *unfavourable*¹:
 - (d) Was the applicant notified of the said opinion: *yes* or *no*¹:

¹ Strike out the words which do not apply.