

ORGANISATION OF AFRICAN UNITY



ORGANISATION DE L' UNITE AFRICAINE

**COUNCIL OF MINISTERS**

**Seventh Ordinary Session**

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**CM/99/Rev.2**

***STATUTE OF THE ADMINISTRATIVE TRIBUNAL***

## **STATUTE OF THE ADMINISTRATIVE TRIBUNAL**

### **PREAMBLE**

Whereas according to the existing staff regulations of the Organization of African Unity the Administrative Secretary General exercises disciplinary powers over officials of the General Secretariat, regional offices and the Specialized Commissions.

And whereas the service relations in the Organization must be regulated only by internal rules of the Organization, any competence of national courts being excluded, and further the observance of the provisions of the Staff Rules and Regulations of the various contracts of employment concluded between the Organization and the personnel is necessary for the harmonious and effective operation of the General Secretariat, all the regional offices and the Specialized Commissions of the Organization of African Unity.

The Assembly of Heads of State and Government meeting in .....  
at its ..... session on ..... has adopted this Statute.

### **I. INSTITUTION**

#### **Article 1**

A Tribunal is hereby established by the present Statute to be known as the Administrative Tribunal of OAU, and shall be governed by the provisions of the present Statute.

### **II. COMPETENCE**

#### **Article 2**

- (i) The Tribunal shall be competent to hear applications alleging:
  - (a) Violation of the relevant provisions of the Staff Rules and Regulations of OAU;
  - (b) Non-observance of contracts of employment and any other act of employment;

- (ii) The Tribunal shall also be competent to hear petitions, against disciplinary action if the Staff Council does not succeed in settling the difference amicably within 30 days reckoned from the date on which the disciplinary action was taken;
- (iii) The Tribunal shall only be competent to pass judgment upon the above mentioned applications and petitions.

### **III. COMPOSITION**

#### **Article 3**

- (i) The Tribunal shall be composed of three judges and two alternates elected every four years by the Council of Ministers from a list prepared by the Administrative Secretary General, comprising all candidates nominated by Member States;
- (ii) Judges may be re-elected;
- (iii) No two judges may be nationals of the same State;
- (iv) The judges shall be persons with recognized professional qualifications, legal competence and integrity.

#### **Article 4**

- (i) Judges of the Administrative Tribunal whose terms of office have expired shall remain in office until the election of new judges and shall complete any proceedings in which they are taking part;
- (ii) A judge of the Administrative Tribunal may present his resignation stating the reasons on which it is based to the President of the Tribunal for transmission, through the Administrative Secretary General, to the Council of Ministers. This last notification makes the place vacant;
- (iii) Any judge of the Tribunal can be removal from office by decision of the Council of Ministers only on grounds of inability to perform the functions of his office or proved misconduct;
- (iv) A judge shall be removed if he has any personal interest in the dispute.

### **Article 5**

- (i) When a place in the Tribunal becomes vacant it shall be filled in accordance with the provisions of Article 3 of the present Statute;
- (ii) A judge elected to fill a vacancy shall hold office for the remainder of his predecessor's term of office.

### **Article 6**

The Tribunal shall elect its President, from among its permanent judges who shall hold office for two years. The post of President shall be held in rotation.

### **Article 7**

- (i) The Tribunal shall hold ordinary sessions at dates to be fixed by its rules, subject to there being cases on its list which, in the opinion of the President, justify holding the session;
- (ii) Extraordinary sessions may be convened by the President when required by the cases on the list.

### **Article 8**

- (i) The Administrative Secretary General of the Organization of African Unity shall make the administrative arrangements necessary for the functioning of the Tribunal of the Organization of African Unity;
- (ii) The Administrative Secretary General shall provide the Tribunal with the necessary staff.

### **Article 9**

- (i) The expenses of the Tribunal and the necessary compensation awarded by the Tribunal shall be borne by the Organization of African Unity;
- (ii) Judges shall receive a daily allowance for their periods of duty and their travel and accommodation expenses shall be borne by the Organization.



## **Article 10**

Subject to the provisions of the present Statute, the Tribunal shall establish its own rules of Procedure.

# **IV. PROCEDURE**

## **Article 11**

The Tribunal shall be open to:

- (i) Any staff member or employee of the General Secretariat, regional offices and Specialized Commissions of the Organization of African Unity;
- (ii) Any person who has succeeded to the rights of staff member or employee or their representatives;
- (iii) Any person who can show that he is entitled to rights under any contract of employment or the provision of the Staff Rules and Regulations.

## **Article 12**

The Tribunal shall be the judge of its own competence.

## **Article 13**

- (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 be registered air-mail post 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) An application shall not be receivable unless the decision contested is final and unfavourable to the applicant;
- (iv) To be receivable, an application must be filed within 30 days reckoned from the respective dates and periods referred to in paragraph 2 of the present Article.

#### **Article 14**

- (i) The proceedings of the Tribunal shall be held in public, but the Tribunal may decide that they be held in private;
- (ii) The parties shall have a right to be heard before the Tribunal;
- (iii) The parties shall exchange information upon which they intend to rely at least 15 days before the commencement of the proceedings;
- (iv) The applicant may be represented or assisted by a Council. The Administrative Secretary General may appoint Special Commissioner to represent or assist the Organization;
- (v) The Tribunal may pass judgment on the basis of the available information without requiring the presence of the parties.

#### **Article 15**

- (i) The filing of an application shall not have the effect of suspending the execution of the decision contested;
- (ii) The applicant may withdraw his application at any time before the final decision.

#### **Article 16**

Applications may be filed in either English or French or any African language accompanied by a translation in English and French.

### **V. JUDGMENT**

#### **Article 17**

- (i) The judgment of the Tribunal shall be taken by majority;
- (ii) If the Tribunal finds that an application is well founded, it shall order the rescinding of the decision contested or the performance of the obligation invoked. The Tribunal shall state the reasons for its decisions;

- (iii) If the Tribunal decides that it would not be in the best interest of the Organization to rescind the decision contested, then it shall award compensation to the applicant;
- (iv) The Tribunal may award a compensation to the applicant for damage caused by the decision which has been rescinded or by non-performance of the obligation as provided in paragraph 2 of this Article;
- (v) In all applicable cases, compensation shall be fixed by the Tribunal and paid by the Organization of African Unity within thirty days reckoned from the notification of the judgment;
- (vi) Subject to the provisions of Articles 20 and 21 of the present Statute, the judgments of the Tribunal shall be final.

#### **Article 18**

Two originals of the judgment in English and French shall be deposited in the Archives of the General Secretariat of the Organization of African Unity.

#### **Article 19**

- (i) A copy of the judgment shall be communicated to each of the parties in the case. Copies shall also be available to other interested persons on payment;
- (ii) Only the Tribunal shall be competent to interpret its judgment.

### **VI. REVIEW OF JUDGMENT**

#### **Article 20**

- (i) Any party to the dispute may apply to the Tribunal for review of a judgment on the basis of the discovery of some new fact of such a nature as to be decisive factor, which factor was unknown to the Tribunal and also to the party claiming review when the judgment was given. The application must be made within six months of the notification of the judgment;
- (ii) The party claiming the review shall communicate the new fact to the Tribunal, and if the Tribunal is satisfied, the judgement shall be reviewed.

### **Article 21**

Any party to the dispute may request annulment of the award by applying to the Tribunal on one or more of the following grounds:

- (i) That the Tribunal has manifestly exceeded its competence or that it has failed to exercise jurisdiction vested in it;
- (ii) That there has been a serious departure from a rule of procedure;
- (iii) That the Tribunal has erred on a question of law to the Charter of OAU and to this Statute;
- (iv) That rules of natural justice were not observed.

## **VII. AMENDMENT OF THE STATUTE**

### **Article 22**

The present Statute may be amended by decision of the Council of Ministers of the Organization of African Unity.