



Complaints Board of the European Schools

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Rules of Procedure for the Complaints Board of the European Schools

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Immediate entry into force.

TITLE I ORGANISATION OF THE COMPLAINTS BOARD

Chapter I Chairmanship and membership of the Complaints Board

Article 1

The term of office of the members of the Complaints Board shall begin on the date laid down in the instrument of appointment. In the absence of any provisions in the instrument of appointment as to the date, the term shall begin on the date of the instrument.

Article 2

With the exception of the Chairman of the Complaints Board and the section Chairman or Chairmen, the members of the Board shall rank equally in precedence according to their seniority in office. Where there is equal seniority in office, precedence shall be determined by age.

Article 3

If the Chairman of the Complaints Board is absent or is prevented from attending, or when the office of chairman is vacant, his functions shall be exercised by a section Chairman or, in his absence, by one of the other members of the Board, according to the order of precedence laid down in Article 2.

Chapter II Allocation of cases and designation of rapporteurs

Article 4

Save where cases are allocated to the Complaints Board sitting in plenary session, cases shall be allocated to the sections by the Chairman of the Board, who must ensure that the workload is fairly distributed.

Article 5

For each case referred to the Complaints Board sitting in plenary session or to a section, the Chairman of the Board shall designate one of its members as rapporteur.

Chapter III Registry

Article 6

1. The registrar and the staff of the registry shall act under the authority of the Chairman of the Complaints Board and, where appropriate, in accordance with the general instructions issued by the Board.

2. Should the registrar or the staff of the registry perform other duties within the administration of the European Schools, they may not, in that capacity, be party to any matter likely to be brought before the Complaints Board.

Article 7

Subject to the provisions of Article 13 of the Statute of the Complaints Board, the registrar shall attend the Board's sittings.

Article 8

Where the registrar is absent or prevented from attending, his duties may be performed by a member of the staff of the registry designated by the Chairman of the Complaints Board or, failing that, by a member of staff designated by the Secretary-General of the Board of Governors with the agreement of the Chairman of the Complaints Board, and temporarily assigned to the latter Board.

Chapter IV

Use of languages

Article 9

All communications with a party or with his representative and all observations submitted to the Complaints Board must be made or written in one of the official languages appearing in the annex to the Convention defining the Statute of the European Schools.

Article 10

The registrar shall make the necessary arrangements for translation or interpretation of the observations or statements made by the parties into the language or languages used by the members of the Complaints Board.

Chapter V

Representation of the parties

Article 11

The organs of the European Schools shall be represented before the Complaints Board by members of staff, who may be assisted by a lawyer.

Article 12

Individuals or groups of individuals may submit applications, acting either for themselves or through a lawyer.

Article 13

Communications and notifications sent to the parties' counsels shall be deemed to have been sent to the parties.

TITLE II ORDINARY PROCEEDINGS

Chapter I Written proceedings

Article 14

All applications made pursuant to Article 27(2) of the Convention defining the Statute of the European Schools must be submitted in writing and signed by the applicant or his representative. Where an application is submitted by a group of individuals, it shall be signed by the person or persons authorised to represent the group.

The application may be delivered in person to the registry of the Complaints Board, which shall issue a receipt therefor, or sent by registered post, the postmark being taken as proof of date of posting. It may also be sent by any technical means of communication made available by the Complaints Board and to its email address, the date shown on the transmission document being taken as proof.

Signed documents that are to be sent electronically shall be generated by electronic signature or by scanning of the signed original paper version.

Successive communications and notifications of the procedural documents, including the decision of the Complaints Board, may be sent using the same technical means and, where appropriate, to the email address of the different addressees.

Article 15

All applications lodged with the registrar of the Complaints Board must contain:

- a) the name and address of the applicant and, where applicable, the name and address of his representative;
- b) a description of the disputed act;
- c) a summary of the facts and of the pleas in law on which the application is based;
- d) the form of order sought by the applicant;
- e) where appropriate, a list of the papers and documents annexed and of the evidence offered.

The appeal must also be accompanied, unless evidence of the impossibility of doing so is duly provided, by the copy of the disputed decision or, if it is an implicit decision, of the document proving evidence of the lodging of a preliminary administrative appeal.

Article 16

The application shall not have suspensory effect unless a member of the Complaints Board orders otherwise, at the applicant's request, where, in the event of proven emergency and of serious doubt about the legality of the disputed decision, there is, in the circumstances of the particular case, a real risk of absence of effectiveness of the right to appeal. The special procedure provided for that purpose is laid down in Articles 34 and 35.

Article 17

1. The application shall be communicated to the defendant, who shall be called upon to submit his written observations by the deadline set by the Chairman of the Complaints Board. Those observations shall be communicated to the applicant, who may, where appropriate and acting within the period set by the Chairman, present a reply, which will be communicated to the defendant. The latter may, if appropriate, be authorised to submit a rejoinder, subject to the same conditions.

2. The deadlines provided for in paragraph 1 may only be extended by the Chairman of the Complaints Board by way of exception, on receipt of a reasoned request to that effect.

Article 18

1. The rapporteur designated by the Chairman of the Complaints Board may request the parties to submit, by the deadline which he sets, all information concerning the facts, all documents or any other evidence which he deems relevant.

2. No submission of a new plea in law may be introduced in the course of proceedings, unless it is based on matters of law or of fact which have come to light in the course of the procedure.

Chapter II Oral proceedings

Article 19

Unless the Complaints Board decides otherwise, and without prejudice to the special provisions of Title III of these Rules of Procedure, cases brought before it shall be considered at a public hearing. The parties or their representatives shall be notified of the date of the hearing at least fifteen days in advance.

However, in an emergency and with the agreement of both parties, this time period may be shortened to three days by a decision of the Chairman of the panel concerned, i.e the Chairman of the Complaints Board or the Chairman of the section, as the case may be.

Article 20

The Complaints Board shall sit either in plenary session or as a special panel composed of five members or in sections composed of three members. Without prejudice to the cases provided for in the context of the special proceedings mentioned in Title III of these Rules, it may also sit with a single judge in accordance with the conditions laid down in Article 20a.

Article 20a

By decision of the Chairman of the Complaints Board, cases assigned to the member designated as rapporteur may be heard by the latter, sitting alone, where they are suitable, bearing in mind the lack of difficulty of the points of law or of fact raised, of the limited importance of the case and of the absence of other particular circumstances.

Article 21

The proceedings shall be opened and directed by the Chairman of the Complaints Board by the Chairman of the section or by the single judge, who shall be responsible for the proper conduct of the hearing.

Article 22

After reading the report presented by the member of the Complaints Board designated as rapporteur or the single judge, the parties or their representatives may present oral observations in support of their written submissions. The members of the Complaints Board or the single judge may put questions to them. They may also, where appropriate, hear any witnesses, experts or members of the administrative staff of the European Schools whose observations they may deem to be relevant.

Chapter III

Decisions of the Complaints Board

Article 23

On closure of the hearing, cases shall be adjourned for deliberation. The parties shall not be present during the Complaints Board's deliberations.

Article 24

The period within which the Complaints Board is required to give a ruling, pursuant to rules laid down by an act in compliance with the Convention defining the Statute of the European Schools, shall begin to run only when the appeal or complaint, translated into the language or languages which they use, has been communicated to the members of the Complaints Board.

Article 25

The decision shall contain:

- (a) a statement that it is a decision of the Complaints Board, with, where appropriate, reference to the section concerned, or of a single judge sitting alone;
- (b) the date of its delivery and, if applicable, the date of the public hearing at which the case was heard;
- (c) the names of the Chairman and of the members taking part in it or, in the case of a decision given by a single judge sitting alone, his/her name.
- (d) the name of the registrar;
- (e) the description of the parties and, where appropriate, the names of their representatives, with, if applicable, reference to the persons heard at the public hearing;
- (f) the submissions of the parties and a summary of the facts;

- (g) the grounds for the decision;
- (h) the operative part, including, if applicable, the decision as to legal and other costs.

Article 26

The original of the decision shall be signed by the Chairman and the members who took part, or by the judge sitting alone, and by the registrar. The registrar shall send a copy of the decision to each of the parties.

In case of urgency and without prejudice to Article 25 and to the first sentence of Article 26, a copy of the operative part, including the decision as to legal and other costs (point h) of Article 25), may be notified to the parties in advance, before notification of the full decision is given.

The decisions of the Complaints Board shall be published by the registry in the database available on its website, taking the steps necessary to guarantee protection of the personal data of applicants and of natural persons involved in the procedure.

Chapter IV

Legal and other costs of the case

Article 27

The unsuccessful party shall be ordered to pay the legal and other costs of the case if they have been applied for by the other party. However, if the particular circumstances of the case so warrant, the Complaints Board may order the latter party to pay the legal and other costs, or may order that they be shared between the parties. Where the parties have come to an agreement on costs, the decision as to costs shall be in accordance with that agreement. If costs are not claimed, the parties shall bear their own costs.

Chapter V

Communications and notifications

Article 28

The registrar shall arrange for communications and notifications to be sent either by registered post, with a form for acknowledgement of receipt, or electronically to the email address of the addressees, or by any other technical means of communication guaranteeing safe receipt.

Chapter VI

Practical instructions and derogations

Article 29

The Chairman of the Complaints Board may issue practical instructions, dealing in particular with questions such as appearance at hearings and the submission of written observations or other documents.

Article 30

The provisions of this title shall not prevent the Complaints Board's derogating therefrom for the purpose of considering a particular case, after having consulted the parties if need be.

In particular, it may decide at any time, at the request of the parties or of its own motion, to join cases of the same nature and with the same object.

If a large number of appeals having the same object are lodged, the Complaints Board may also decide, after consulting the parties, to investigate only a limited number of the said appeals and to communicate the decisions adopted for those appeals to the applicants in the other appeals, so that they can request application of the same decision to their respective cases, or request continuation of the investigation, or else the withdrawal of the proceedings. Appeals that are the subject of this measure will be dealt with as a matter of priority.

In each case, the Chairman will take the steps necessary, which will be communicated to the parties.

TITLE III

PROCEDURAL ISSUES AND SPECIAL PROCEEDINGS

Chapter I

Discontinuance and dismissal of proceedings

Article 31

If the applicant informs the Complaints Board in writing that he wishes to discontinue the proceedings, the Chairman shall order the case to be removed from the register and shall, where appropriate, give a decision as to costs if the defendant, when notified of the discontinuance, seeks such an order against the other party.

This shall also be the case when the subject of the appeal or complaint no longer being relevant before the date of the public hearing has been fixed, there is no further need to give a decision, other than to adjudicate on costs.

Chapter II

Manifest lack of jurisdiction and manifestly inadmissible or unfounded complaints

Article 32

Where the Complaints Board is manifestly lacking in jurisdiction to hear a complaint or where a complaint is manifestly inadmissible or manifestly unfounded in law, a ruling may be given, without continuing the proceedings, by way of a reasoned made by the Chairman or by the rapporteur designated by him.

Chapter III

Intervention

Article 33

The Chairman of the Complaints Board may permit an interested party to intervene in the dispute in support of the submissions of either of the parties. The application to intervene must contain all relevant details of the circumstances which may justify in law such an intervention. Under no circumstances may an intervention delay either the consideration of a case having undergone investigation or the decision to be delivered thereon.

Chapter IV

Suspension of enforcement and other interim measures

Article 34

Applications seeking the suspension of enforcement and other interim measures must be express and must be presented in summary proceedings, separately from the main proceedings. The applicant must establish the urgency of the case and set out de jure and de facto elements providing supporting evidence justifying the measure requested.

Such applications may be made at any time, even before or during the administrative appeal stage, if there is a real risk of absence of effectiveness of the right to appeal, and where the decision would be fully implemented within the time periods allowed to the ES to rule on this appeal.

Article 35

1. Investigation of applications for suspension of enforcement and of applications for other interim measures shall be conducted by the member of the Complaints Board designated as rapporteur by the Chairman. They must be conducted as a matter of urgency. Unless the rapporteur decides otherwise or the two parties expressly request to be heard at a public hearing, applications of this nature shall not involve oral proceedings.

2. Applications for suspension of enforcement and for other interim measures shall be communicated to the defendant, who may submit their observations within a short time limit set by the Chairman, that may not be extended.

3. Upon receipt of the defendant's observations or upon expiry of the time limit set in accordance with point 2 above, the Chairman or the designated rapporteur shall, as soon as possible, give a ruling on these applications by means of a reasoned order, which may not be the subject either of an application for revision (Articles 39 and 40) or of an request for internal referral (Article 40a).

4. Where the urgency of the matter so justifies and there is a plea in law likely, at that stage of the investigation, to give rise to serious doubts as to the legality of the disputed decision, the Chairman or the designated rapporteur may, if he considers that there is, in the circumstances of the particular case, a real risk of absence of effectiveness of the right to appeal, and unless the taking into consideration of the interests at stake precludes this, order any interim measure required to be taken. Such measures may only be temporary in nature and shall end at the latest when the Complaints Board has ruled on the main proceedings, even before the defendant has presented their observations. This measure may subsequently be amended or revoked, even automatically.

5. Where the urgency of the matter so justifies, Article 26.2 may be applied to notify the operative part in advance to the parties.

6. The measures ordered in summary proceedings may only be provisional and shall expire at the latest when the Complaints Board has ruled on the main proceedings.

7. Should an application be made to the same rapporteur by one party after notification of the order made in the summary proceedings and prior to the decision of the Complaints Board in the main proceedings, the said rapporteur may, after having requested the other party to submit its observations within the short period set by him, amend the measure or measures which he has ordered or terminate them.

Chapter V

Interpretation of decisions

Article 36

An application for interpretation of a decision of the Complaints Board may be lodged against all the parties to the case within three months of delivery of the decision.

Article 37

1. The application shall be allocated to whichever panel of the Complaints Board has delivered the decision. This panel shall give a ruling in the form of a decision, after having given the parties the opportunity to submit their observations.

2. The original of the interpretative decision shall be annexed to the original of the decision interpreted.

Chapter VI

Rectification of material errors and mistakes

Article 38

1. Without prejudice to the provisions relating to the interpretation of decisions, the Complaints Board may rectify clerical mistakes, errors in calculation, or obvious slips, acting either of its own motion or on application by a party, submitted within one month of delivery of the decision.
2. The parties, whom the registrar shall duly notify, may lodge written observations within a period prescribed by the Chairman.
3. The Complaints Board shall take its decision in closed session. The original of its decision shall be annexed to the original of the rectified decision.

Chapter VII

Revision

Article 39

An application for revision of a decision may only be submitted to the Complaints Board when a fact comes to light which is likely to have a decisive influence and which, prior to delivery of the decision, was unknown to the Board and to the party applying for revision.

Article 40

1. An application for revision may be lodged against any of the parties involved in the decision. It must be submitted within three months at the latest from the day on which the applicant became aware of the fact on which the revision application is based.
2. Without prejudice to its decision on the substance, the Complaints Board, in closed session, shall, having regard to the written observations of the parties, rule on the admissibility of the application.
3. If the Complaints Board finds the application admissible, it shall proceed to consider the substance of the application and shall give a ruling in the form of a decision in accordance with the ordinary rules of procedure.

Chapter VIII

Referral to a section composed of three members

Article 40a

1. Irrespective of the revision procedure provided for in Articles 39 and 40, decisions taken in accordance with the conditions laid down in Articles 20a and 32 of these Rules may exceptionally be referred to a section composed of three members at the express request of a party based on a particularly serious ground and made within one month after notification of the decision given.
2. The decision to refer or to reject the request for referral shall be taken by the Chairman of the Complaints Board or, should the case have been heard by the latter,

by the Chairman of the section to which it could be assigned. There shall be no right of appeal against this decision.

3. In the event of referral, the section composed of three members may not include the member of the Complaints Board who sat as a single judge. It shall give a ruling in the form of a decision in accordance with the ordinary Rules of Procedure.

Chapter IX

Referral to a special panel composed of five members

Article 40b

1. Irrespective of the revision procedure provided for in Articles 39 and 40, decisions taken *by a section composed of three members other than those provided for in Article 40a.3 may exceptionally be referred to a special panel composed of five members at the express request of a party* based on a particularly serious ground and made *within one month after notification of the decision given*.

2. The decision to refer or to reject the request for referral shall be taken by the Chairman of the Complaints Board after consulting the Chairman of the section in question or, if that section had been chaired by the Chairman of the Board, the Chairman of another section. There shall be no right of appeal against this decision.

3. In the event of referral, the special panel composed of five members may not include any member who sat in the section in question other than its Chairman. It shall give its ruling by way of a decision in accordance with the ordinary Rules of Procedure.

TITLE IV

ENTRY INTO FORCE

Article 41

These Rules of Procedure, adopted by the Complaints Board in accordance with Article 27(5) of the Convention defining the Statute of the European Schools, shall enter into force once approved by the Board of Governors of the European Schools, subject to the conditions laid down in the aforesaid Article.