

## Rules of Procedure of the European Union Civil Service Tribunal (25 July 2007)

**Caption:** Rules of Procedure of the European Union Civil Service Tribunal dated 25 July 2007.

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## Rules of Procedure of the European Union Civil Service Tribunal of 25 July 2007

THE EUROPEAN UNION CIVIL SERVICE TRIBUNAL,

Having regard to the Treaty establishing the European Community, and in particular Article 225a thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 140b thereof,

Having regard to the Protocol on the Statute of the Court of Justice of the European Communities, and in particular Annex I thereto,

Having regard to Council Decision 2004/752/EC, Euratom of 2 November 2004 establishing the European Union Civil Service Tribunal, <sup>(1)</sup>

Having regard to the agreement of the Court of Justice,

Having regard to the Council's approval given on 19 April 2007,

Whereas:

(1) The Civil Service Tribunal is required to draw up its Rules of Procedure in agreement with the Court of Justice and with the approval of the Council, acting by a qualified majority.

(2) It is necessary to adopt the provisions laid down for the functioning of the Civil Service Tribunal by the Treaties, by the Statute of the Court of Justice, by Annex I thereto and by Decision 2004/752/EC, Euratom, and to adopt any other provisions necessary in order to clarify and supplement those acts, if the need arises.

(3) It is necessary to provide procedures for the Civil Service Tribunal in keeping with the needs of a court of first instance and with the task entrusted to it of adjudicating in accordance with rules adapted to the particular features of the cases that it has to hear and determine, examining the possibilities of an amicable settlement of disputes at all stages of the procedure.

(4) It is desirable, in order to guarantee the unity and coherence of the judicial system as a whole, that the rules applicable to procedure before the Civil Service Tribunal should not diverge any further than is necessary from the rules applicable to procedure before the Court of Justice under the latter's Rules of Procedure, adopted on 19 June 1991, <sup>(2)</sup> as subsequently amended, and to procedure before the Court of First Instance under the latter's Rules of Procedure, adopted on 2 May 1991, <sup>(3)</sup> as subsequently amended.

HEREBY ADOPTS THE FOLLOWING

### **RULES OF PROCEDURE**

#### **Preliminary provisions**

##### **Article 1**

##### **Interpretation**

1. In these Rules:

- ‘EC Treaty’ means the Treaty establishing the European Community;
- ‘EAEC Treaty’ means the Treaty establishing the European Atomic Energy Community (Euratom);
- ‘Statute of the Court of Justice’ means the Protocol on the Statute of the Court of Justice;

– ‘Staff Regulations’ means the Regulation laying down the Staff Regulations of Officials of the European Communities and the Conditions of Employment of other servants of the European Communities.

2. For the purposes of these Rules:

– ‘Tribunal’ means the European Union Civil Service Tribunal or, for cases dealt with by a Chamber or a single Judge, that Chamber or that Judge;

– ‘President of the Tribunal’ means the President of that court exclusively, ‘President’ meaning the president of the formation of the court;

– ‘institutions’ means the institutions of the Communities and bodies which are established by the Treaties, or by an act adopted in implementation thereof, and which may be parties before the Tribunal.

## **Title 1**

### **Organisation of the Tribunal**

#### **Chapter 1**

##### **President and members of the Tribunal**

#### **Article 2**

##### **Judges' term of office**

1. The term of office of a Judge shall begin on the date laid down in his instrument of appointment.

2. In the absence of any provision regarding the date, the term shall begin on the date of the instrument.

#### **Article 3**

##### **Taking of the oath**

1. Before taking up his duties, a Judge shall take the following oath before the Court of Justice of the European Communities:

*‘I swear that I will perform my duties impartially and conscientiously; I swear that I will preserve the secrecy of the deliberations of the Court.’*

2. Immediately after taking the oath, a Judge shall sign a declaration by which he solemnly undertakes that, both during and after his term of office, he will respect the obligations arising therefrom, and in particular the duty to behave with integrity and discretion as regards the acceptance, after he has ceased to hold office, of certain appointments and benefits.

#### **Article 4**

##### **Disqualification and removal of a Judge**

1. When the Court of Justice is called upon to decide, after consulting the Tribunal, whether a Judge no longer fulfils the requisite conditions or no longer meets the obligations arising from his office, the President of the Tribunal shall invite the Judge concerned to make representations to the Tribunal in closed session and in the absence of the Registrar.

2. The Tribunal shall state the reasons for its opinion.

3. An opinion to the effect that a Judge no longer fulfils the requisite conditions or no longer meets the obligations arising from his office must receive the votes of at least a majority of the Judges of the Tribunal. In that event, particulars of the voting shall be communicated to the Court of Justice.

4. Voting shall be by secret ballot; the Judge concerned shall not take part in the deliberations.

#### **Article 5 Precedence**

1. With the exception of the President of the Tribunal and of the Presidents of the Chambers, the Judges shall rank equally in precedence according to their seniority in office.
2. Where there is equal seniority in office, precedence shall be determined by age.
3. Retiring Judges who are reappointed shall retain their former precedence.

#### **Article 6 Election of the President of the Tribunal**

1. In accordance with Article 4(1) of Annex I to the Statute of the Court of Justice, the Judges shall elect the President of the Tribunal from among their number for a term of three years. He may be re-elected.
2. If the office of President of the Tribunal falls vacant before the usual date of expiry of his term, the Tribunal shall elect a successor for the remainder thereof.
3. The elections provided for in this Article shall be by secret ballot. If a Judge obtains an absolute majority he shall be elected. If no Judge obtains an absolute majority, a second ballot shall be held and the Judge obtaining the most votes shall be elected. Where two or more Judges obtain an equal number of votes, the oldest of them shall be deemed elected.
4. The name of the President of the Tribunal shall be published in the *Official Journal of the European Union*.

#### **Article 7 Responsibilities of the President of the Tribunal**

1. The President of the Tribunal shall direct the judicial business and the administration of the Tribunal.
2. He shall preside at sittings and deliberations in closed session of:
  - the full court;
  - the Chamber sitting with five Judges;
  - any Chamber sitting with three Judges to which he is attached.

#### **Article 8 Replacement of the President of the Tribunal**

When the President of the Tribunal is absent or prevented from attending or when the office of President is vacant, the functions of President shall be exercised according to the order of precedence laid down pursuant to Article 5.

### **Chapter 2 Formations of the Court**

#### **Article 9 Formations of the Court**

By virtue of Article 4(2) of Annex I to the Statute of the Court of Justice, the Tribunal shall sit in full court, in a Chamber of five Judges, Chambers of three Judges or as a single Judge.

#### **Article 10**

##### **Constitution of Chambers**

1. The Tribunal shall set up Chambers sitting with three Judges. It may set up a Chamber sitting with five Judges.
2. The Tribunal shall decide which Judges shall be attached to the Chambers. If the number of Judges attached to a Chamber is greater than the number of Judges sitting, it shall decide how to designate the Judges taking part in the formation of the court.
3. Decisions taken in accordance with this article shall be published in the *Official Journal of the European Union*.

#### **Article 11**

##### **Presidents of Chambers**

1. In accordance with Article 4(3) of Annex I to the Statute of the Court of Justice, the Judges shall elect from among their number for a term of three years the Presidents of the Chambers sitting with three Judges. The election shall be carried out in accordance with the procedure laid down in Article 6(3). They may be re-elected.
2. Article 6(2) and (4) shall apply.
3. The Presidents of Chambers shall direct the judicial business of their Chambers and shall preside at sittings and deliberations.
4. When the President of a Chamber is absent or prevented from attending or when the office of President is vacant, the Chamber shall be presided over by a member thereof according to the order of precedence laid down pursuant to Article 5.
5. If, exceptionally, the President of the Tribunal is called upon to complete the formation of the court, he shall preside.

#### **Article 12**

##### **Ordinary formation of the court — Assignment of cases to Chambers**

1. Without prejudice to Article 13 or Article 14, the Tribunal shall sit in Chambers of three Judges.
2. The Tribunal shall lay down criteria by which cases are to be assigned to the Chambers.
3. The decision provided for in the previous paragraph shall be published in the *Official Journal of the European Union*.

#### **Article 13**

##### **Referral of a case to the full court or to the Chamber sitting with five Judges**

1. Whenever the difficulty of the questions of law raised or the importance of the case or special circumstances so justify, a case may be referred to the full court or to the Chamber sitting with five Judges.
2. The decision to refer shall be taken by the full court on a proposal by the Chamber hearing the case or by any member of the Tribunal. It may be taken at any stage of the proceedings.

**Article 14****Referral of a case to a single Judge**

1. Cases assigned to a Chamber sitting with three Judges may be heard and determined by the Judge-Rapporteur sitting as a single Judge where, having regard to the lack of difficulty of the questions of law or fact raised, to the limited importance of the case and to the absence of other special circumstances, they are suitable for being so heard and determined.

Referral to a single Judge shall not be possible in cases which raise issues as to the legality of an act of general application.

2. The decision to refer shall be taken unanimously, the parties having been heard, by the Chamber before which the case is pending. It may be taken at any stage of the proceedings.

3. If the single Judge to whom the case has been referred is absent or prevented from attending, the President shall designate another Judge to replace that Judge.

4. The single Judge shall refer the case back to the Chamber if he finds that the conditions set out in paragraph 1 above are no longer satisfied.

5. In cases heard by a single Judge, the powers of the President shall be exercised by that Judge.

**Chapter 3****Registry and Departments**

## Section 1 — The Registry

**Article 15****Appointment of the Registrar**

1. The Tribunal shall appoint the Registrar.

2. Two weeks before the date fixed for making the appointment, the President of the Tribunal shall inform the Judges of the applications which have been submitted for the post.

3. The appointment shall be made in accordance with the procedure laid down in Article 6(3).

4. The name of the Registrar elected shall be published in the *Official Journal of the European Union*.

5. The Registrar shall be appointed for a term of six years. He may be reappointed.

6. Before he takes up his duties the Registrar shall take the oath before the Tribunal in accordance with Article 3.

**Article 16****Vacancy of the office of Registrar**

1. The Registrar may be deprived of his office only if he no longer fulfils the requisite conditions or no longer meets the obligations arising from his office; the Tribunal shall take its decision after giving the Registrar an opportunity to make representations.

2. If the office of Registrar falls vacant before the usual date of expiry of the term thereof, the Tribunal shall appoint a new Registrar for a term of six years.

## **Article 17**

### **Assistant Registrar**

The Tribunal may, following the procedure laid down in respect of the Registrar, appoint an Assistant Registrar to assist the Registrar and to take his place in so far as the Instructions to the Registrar referred to in Article 19(4) allow.

## **Article 18**

### **Absence or inability to attend of the Registrar**

Where the Registrar is absent or prevented from attending and, if necessary, where the Assistant Registrar is absent or so prevented, or where their posts are vacant, the President of the Tribunal shall designate an official or servant to carry out the duties of Registrar.

## **Article 19**

### **Duties of the Registrar**

1. The Registrar shall assist the Tribunal, the President of the Tribunal and the Judges in the performance of their functions. He shall be responsible for the organisation and activities of the Registry under the authority of the President of the Tribunal.
2. The Registrar shall have custody of the seals. He shall be responsible for the records and be in charge of the Tribunal's publications. The Registrar shall be responsible, under the authority of the President of the Tribunal, for the acceptance, transmission and custody of all documents and for effecting service as provided for by these Rules.
3. Subject to Articles 4, 16(1) and 27, the Registrar shall attend the sittings of the Tribunal.
4. The Tribunal shall adopt its Instructions to the Registrar, acting on a proposal from the President of the Tribunal. They shall be published in the *Official Journal of the European Union*.

## **Article 20**

### **Keeping of the register**

1. There shall be kept in the Registry, under the control of the Registrar, a register in which all pleadings and supporting documents shall be entered.
2. Rules for keeping the register shall be prescribed by the Instructions to the Registrar referred to in Article 19(4).
3. Any person having a duly substantiated interest may consult the register at the Registry and obtain copies or extracts on payment of a charge on a scale fixed by the Tribunal on a proposal from the Registrar.
4. Any party to proceedings may in addition obtain, on payment of the appropriate charge, additional copies of the pleadings or of the orders and judgments.
5. No third party, private or public, may have access to the case-file or to the procedural documents without the express authorisation of the President, after the parties have been heard. That authorisation may be granted only upon written request accompanied by a detailed explanation of the third party's legitimate interest in inspecting the file.

## Section 2 — The Departments

**Article 21****Officials and other servants**

1. The officials and other servants whose task is to assist directly the President of the Tribunal, the Judges and the Registrar shall be appointed in accordance with the Staff Regulations. They shall be responsible to the Registrar, under the authority of the President of the Tribunal.

2. Before the President of the Tribunal, in the presence of the Registrar, they shall take the following oath:

*'I swear that I will perform loyally, discreetly and conscientiously the duties assigned to me by the European Union Civil Service Tribunal.'*

**Article 22****Administration and financial management of the Tribunal**

The Registrar shall be responsible, under the authority of the President of the Tribunal, for the administration, financial management and accounts of the Tribunal; he shall be assisted in this by the departments of the Court of Justice and the Court of First Instance.

**Chapter 4****Working of the Tribunal****Article 23****Dates, times and place of the sittings of the Tribunal**

1. The dates and times of the sittings of the Tribunal shall be fixed by the President.

2. The Tribunal may choose to hold one or more particular sittings in a place other than that in which it has its seat.

**Article 24****Quorum**

Sittings of the Tribunal shall be valid only if the following quorum is observed:

– five Judges for the full court;

– three Judges for the Chamber sitting with five Judges or for the Chambers sitting with three Judges.

**Article 25****Absence or inability to attend of a Judge**

1. If, because a Judge is absent or prevented from attending, the quorum is not attained, the President shall adjourn the sitting until the Judge is no longer absent or prevented from attending.

2. In order to attain a quorum in a Chamber, the President may also, if the proper administration of justice so requires, complete the formation of the court with another Judge of the same Chamber or, failing that, propose that the President of the Tribunal should designate a Judge from another Chamber. The replacement Judge shall be designated by turn according to the order of precedence referred to in Article 5, with the exception, if possible, of the President of the Tribunal and of the Presidents of Chambers.

3. If the formation of the court is completed pursuant to paragraph 2 after the hearing, the oral procedure shall be reopened.

**Article 26**

**Absence or inability to attend, before the hearing, of a Judge of the Chamber sitting with five Judges**

If, in the Chamber sitting with five Judges, a Judge is absent or prevented from attending before the hearing, the President of the Tribunal shall designate another Judge according to the order of precedence referred to in Article 5. If the number of five Judges cannot be restored, the hearing may nevertheless be held, provided that the quorum is attained.

**Article 27  
Deliberations**

1. The Tribunal shall deliberate in closed session.
2. Only those Judges who were present at the hearing may take part in the deliberations.
3. In accordance with the first paragraph of Article 17 of the Statute of the Court of Justice and the first paragraph of Article 5 of Annex I to the Statute, deliberations of the Tribunal shall be valid only if an uneven number of Judges is sitting in the deliberations.

If, in the Chamber sitting with five Judges or in the full court, there is an even number of Judges, as a result of a Judge's being absent or prevented from attending, the lowest-ranking Judge, according to the order of precedence fixed pursuant to Article 5, shall abstain from taking part in the deliberations, unless he is the Judge-Rapporteur. In that last case, it is the Judge immediately senior to him who shall abstain.

4. Every Judge taking part in the deliberations shall state his opinion and the reasons for it.

Any Judge may require that any question be formulated in the language of his choice and communicated in writing to the other Judges before being put to the vote.

The conclusions reached by the majority of the Judges after final discussion shall determine the decision of the Tribunal. Votes shall be cast in reverse order to the order of precedence laid down pursuant to Article 5.

Differences of view on the substance, wording or order of questions, or on the interpretation of a vote, shall be settled by decision of the Tribunal.

5. Where the deliberations of the Tribunal concern questions of its own administration, the Registrar shall be present, unless the Tribunal decides to the contrary.
6. Where the Tribunal sits without the Registrar being present it shall, if necessary, instruct the lowest-ranking Judge, according to the order of precedence referred to in Article 5, to draw up minutes. The minutes shall be signed by this Judge and by the President.

**Article 28  
Judicial vacations**

1. Subject to any special decision of the Tribunal, its vacations shall be as follows:

- from 18 December to 10 January,
- from the Sunday before Easter to the second Sunday after Easter,
- from 15 July to 15 September.

2. During the vacations, the functions of President of the Tribunal shall be exercised at the place where the Tribunal has its seat either by the President of the Tribunal, keeping in touch with the Registrar, or by a President of Chamber or other Judge invited by the President to take his place.

In a case of urgency, the President may convene the Judges.

3. The Tribunal shall observe the official holidays of the place where it has its seat.
4. The Tribunal may, in proper circumstances, grant leave of absence to any Judge.

## **Chapter 5**

### **Languages**

#### **Article 29**

##### **Language arrangements**

By virtue of Article 64 of the Statute of the Court of Justice and Article 7(2) of Annex I to the Statute, the provisions of the Rules of Procedure of the Court of First Instance governing language arrangements shall apply to the Tribunal.

## **Chapter 6**

### **Rights and obligations of the parties' representatives**

#### **Article 30**

##### **Privileges, immunities and facilities**

1. The parties' representatives, appearing before the Tribunal or before any judicial authority to which it has addressed letters rogatory, shall enjoy immunity in respect of words spoken or written by them concerning the case or the parties.
2. The parties' representatives shall enjoy the following further privileges and facilities:
  - (a) papers and documents relating to the proceedings shall be exempt from both search and seizure; in the event of a dispute the customs officials or police may seal those papers and documents; they shall then be immediately forwarded to the Tribunal for inspection in the presence of the Registrar and of the person concerned;
  - (b) the parties' representatives shall be entitled to such allocation of foreign currency as may be necessary for the performance of their duties;
  - (c) the parties' representatives shall be entitled to travel in the course of duty without hindrance.
3. The privileges, immunities and facilities specified in paragraphs 1 and 2 are granted exclusively in the interests of the proper conduct of proceedings.
4. The Tribunal may waive the immunity where it considers that the proper conduct of proceedings will not be hindered thereby.

#### **Article 31**

##### **Status of the parties' representatives**

In order to qualify for the privileges, immunities and facilities specified in Article 30, persons entitled to them shall furnish proof of their status as follows:

- (a) agents shall produce an official document issued by the party for whom they act and shall forward without delay a copy thereof to the Registrar;
- (b) advisers and lawyers shall produce a certificate signed by the Registrar. The validity of this certificate

shall be limited to a specified period, which may be extended or curtailed according to the length of the proceedings.

## **Article 32**

### **Exclusion from the proceedings**

1. If the Tribunal considers that the conduct of a party's representative towards the Tribunal, the President, a Judge or the Registrar is incompatible with the dignity of the Tribunal or with the requirements of the proper administration of justice, or that such representative uses his rights for purposes other than those for which they were granted, it shall so inform the person concerned. The Tribunal may inform the competent authorities to whom the person concerned is answerable; a copy of the letter sent to those authorities shall be forwarded to the person concerned.

On the same grounds the Tribunal may at any time, having heard the person concerned, exclude that person from the proceedings by order. That order shall have immediate effect.

2. Where a party's representative is excluded from the proceedings, the proceedings shall be suspended for a period fixed by the President in order to allow the party concerned to appoint another representative.

3. Decisions taken under this Article may be rescinded.

## **Title 2**

### **Procedure**

#### **Chapter 1**

##### **Written procedure**

## **Article 33**

### **General provisions**

1. The written procedure shall comprise the lodging of the application and of the defence and, in the circumstances provided for in Article 41, the lodging of a reply and a rejoinder.

2. The President shall fix the dates or time-limits by which the pleadings must be lodged.

## **Article 34**

### **Lodging of pleadings**

1. The original of every pleading must be signed by the party's representative.

The original, accompanied by all annexes referred to therein, shall be lodged together with five copies for the Tribunal and a copy for every other party to the proceedings. Copies shall be certified by the party lodging them.

2. Institutions shall in addition produce, within time-limits laid down by the Tribunal, translations of the pleadings of which they are the author into the other languages provided for by Article 1 of Council Regulation No 1. The second subparagraph of paragraph 1 shall apply.

3. All pleadings shall bear a date. In the reckoning of time-limits for taking steps in proceedings only the date of lodging at the Registry shall be taken into account.

4. To every pleading there shall be annexed a file containing the documents relied on in support of it, together with a schedule listing them.

5. Where in view of the length of a document only extracts from it are annexed to the pleading, the whole

document or a full copy of it shall be lodged at the Registry.

6. Without prejudice to the provisions of paragraphs 1 to 4, the date on which a copy of the signed original of a pleading, including the schedule of documents referred to in paragraph 4, is received at the Registry by any technical means of communication available to the Tribunal shall be deemed to be the date of lodging for the purposes of compliance with the time-limits for taking steps in proceedings, provided that the signed original of the pleading, accompanied by the annexes and copies referred to in the second subparagraph of paragraph 1, is lodged at the Registry no later than 10 days after the copy of the original was received. Article 100(3) shall not be applicable to this period of 10 days.

7. Without prejudice to the first subparagraph of paragraph 1 or to paragraphs 2 to 4, the Tribunal may by decision determine the criteria for a procedural document sent to the Registry by electronic means to be deemed to be the original of that document. That decision shall be published in the *Official Journal of the European Union*.

### **Article 35** **Application**

1. An application of the kind referred to in Article 21 of the Statute of the Court of Justice shall state:

- (a) the name and address of the applicant;
- (b) the description and address of the signatory;
- (c) the designation of the party against whom the application is made;
- (d) the subject-matter of the proceedings and the form of order sought by the applicant;
- (e) the pleas in law and the arguments of fact and law relied on;
- (f) where appropriate, the nature of any evidence offered in support.

2. To the application there shall be annexed, where appropriate:

- (a) the act of which annulment is sought;
- (b) the complaint within the meaning of Article 90(2) of the Staff Regulations and the decision responding to the complaint together with the dates on which the complaint was submitted and the decision notified.

3. For the purposes of the proceedings, the application shall state:

- an address for service in the place where the Tribunal has its seat and the name of the person authorised to accept service;
- or any technical means of communication available to the Tribunal by which the applicant's representative agrees to accept service;
- or else both the methods of transmission of service referred to above.

4. If the application does not comply with the requirements referred to in paragraph 3, all service on the party concerned for the purposes of the proceedings shall be effected, for so long as the defect has not been cured, by registered letter addressed to that party's representative. By way of derogation from Article 99(1), service shall then be deemed to have been duly effected by the lodging of the registered letter at the post office of the place where the Tribunal has its seat.

5. The applicant's lawyer must lodge at the Registry a certificate that he is authorised to practise before a court of a Member State or of another State party to the Agreement on the European Economic Area.

### **Article 36**

#### **Putting the application in order**

If an application does not comply with the requirements set out in Article 35(1)(a), (b), (c), (2) or (5), the Registrar shall prescribe a reasonable period within which the applicant is to comply with them by putting the application in order. If the applicant fails to put the application in order within the time prescribed, the Tribunal shall decide whether the non-compliance with these conditions renders the application formally inadmissible.

### **Article 37**

#### **Service of the application and notice in the Official Journal**

1. The application shall be served on the defendant. In the cases provided for by Article 36, service shall be effected as soon as the application has been put in order or, failing that, as soon as the Tribunal has declared it admissible.

2. Notice shall be given in the *Official Journal of the European Union* of the date on which the application was lodged, the parties, the subject-matter and description of the proceedings and the form of order sought by the applicant.

### **Article 38**

#### **First assignment of a case to a formation of the court**

As soon as the application initiating proceedings has been lodged, the President of the Tribunal shall assign the case to one of the Chambers sitting with three Judges in accordance with the criteria set out in Article 12(2).

The President of that Chamber shall propose to the President of the Tribunal, in respect of each case assigned, the designation of a Judge to act as Rapporteur; the President of the Tribunal shall decide on the proposal.

### **Article 39**

#### **Defence**

1. Within two months after service of the application, the defendant shall lodge a defence stating:

- (a) the name and address of the defendant;
- (b) the description and address of the signatory;
- (c) the form of order sought by the defendant;
- (d) the pleas in law and the arguments of fact and law relied on;
- (e) where appropriate, the nature of any evidence offered in support.

The provisions of Article 35(3) and (4) shall apply.

The lawyer acting for the defendant must lodge at the Registry a certificate that he is authorised to practise before a court of a Member State or of another State party to the Agreement on the European Economic Area.

2. The time-limit laid down in paragraph 1 may, in exceptional circumstances, be extended by the President on a reasoned application by the defendant.

#### **Article 40**

##### **Forwarding pleadings to the Council and the Commission**

Where the Council or the Commission is not a party to a case, the Tribunal shall send to it copies of the application and of the defence, without the annexes thereto, to enable it to assess whether the inapplicability of one of its acts is being invoked under Article 241 of the EC Treaty or Article 156 of the EAEC Treaty.

#### **Article 41**

##### **Second exchange of pleadings**

Pursuant to Article 7(3) of Annex I to the Statute of the Court of Justice, the Tribunal may decide, either of its own motion or on a reasoned application by the applicant, that a second exchange of written pleadings is necessary to supplement the documents before the Tribunal.

#### **Article 42**

##### **Offers of further evidence**

The parties may offer further evidence in support of their arguments until the end of the hearing, on condition that the delay in offering it is duly justified.

#### **Article 43**

##### **New pleas in law**

1. No new plea in law may be introduced after the first exchange of pleadings unless it is based on matters of law or of fact which come to light in the course of the procedure.
2. If in the course of the procedure one of the parties puts forward a new plea in law, the President may, even after the expiry of the normal procedural time-limits, acting on a report of the Judge-Rapporteur, allow the other party time to answer on that plea.

Consideration of the admissibility of the plea shall be reserved for the final decision.

#### **Article 44**

##### **Documents — Confidentiality — Anonymity**

1. Subject to the provisions of Article 109(5), the Tribunal shall take into consideration only those documents which have been made available to the parties' representatives and on which they have been given an opportunity of expressing their views.
2. Where it is necessary for the Tribunal to verify the confidentiality, in respect of one or more parties, of a document that may be relevant in order to rule in a case, that document shall not be communicated to the parties before such verification is completed. The Tribunal may by way of order request the production of such a document.
3. Where a document to which access has been denied by a Community institution has been produced before the Tribunal in proceedings relating to the legality of that denial, that document shall not be communicated to the other parties.
4. On a reasoned application by a party or of its own motion, the Tribunal may omit the name of the applicant or of other persons mentioned in connection with the proceedings, or certain information, from the publications relating to a case if there are legitimate reasons for keeping the identity of a person or the information confidential.

**Article 45****Preliminary report**

1. After the final exchange of the parties' pleadings, the President shall fix a date on which the Judge-Rapporteur is to present his preliminary report to the Tribunal.
2. The preliminary report shall contain recommendations as to whether measures of organisation of procedure or measures of inquiry should be undertaken, as to the possibility of an amicable settlement of the dispute and as to whether the case should be referred to the full court, to the Chamber sitting with five Judges or to the Judge-Rapporteur sitting as a single Judge.
3. The Tribunal shall decide what action to take upon the recommendations of the Judge-Rapporteur.

**Article 46****Connection — Joinder**

1. In the interests of the proper administration of justice, the President may, at any time, after hearing the parties, order that two or more cases shall, on account of the connection between them, be joined for the purposes of the written or oral procedure or of the final decision. The cases may subsequently be disjoined. The President may refer these matters to the Tribunal.
2. Where cases assigned to different formations of the court are to be joined on account of the connection between them, the President of the Tribunal shall decide on their re-assignment.
3. The representatives of the parties to the joined cases may examine at the Registry the pleadings served on the parties in the other cases concerned. The President may, however, on application by a party, without prejudice to Article 44(1) and (2), exclude secret or confidential documents from that examination.

**Article 47****Order in which cases are to be dealt with**

1. The Tribunal shall deal with the cases before it in the order in which they become ready for examination.
2. The President may in special circumstances direct that a particular case be given priority.
3. The President may, after hearing the parties, in special circumstances, in particular with a view to facilitating an amicable settlement of the dispute, either on his own initiative or at the request of one of the parties, defer a case to be dealt with later.

**Chapter 2****Oral procedure****Article 48****Holding of hearings**

1. Without prejudice to the special provisions of these Rules permitting the Tribunal to adjudicate by way of order, and subject to paragraph 2, the procedure before the Tribunal shall include a hearing.
2. Where there has been a second exchange of pleadings and the Tribunal considers that it is unnecessary to hold a hearing, it may, with the agreement of the parties, decide to proceed to judgment without a hearing.

**Article 49****Date of the hearing**

The President shall fix the date of the hearing.

#### **Article 50**

##### **Absence of the parties from the hearing**

The parties' representatives, duly invited to the hearing, shall be required to inform the Registry in good time if they do not wish to be present.

Where the representatives of all the parties have stated that they will not be present at the hearing, the Tribunal may decide that the oral procedure is closed.

#### **Article 51**

##### **Conduct of the hearing**

1. The proceedings shall be opened and directed by the President, who shall be responsible for the proper conduct of the hearing.
2. The oral proceedings in cases heard in camera shall not be published.
3. A party may address the Tribunal only through his representative.
4. The President and each of the Judges may in the course of the hearing:
  - (a) put questions to the parties' representatives;
  - (b) invite the parties themselves to express their views on certain aspects of the case.

#### **Article 52**

##### **Close of the oral procedure**

1. The President shall declare the oral procedure closed at the end of the hearing.
2. The Tribunal may order the reopening of the oral procedure.

#### **Article 53**

##### **Minutes of the hearing**

1. The Registrar shall draw up minutes of every hearing. The minutes shall be signed by the President and by the Registrar and shall constitute an official record.
2. The parties may inspect the minutes at the Registry and obtain copies at their own expense.

### **Chapter 3**

#### **Measures of organisation of procedure and measures of inquiry**

#### **Article 54**

##### **General provisions**

1. The purpose of measures of organisation of procedure and measures of inquiry shall be to ensure that cases are prepared for hearing, procedures carried out and disputes resolved under the best possible conditions.

Those measures may be adopted or varied at any stage of the proceedings.

2. Each party may, at any stage of the proceedings, propose the adoption or modification of measures of

organisation of procedure or of inquiry. In that case, the other parties shall be heard before those measures are prescribed.

3. Where the procedural circumstances so require, the Judge-Rapporteur or, where appropriate, the Tribunal shall inform the parties of the measures envisaged in order to give them an opportunity to submit their observations orally or in writing.

## Section 1 — Measures of organisation of procedure

### Article 55

#### Purpose and types

1. Measures of organisation of procedure shall have as their purpose:

(a) to ensure efficient conduct of the written and oral procedure and to facilitate the taking of evidence;

(b) to determine the points on which the parties must present further argument or which would call for a measure of inquiry;

(c) to clarify the forms of order sought by the parties, their pleas in law and arguments and the points at issue between them.

2. Measures of organisation of procedure may, in particular, consist of:

(a) putting questions to the parties;

(b) inviting the parties to make written or oral submissions on certain aspects of the proceedings;

(c) asking the parties for information or particulars;

(d) asking the parties to produce documents or any papers relating to the case;

(e) summoning the parties to meetings.

### Article 56

#### Procedure

Without prejudice to Article 44(2), measures of organisation of procedure shall be prescribed by the Judge-Rapporteur unless he refers the matter to the Tribunal on account of the scope of the measures envisaged or of their importance to the disposal of the case. The Registrar shall be responsible for notifying them to the parties.

## Section 2 — Measures of inquiry

### Article 57

#### Types

Without prejudice to the provisions of Articles 24 and 25 of the Statute of the Court of Justice, the following measures of inquiry may be adopted:

(a) the appearance of the parties themselves;

(b) asking third parties for information or particulars;

- (c) asking third parties to produce documents or any papers relating to the case;
- (d) oral testimony;
- (e) the commissioning of an expert's report;
- (f) an inspection of the place or thing in question.

### **Article 58 Procedure**

1. Measures of inquiry shall be prescribed by the Tribunal.
2. The decision concerning the measures referred to in Article 57(d), (e) and (f) shall be taken by means of an order setting out the facts to be proved, after the parties have been heard.  
  
The decision concerning the measures referred to in Article 57(a), (b) and (c) shall be notified to the parties by the Registrar.
3. The parties may be present at the measures of inquiry.
4. Where the Tribunal decides to adopt a measure of inquiry but does not undertake such a measure itself, it shall entrust the task of so doing to the Judge-Rapporteur.
5. A party may always submit evidence in rebuttal or amplify previous evidence.

### Section 3 — The summoning and examination of witnesses and experts

### **Article 59 Summoning of witnesses**

1. The Tribunal may, either of its own motion or on application by one of the parties, order that certain facts be proved by witnesses.

An application by a party for the examination of a witness shall state precisely about what facts and for what reasons the witness should be examined.

2. A witness whose examination is considered necessary shall be summoned by the Tribunal by means of an order containing the following information:
  - (a) the surname, forenames, description and residence of the witness;
  - (b) the date and place of the hearing;
  - (c) an indication of the facts about which the witness is to be examined;
  - (d) where appropriate, particulars of the arrangements made by the Tribunal for reimbursement of expenses incurred by the witness, and of the sanctions which may be imposed on defaulting witnesses.
3. The Tribunal may, in exceptional circumstances, make the summoning of a witness for whose examination a party has applied conditional upon the deposit with the cashier of the Tribunal of a sum sufficient to cover the taxed costs thereof; the Tribunal shall fix the amount of the payment.

The cashier of the Tribunal shall advance the funds necessary in connection with the examination of any witness summoned by the Tribunal of its own motion.

## **Article 60**

### **Examination of witnesses**

1. After the identity of the witness has been established, the President shall inform him that he will be required to vouch the truth of his evidence in the manner laid down in paragraph 2 and in Article 63.

The witness shall give his evidence to the Tribunal, the parties having been given notice to attend. After the witness has given his main evidence the President and each of the Judges may, at the request of a party or of his own motion, put questions to him.

Subject to the control of the President, questions may be put to witnesses by the representatives of the parties.

2. Subject to the provisions of Article 63, the witness shall, before giving his evidence, take the following oath:

*'I swear that I shall tell the truth, the whole truth and nothing but the truth.'*

The Tribunal may, after hearing the parties, exempt a witness from taking the oath.

3. The Registrar shall draw up minutes in which the evidence of each witness is reproduced.

The minutes shall be signed by the President or by the Judge-Rapporteur responsible for conducting the examination of the witness, and by the Registrar. Before the minutes are thus signed, witnesses must be given an opportunity to check the content of the minutes and to sign them.

The minutes shall constitute an official record.

## **Article 61**

### **Duties of witnesses**

1. Witnesses who have been duly summoned shall obey the summons and attend for examination.

2. If a witness who has been duly summoned fails to appear before the Tribunal, the latter may impose upon him a pecuniary sanction not exceeding EUR 5 000 and may order that a further summons be served at the witness's own expense.

The same sanction may be imposed upon a witness who, without good reason, refuses to give evidence or to take the oath or where appropriate to make a solemn affirmation equivalent thereto.

3. If the witness proffers a valid excuse to the Tribunal, the pecuniary sanction imposed on him may be cancelled. The pecuniary sanction imposed may be reduced at the request of the witness where he establishes that it is disproportionate to his income.

4. Sanctions imposed and other measures ordered under this Article shall be enforced in accordance with Articles 244 and 256 of the EC Treaty and Articles 159 and 164 of the EAEC Treaty.

## **Article 62**

### **Experts' reports**

1. The Tribunal may, either of its own motion or on application by one of the parties, order that an expert's report be obtained. The order appointing the expert shall define his task and set a time-limit within which he

is to make his report.

2. The expert shall receive a copy of the order, together with all the documents necessary for carrying out his task. He shall be under the supervision of the Judge-Rapporteur, who may be present during his investigation and who shall be kept informed of his progress in carrying out his task.

The Tribunal may request the parties or one of them to lodge security for the costs of the expert's report.

3. At the request of the expert, the Tribunal may order the examination of witnesses. Their examination shall be carried out in accordance with Article 60.

4. The expert may give his opinion only on points which have been expressly referred to him.

5. After the expert has made his report, the Tribunal may order that he be examined, the parties having been given notice to attend.

Subject to the control of the President, questions may be put to the expert by the representatives of the parties.

6. Subject to the provisions of Article 63, the expert shall, after making his report, take the following oath before the Tribunal:

*'I swear that I have conscientiously and impartially carried out my task.'*

The Tribunal may, after hearing the parties, exempt the expert from taking the oath.

### **Article 63**

#### **Oath**

1. The President shall instruct any person who is required to take an oath before the Tribunal, as witness or expert, to tell the truth or to carry out his task conscientiously and impartially, as the case may be, and shall warn him of the criminal liability provided for in his national law in the event of any breach of this duty.

2. Witnesses and experts shall take the oath either in accordance with the first subparagraph of Article 60(2) and the first subparagraph of Article 62(6) or in the manner laid down by their national law.

3. Where the national law provides the opportunity to make, in judicial proceedings, a solemn affirmation equivalent to an oath as well as or instead of taking an oath, the witnesses and experts may make such an affirmation under the conditions and in the form prescribed in their national law.

Where their national law provides neither for taking an oath nor for making a solemn affirmation, the procedure described in paragraph 1 shall be followed.

### **Article 64**

#### **Perjury**

1. The Tribunal may decide to report to the competent authority, referred to in Annex III to the Rules supplementing the Rules of Procedure of the Court of Justice, of the Member State whose courts have criminal jurisdiction any case of perjury on the part of a witness or expert before the Tribunal, account being taken of the provisions of Article 63.

2. The Registrar shall be responsible for communicating the decision of the Tribunal. The decision shall set out the facts and circumstances on which the report is based.

### **Article 65**

## **Objection**

1. If one of the parties objects to a witness or to an expert on the ground that he is not a competent or proper person to act as witness or expert or for any other reason, or if a witness or expert refuses to give evidence, to take the oath or to make a solemn affirmation equivalent thereto, the Tribunal shall adjudicate by way of reasoned order.
2. An objection to a witness or to an expert shall be raised within two weeks after service of the order summoning the witness or appointing the expert; the statement of objection must set out the grounds of objection and indicate the nature of any evidence offered.

## **Article 66**

### **Reimbursement of expenses — Compensation or fees**

1. Witnesses and experts shall be entitled to reimbursement of their travel and subsistence expenses. The cashier of the Tribunal may make a payment to them towards these expenses in advance.
2. Witnesses shall be entitled to compensation for loss of earnings, and experts to fees for their services. The cashier of the Tribunal shall pay witnesses and experts their compensation or fees after they have carried out their respective duties or tasks.

## **Article 67**

### **Letters rogatory**

1. The Tribunal may, on application by a party or of its own motion, issue letters rogatory for the examination of witnesses or experts.
2. Letters rogatory shall be issued in the form of an order which shall contain the name, forenames, description and address of the witness or expert, set out the facts on which the witness or expert is to be examined, name the parties, their representatives, indicate their addresses and briefly describe the subject-matter of the proceedings.
3. The Registrar shall send the order to the competent authority named in Annex I to the Rules supplementing the Rules of Procedure of the Court of Justice of the Member State in whose territory the witness or expert is to be examined. Where necessary, the order shall be accompanied by a translation into the official language or languages of the Member State to which it is addressed.

The authority named pursuant to the first subparagraph shall pass on the order to the judicial authority which is competent according to its national law.

The competent judicial authority shall give effect to the letters rogatory in accordance with its national law. After implementation the competent judicial authority shall transmit to the authority named pursuant to the first subparagraph the order embodying the letters rogatory, any documents arising from the implementation and a detailed statement of costs. These documents shall be sent to the Registrar.

The Registrar shall be responsible for the translation of the documents into the language of the case.

4. The Tribunal shall defray the expenses occasioned by the letters rogatory without prejudice to the right to charge them, where appropriate, to the parties.

## **Chapter 4**

### **The amicable settlement of disputes**

## **Article 68**

### **Measures**

1. The Tribunal may, at all stages of the procedure, examine the possibilities of an amicable settlement of the dispute between the applicant and the defendant, propose one or more solutions capable of putting an end to the dispute and adopt appropriate measures with a view to facilitating such settlement.

It may, amongst other things:

- ask the parties or third parties to supply information or particulars;
- ask the parties or third parties to produce documents;
- invite to meetings the parties' representatives, the parties themselves or any official or other servant of the institution empowered to negotiate an agreement.

2. Paragraph 1 shall apply to proceedings for interim measures also.

3. The Tribunal may instruct the Judge-Rapporteur, assisted by the Registrar, to seek the amicable settlement of a dispute or to implement the measures which it has adopted to that end.

#### **Article 69**

##### **Agreement of the parties**

1. Where the applicant and the defendant come to an agreement before the Tribunal or the Judge-Rapporteur as to the solution putting an end to the dispute, the terms of that agreement may be recorded in minutes signed by the President or the Judge-Rapporteur and by the Registrar. The agreement as entered in the minutes shall constitute an official record.

The case shall be removed from the register by reasoned order of the President.

At the request of the applicant and defendant, the President shall set out the terms of the agreement in the order removing the case from the register.

2. Where the applicant and the defendant notify the Tribunal that they have reached an agreement out of court as to the resolution of the dispute and state that they abandon all claims, the President shall order the case to be removed from the register.

3. The President shall give a decision as to costs in accordance with the agreement or, failing that, at his discretion.

#### **Article 70**

##### **Amicable settlement and contentious proceedings**

No opinion expressed, suggestion made, proposal put forward, concession made or document drawn up for the purposes of the amicable settlement may be relied on as evidence by the Tribunal or the parties in the contentious proceedings.

#### **Chapter 5**

##### **Stay of proceedings and declining of jurisdiction in favour of the Court of Justice and the Court of First Instance**

#### **Article 71**

##### **Conditions and procedure for staying of proceedings**

1. Without prejudice to Articles 117(4), 118(4) and 119(4), proceedings may be stayed:

- (a) where the Tribunal and either the Court of First Instance or the Court of Justice are seized of cases in which the same issue of interpretation is raised or the validity of the same act is called in question, until the judgment of the Court of First Instance or the Court of Justice has been delivered;
  - (b) where an appeal is brought before the Court of First Instance against a decision of the Tribunal disposing of the substantive issues in part only, disposing of a procedural issue concerning a plea of lack of competence or inadmissibility or dismissing an application to intervene;
  - (c) at the joint request of the parties;
  - (d) in other particular cases where the proper administration of justice so requires.
2. The decision to stay the proceedings shall be made by reasoned order of the President after hearing the parties; the President may refer the matter to the Tribunal.
  3. Any decision ordering the resumption of proceedings before the end of the stay or as referred to in Article 72(2) shall be adopted in accordance with the same procedure.

## **Article 72**

### **Duration and effects of a stay of proceedings**

1. The stay of proceedings shall take effect on the date indicated in the order of stay or, in the absence of such an indication, on the date of that order.
2. Where the order of stay does not fix the length of the stay, it shall end on the date indicated in the order of resumption or, in the absence of such indication, on the date of the order of resumption.
3. While proceedings are stayed time shall, except for the purposes of the time-limit prescribed in Article 109(1) for an application to intervene, cease to run for the purposes of procedural time-limits.

Time shall begin to run afresh from the beginning for the purposes of the time-limits from the date on which the stay of proceedings comes to an end.

## **Article 73**

### **Declining of jurisdiction**

1. In accordance with Article 8(2) of Annex I to the Statute of the Court of Justice, where the Tribunal finds that the action before it falls within the jurisdiction of the Court of Justice or of the Court of First Instance, it shall refer that action to the Court of Justice or to the Court of First Instance.
2. The Tribunal shall make its decision by way of reasoned order.

## **Chapter 6**

### **Discontinuance, no need to adjudicate and preliminary issues**

## **Article 74**

### **Discontinuance**

If the applicant informs the Tribunal, in writing or at the hearing, that he wishes to discontinue the proceedings, the President shall order the case to be removed from the register and shall give a decision as to costs in accordance with Article 89(5).

## **Article 75**

### **No need to adjudicate**

If the Tribunal finds that an action has become devoid of purpose and that there is no longer any need to adjudicate on it, it may at any time, of its own motion, after hearing the parties, adopt a reasoned order.

#### **Article 76**

##### **Action manifestly bound to fail**

Where it is clear that the Tribunal has no jurisdiction to take cognisance of an action or of certain of the claims therein or where the action is, in whole or in part, manifestly inadmissible or manifestly lacking any foundation in law, the Tribunal may, without taking further steps in the proceedings, give a decision by way of reasoned order.

#### **Article 77**

##### **Absolute bar to proceeding**

The Tribunal may at any time, of its own motion, after hearing the parties, decide whether there exists any absolute bar to proceeding with an action. If the Tribunal considers that it possesses sufficient information, it may, without taking further steps in the proceedings, give a decision by way of reasoned order.

#### **Article 78**

##### **Application for a decision not going to the substance of the case**

1. A party applying to the Tribunal for a decision on admissibility, on lack of competence or other preliminary plea not going to the substance of the case shall make the application by a separate document within a month of service of the application.

The application must contain the pleas of fact and law relied on and the form of order sought by the applicant; any supporting documents must be annexed to it.

2. As soon as the application has been lodged, the President shall prescribe a period within which the opposite party may lodge a document containing the form of order sought and the arguments of fact and law relied on.

Unless the Tribunal otherwise decides, the remainder of the proceedings shall be oral.

3. The Tribunal shall decide on the application by way of reasoned order or reserve its decision for the final judgment.

If the Tribunal refuses the application or reserves its decision, the President shall prescribe new time-limits for further steps in the proceedings.

4. The Tribunal shall refer the case to the Court of Justice or to the Court of First Instance if the case falls within the jurisdiction of either of those Courts.

### **Chapter 7**

#### **Judgments and orders**

#### **Article 79**

##### **Judgments**

A judgment shall contain:

- the statement that it is the judgment of the Tribunal,
- the date of its delivery,

- the names of the President and the Judges taking part in it, with an indication as to the name of the Judge-Rapporteur,
- the name of the Registrar,
- the description of the parties,
- the names of the parties' representatives,
- a statement of the forms of order sought by the parties,
- a summary of the facts,
- the grounds for the decision,
- the operative part of the judgment, including the decision as to costs.

### **Article 80**

#### **Delivery of judgment**

1. The judgment shall be delivered in open court. Due notice shall be given to the parties of the date of delivery.
2. The original of the judgment, signed by the President, by the Judges who took part in the deliberations and by the Registrar, shall be sealed and deposited at the Registry; the Registrar shall ensure that each of the parties is served with a certified copy of the judgment.
3. The Registrar shall record on the original of the judgment the date on which it was delivered.

### **Article 81**

#### **Orders**

1. Every order shall contain:
  - the statement that it is the order of the Tribunal, of the President of the Tribunal or of the formation of the court,
  - the date of its adoption,
  - the names of the President and, where appropriate, the Judges taking part in its adoption, with an indication as to the name of the Judge-Rapporteur,
  - the name of the Registrar,
  - the description of the parties,
  - the names of the parties' representatives,
  - the operative part of the order, including, where appropriate, the decision as to costs.
2. Where, in accordance with these Rules, an order must be reasoned, it shall in addition contain:
  - a statement of the forms of order sought by the parties,
  - a summary of the facts,

– the grounds for the decision.

#### **Article 82**

##### **Adoption of orders**

The original of the order, signed by the President, shall be sealed and deposited at the Registry; the Registrar shall ensure that each of the parties is served with a certified copy of the order.

#### **Article 83**

##### **Binding effect**

1. Subject to the provisions of Article 12(1) of Annex I to the Statute of the Court of Justice, judgments shall be binding from the date of their delivery.

2. Orders shall be binding from the date of their service, save as otherwise provided in these Rules and in Article 12(1) of Annex I to the Statute of the Court of Justice.

#### **Article 84**

##### **Rectification of decisions**

1. The Tribunal may, by way of order, of its own motion or on application by a party made within a month after the decision to be rectified has been served, after hearing the parties, rectify clerical mistakes, errors in calculation and obvious slips in it.

2. The original of the rectification order shall be annexed to the original of the rectified decision. A note of this order shall be made in the margin of the original of the rectified decision.

#### **Article 85**

##### **Omission of any decision as to costs**

1. If the Tribunal should omit to give a decision on costs, any party may within a month after service of the decision apply to the Tribunal to supplement its decision.

2. The application shall be served on the opposite party and the President shall prescribe a period within which that party may present written observations.

3. After these observations have been presented, the Tribunal shall decide at the same time on the admissibility and on the substance of the application.

### **Chapter 8**

#### **Costs**

#### **Article 86**

##### **Decision as to costs**

A decision as to costs shall be given in the final judgment or in the order which closes the proceedings.

#### **Article 87**

##### **Allocation of costs — General rules**

1. Without prejudice to the other provisions of this Chapter, the unsuccessful party shall be ordered to pay the costs if they have been applied for in the successful party's pleadings.

2. If equity so requires, the Tribunal may decide that an unsuccessful party is to pay only part of the costs or

even that he is not to be ordered to pay any.

#### **Article 88**

##### **Unreasonable or vexatious costs**

A party, even if successful, may be ordered to pay some or all of the costs, if this appears justified by the conduct of that party, including before the proceedings were brought, especially if he has made the other party incur costs which are held to be unreasonable or vexatious.

#### **Article 89**

##### **Allocation of costs — Special cases**

1. Where there are several unsuccessful parties the Tribunal shall decide how the costs are to be shared.
2. Where each party succeeds on some and fails on other heads, the Tribunal may order that the costs be shared or that each party bear its own costs.
3. If costs are not applied for, the parties shall bear their own costs.
4. Interveners shall bear their own costs.
5. A party who discontinues or withdraws from proceedings shall be ordered to pay the costs if they have been applied for in the observations of the other party on the discontinuance. However, upon application by the party who discontinues or withdraws from proceedings, the costs shall be borne by the other party if this appears justified by the conduct of that party.
6. Where a case does not proceed to judgment, the costs shall be in the discretion of the Tribunal.
7. Where the parties have come to an agreement on costs, the decision as to costs shall be in accordance with that agreement.

#### **Article 90**

##### **Costs of enforcing a judgment**

Costs necessarily incurred by a party in enforcing a judgment or order of the Tribunal shall be refunded by the opposite party on the scale in force in the State where the enforcement takes place.

#### **Article 91**

##### **Recoverable costs**

Without prejudice to the provisions of Article 94, the following shall be regarded as recoverable costs:

- (a) sums payable to witnesses and experts under Article 66;
- (b) expenses incurred by the parties for the purpose of the proceedings, in particular the travel and subsistence expenses and the remuneration of the representative, if they are essential.

#### **Article 92**

##### **Dispute as to costs**

1. If there is a dispute concerning the amount and nature of the costs to be recovered, the Tribunal shall, on application by the party concerned and after hearing the opposite party, give its decision by way of reasoned order.

In accordance with Article 11(2) of Annex I to the Statute of the Court of Justice, no appeal may lie from

that order.

2. The parties may, for the purposes of enforcement, apply for a copy of the order.

### **Article 93**

#### **Payment**

1. Sums due from the cashier of the Tribunal and from debtors of the Tribunal shall be paid in euro.

2. Where expenses to be recovered have been incurred in a currency other than the euro or where the steps in respect of which payment is due were taken in a country of which the euro is not the currency, conversions of currency shall be made at the official rates of exchange of the European Central Bank on the day of payment.

### **Article 94**

#### **Court costs**

Proceedings before the Tribunal shall be free of charge, except that:

(a) where a party has caused the Tribunal to incur avoidable costs, in particular where the action is manifestly an abuse of process, the Tribunal may order that party to refund them in whole or in part, but the amount of that refund may not exceed EUR 2 000;

(b) where copying or translation work is carried out at the request of a party, the cost shall, in so far as the Registrar considers it excessive, be paid for by that party on the scale of charges in force referred to in Article 20.

## **Chapter 9**

### **Legal aid**

#### **Article 95**

##### **Substantive conditions**

1. In order to ensure effective access to justice, legal aid shall be granted for proceedings before the Tribunal in accordance with the following rules.

Legal aid shall cover, in whole or in part, the costs involved in legal assistance and representation by a lawyer in proceedings before the Tribunal. The cashier of the Tribunal shall be responsible for those costs.

2. Any natural person who, because of his financial situation, is wholly or partly unable to meet the costs referred to in paragraph 1 shall be entitled to legal aid.

The financial situation shall be assessed, taking into account objective factors such as income, capital and the family situation.

3. Legal aid shall be refused if the action in respect of which the application is made appears to be manifestly inadmissible or manifestly unfounded.

#### **Article 96**

##### **Formal conditions**

1. An application for legal aid may be made before or after the action has been brought.

The application need not be made through a lawyer.

2. The application for legal aid must be accompanied by all information and supporting documents making it possible to assess the applicant's financial situation, such as a certificate issued by the competent national authority attesting to his financial situation.

If the application is made before the action has been brought, the applicant must briefly state the subject-matter of the proposed action, the facts of the case and the arguments in support of the action. The application must be accompanied by supporting documents in that regard.

3. The Tribunal may provide, in accordance with Article 120, for the compulsory use of a form in making an application for legal aid.

### **Article 97 Procedure**

1. Before giving its decision on an application for legal aid, the Tribunal shall invite the other party to submit its written observations unless it is already apparent from the information produced that the conditions laid down in Article 95(2) have not been satisfied or that those laid down in Article 94(3) have been satisfied.

2. The decision on the application for legal aid shall be taken by way of an order by the President of the Tribunal or, if the case has already been assigned to a Chamber, by its President. He may refer the matter to the Tribunal.

An order refusing legal aid shall state the reasons on which it is based.

3. In any order granting legal aid a lawyer shall be designated to represent the person concerned.

If the person has not indicated his choice of lawyer or if his choice is unacceptable, the Registrar shall send a copy of the order granting legal aid and a copy of the application to the competent authority of the Member State concerned mentioned in Annex II to the Rules supplementing the Rules of Procedure of the Court of Justice. The lawyer instructed to represent the applicant shall be designated having regard to the suggestions made by that authority.

An order granting legal aid may specify an amount to be paid to the lawyer instructed to represent the person concerned or fix a limit which the lawyer's disbursements and fees may not, in principle, exceed. It may provide for a contribution to be made by the person concerned to the costs referred to in Article 95(1), having regard to his financial situation.

4. The introduction of an application for legal aid shall suspend the period prescribed for the bringing of the action until the date of notification of the order making a decision on that application or, in the cases referred to in the second subparagraph of paragraph 3, of the order designating the lawyer instructed to represent the applicant.

5. If the circumstances which led to the grant of legal aid should alter during the proceedings, the President may at any time, on his own motion or on application, withdraw legal aid, having heard the person concerned. He may refer the matter to the Tribunal.

An order withdrawing legal aid shall contain a statement of reasons.

6. No appeal shall lie from orders made under this article.

### **Article 98 Advances — Responsibility for costs**

1. Where legal aid is granted, the President may, on application by the lawyer of the person concerned,

decide that an amount by way of advance should be paid to the lawyer.

2. Where, by virtue of the decision closing the proceedings, the recipient of legal aid has to bear his own costs, the President shall fix the lawyer's disbursements and fees which are to be paid by the cashier of the Tribunal by way of a reasoned order from which no appeal shall lie. He may refer the matter to the Tribunal.

3. Where, in the decision closing the proceedings, the Tribunal has ordered another party to pay the costs of the recipient of legal aid, that other party shall be required to refund to the cashier of the Tribunal any sums advanced by way of aid.

In the event of challenge or if the party does not comply with a demand by the Registrar to refund those sums, the President shall rule by way of reasoned order from which no appeal shall lie. The President may refer the matter to the Tribunal.

4. Where the recipient of the aid is unsuccessful, the Tribunal may, in ruling as to costs in the decision closing the proceedings, if equity so requires, order that one or more parties should bear their own costs or that those costs should be borne, in whole or in part, by the cashier of the Tribunal by way of legal aid.

## **Chapter 10**

### **Service**

#### **Article 99**

##### **Service**

1. Where these Rules require a document to be served on a person, the Registrar shall ensure that service is effected:

– where the addressee has an address for service in the place where the Tribunal has its seat, by the dispatch of a copy of the document by registered post with a form for acknowledgement of receipt or by personal delivery of the copy against a receipt, or

– where, in accordance with Article 35(3) or the second subparagraph of Article 39(1), the addressee has agreed that service is to be effected on him by a technical means of communication available to the Tribunal, by such means.

The Registrar shall prepare and certify the copies of documents to be served, save where the parties themselves supply the copies in accordance with the second subparagraph of Article 34(1).

2. Where technical reasons connected with, in particular, the length of the document so require or where the document to be served is a judgment or an order, the document shall be served, if the addressee has failed to state an address for service, at his address in accordance with the procedures laid down in the first indent of paragraph 1. The addressee shall be so advised by telefax or other technical means of communication available to the Tribunal. Service shall then be deemed to have been effected on the addressee by registered post on the 10th day following the lodging of the registered letter at the post office of the place where the Tribunal has its seat, unless it is shown by the acknowledgement of receipt that the letter was received on a different date or the addressee informs the Registrar, within three weeks of being advised by telefax or another technical means of communication, that the document to be served has not reached him.

## **Chapter 11**

### **Time-limits**

#### **Article 100**

##### **Reckoning of time-limits — Single period of extension on account of distance**

1. Any period of time prescribed by the EC and EAEC Treaties, the Statute of the Court of Justice or these

Rules for the taking of any procedural step shall be reckoned as follows:

- (a) Where a period expressed in days, weeks, months or years is to be calculated from the moment at which an event occurs or an action takes place, the day during which that event occurs or that action takes place shall not be counted as falling within the period in question;
  - (b) A period expressed in weeks, months or years shall end with the expiry of whichever day in the last week, month or year is the same day of the week, or falls on the same date, as the day during which the event or action from which the period is to be calculated occurred or took place. If, in a period expressed in months or in years, the day on which it should expire does not occur in the last month, the period shall end with the expiry of the last day of that month;
  - (c) Where a period is expressed in months and days, it shall first be reckoned in whole months, then in days;
  - (d) Periods shall include official holidays, Sundays and Saturdays;
  - (e) Periods shall not be suspended during the judicial vacations.
2. If the period would otherwise end on a Saturday, Sunday or official holiday, it shall be extended until the end of the first following working day.

The list of official holidays drawn up by the Court of Justice and published in the *Official Journal of the European Union* shall apply to the Tribunal.

3. The prescribed time-limits shall be extended on account of distance by a single period of 10 days.

#### **Article 101**

##### **Extension — Delegation of power of signature**

1. Any time-limit prescribed pursuant to these Rules may be extended by whoever prescribed it.
2. The President may delegate power of signature to the Registrar for the purpose of fixing certain time-limits which, pursuant to these Rules, it falls to the President to prescribe, or of extending such time-limits.

#### **Title 3**

##### **Special forms of procedure**

#### **Chapter 1**

##### **Suspension of operation or enforcement and other interim measures**

#### **Article 102**

##### **Application for interim measures**

1. An application to suspend the operation of any measure adopted by an institution, made pursuant to Article 242 of the EC Treaty and Article 157 of the EAEC Treaty, shall be admissible only if the applicant is challenging that measure in proceedings before the Tribunal.

An application for the adoption of any other interim measure referred to in Article 243 of the EC Treaty and Article 158 of the EAEC Treaty shall be admissible only if it is made by a party to a case before the Tribunal and relates to that case.

Those applications may be presented as soon as the complaint provided for in Article 90(2) of the Staff Regulations has been submitted, in the conditions fixed in Article 91(4) of those Regulations.

2. An application of a kind referred to in the previous paragraph shall state the subject-matter of the

proceedings, the circumstances giving rise to urgency and the pleas of fact and law establishing a prima facie case for the interim measures applied for.

3. The application shall be made by a separate document and in accordance with the provisions of Articles 34 and 35.

### **Article 103**

#### **Powers of the President of the Tribunal**

1. The President of the Tribunal shall decide the applications submitted pursuant to Article 102(1).
2. If the President of the Tribunal is absent or prevented from dealing with any such application, he shall be replaced by another Judge in the conditions fixed by a decision adopted by the Tribunal and published in the *Official Journal of the European Union*.

### **Article 104**

#### **Procedure**

1. The application shall be served on the opposite party, and the President of the Tribunal shall prescribe a short period within which that party may submit written or oral observations.
2. The President of the Tribunal shall, where appropriate, prescribe measures of organisation of procedure and measures of inquiry.
3. The President of the Tribunal may grant the application even before the observations of the opposite party have been submitted. This decision may subsequently be varied or cancelled, even of the President's own motion.

### **Article 105**

#### **Decision on interim measures**

1. The decision on the application shall take the form of a reasoned order.
2. Enforcement of the order may be made conditional on the lodging by the applicant of security, of an amount and nature to be fixed in the light of the circumstances.
3. Unless the order fixes the date on which the interim measure is to lapse, the measure shall lapse when final judgment is delivered.
4. The order shall have only an interim effect, and shall be without prejudice to the decision on the substance of the case by the Tribunal.

### **Article 106**

#### **Change in circumstances**

On application by a party, the order may at any time be varied or cancelled on account of a change in circumstances.

### **Article 107**

#### **Further application**

Rejection of an application for an interim measure shall not bar the party who made it from making a further application on the basis of new facts.

### **Article 108**

## **Suspension of enforcement**

The provisions of this Chapter shall apply to applications to suspend the enforcement of an act of an institution, submitted pursuant to Articles 244 and 256 of the EC Treaty and Articles 159 and 164 of the EAEC Treaty.

The order granting the application shall fix, where appropriate, a date on which the interim measure is to lapse.

## **Chapter 2 Intervention**

### **Article 109 Application to intervene**

1. Any application to intervene must be made within four weeks of the date of publication of the notice referred to in Article 37(2).
2. The application to intervene shall contain:
  - (a) the description of the case;
  - (b) the description of the parties;
  - (c) the name and address of the intervener;
  - (d) the intervener's address for service at the place where the Tribunal has its seat or an indication of the technical means of communication available to the Tribunal by which his representative agrees to accept service;
  - (e) the form of order sought by the intervener, in support of or opposing the form of order sought by the applicant;
  - (f) a statement of the circumstances establishing the right to intervene pursuant to the second paragraph of Article 40 of the Statute of the Court of Justice or on the basis of a specific provision.
3. Articles 34 and 35 shall apply.
4. The intervener shall be represented in accordance with Article 19 of the Statute of the Court of Justice.
5. The application to intervene shall be served on the parties, so as to permit them an opportunity to submit their written or oral observations and to indicate to the Registry, where appropriate, those documents which they consider to be secret or confidential and which, in consequence, they do not wish to be communicated to the interveners.
6. The President shall decide on the application to intervene by way of order or shall refer it to the Tribunal. The order must be reasoned if the application is dismissed.

### **Article 110 Conditions for intervention**

1. If an intervention is allowed, the President shall prescribe a period within which the intervener may submit a statement in intervention.
2. The intervener shall receive a copy of all the pleadings served on the parties. The President may, however,

on application by one of the parties, omit secret or confidential documents.

3. The statement in intervention shall contain:

- (a) a statement of the form of order sought by the intervener;
- (b) the pleas in law and arguments relied on by the intervener;
- (c) where appropriate, the nature of any evidence offered.

4. The statement in intervention is admissible only if it is made in support, in whole or in part, of the form of order sought by one of the parties.

5. After the statement in intervention has been lodged, the President shall prescribe a time-limit within which the parties may reply in writing to that statement or shall invite them to present their replies during the oral procedure.

6. For the purposes of these Rules, the intervener shall be treated as a party, save as otherwise provided.

#### **Article 111**

##### **Invitation to intervene**

1. At any stage in the proceedings the President may, after hearing the parties, invite any person, any institution or any Member State concerned by the outcome of the dispute to inform the Tribunal if he or it wishes to intervene in the proceedings. The notice referred to in Article 37(2) shall be mentioned in the invitation.

2. If the person, institution or Member State concerned informs the Tribunal within the period prescribed by the President that he or it wishes to intervene, the President shall inform the parties so as to permit them to indicate to the Registry, where appropriate, those documents which they consider to be secret or confidential and which, in consequence, they do not wish to be communicated to the person, institution or Member State concerned.

The provisions of Article 110(2) shall apply.

3. The person, institution or Member State concerned shall present its statement in intervention within a month of the communication of the pleadings.

The provisions of Articles 34, 35, 109(2)(a) to (e) and (4) and 110(3) to (6) shall apply.

### **Chapter 3**

#### **Appeals and cases referred back after decision set aside**

##### **Article 112**

##### **Conditions for appeals against decisions of the Tribunal**

On the conditions laid down in Articles 9 to 12 of Annex I to the Statute of the Court of Justice, an appeal may be brought before the Court of First Instance against judgments or orders of the Tribunal.

##### **Article 113**

##### **Referral back after setting aside — Assignment of the case referred back**

1. Where, after setting aside a judgment or order of the Tribunal, the Court of First Instance refers the case back to the Tribunal by virtue of Article 13 of Annex I to the Statute of the Court of Justice, the Tribunal shall be seised of the case by the judgment so referring it.

2. The President of the Tribunal shall assign the case either to the formation of the court which gave the decision which has been set aside or to another formation of the court.

However, where the decision set aside was given by a single Judge, the President of the Tribunal shall assign the case to a Chamber sitting with three Judges of which that Judge is not a member.

#### **Article 114**

##### **Procedure for examining cases referred back**

1. Within two months from the service upon him of the judgment of the Court of First Instance the applicant may lodge a statement of written observations.

2. In the month following the communication to it of that statement, the defendant may lodge a statement of written observations. The time allowed to the defendant for lodging that statement may in no case be less than two months from the service upon it of the judgment of the Court of First Instance.

3. In the month following the simultaneous communication to the intervener of the observations of the applicant and the defendant, the intervener may lodge a statement of written observations. The time allowed to the intervener for lodging it may in no case be less than two months from the service upon him or it of the judgment of the Court of First Instance.

4. By way of derogation from Article 114(1) to (3), where the written procedure before the Tribunal had not been completed when the judgment referring the case back to the Tribunal was delivered, it shall be resumed, at the stage which it had reached, by means of measures of organisation of procedure adopted by the Tribunal.

5. The Tribunal may, if the circumstances so justify, allow supplementary statements of written observations to be lodged.

6. The procedure shall be conducted in accordance with the provisions of Title 2 of these Rules.

#### **Article 115**

##### **Costs**

The Tribunal shall decide on the costs relating to the proceedings instituted before it and to the proceedings on the appeal before the Court of First Instance.

#### **Chapter 4**

##### **Judgments by default and applications to set them aside**

#### **Article 116**

##### **Procedure**

1. If a defendant on whom an application initiating proceedings has been duly served fails to lodge a defence to the application in the proper form within the time prescribed, the applicant may apply to the Tribunal for judgment by default.

The application shall be served on the defendant. The Tribunal may decide to open the oral procedure on the application.

2. Before giving judgment by default the Tribunal shall consider whether the application initiating proceedings is admissible, whether the appropriate formalities have been complied with, and whether the application appears well founded. It may order a preparatory inquiry.

3. A judgment by default shall be enforceable.

The Tribunal may, however, grant a stay of enforcement until it has given its decision on any application under paragraph 4 to set aside the judgment, or it may make enforcement subject to the provision of security of an amount and nature to be fixed in the light of the circumstances; this security shall be released if no such application is made or if the application fails.

4. Application may be made to set aside a judgment by default.

The application to set aside the judgment must be made within one month from the date of service of the judgment.

It must be lodged in the form prescribed by Articles 34 and 35.

5. After the application has been served, the President of the formation of the court shall prescribe a period within which the other party may submit his written observations.

The proceedings shall be conducted in accordance with the provisions of Title 2 of these Rules.

6. The Tribunal shall decide by way of a judgment which may not be set aside. The original of this judgment shall be annexed to the original of the judgment by default. A note of the judgment on the application to set aside shall be made in the margin of the original of the judgment by default.

## **Chapter 5**

### **Exceptional review procedures**

#### **Article 117**

##### **Third-party proceedings**

1. In accordance with Article 42 of the Statute of the Court of Justice, third-party proceedings may be brought against a decision rendered without the third party's having been heard, where the decision is prejudicial to his rights.

If the contested decision has been published in the *Official Journal of the European Union*, the application must be lodged within two months of the publication.

2. Articles 34 and 35 shall apply to an application initiating third-party proceedings. In addition such an application shall:

(a) specify the decision contested;

(b) state how that decision is prejudicial to the rights of the third party;

(c) indicate the reasons for which the third party was unable to take part in the original case before the Tribunal.

The application must be made against all the parties to the original case.

The application initiating third-party proceedings shall be assigned to the formation of the court which delivered the contested decision.

3. The contested decision shall be varied on the points on which the submissions of the third party are upheld.

The original of the judgment in the third-party proceedings shall be annexed to the original of the contested

decision. A note of the judgment in the third-party proceedings shall be made in the margin of the original of the contested decision.

4. Where an appeal before the Court of First Instance and an application initiating third-party proceedings before the Tribunal contest the same decision of the Tribunal, the Tribunal may, after hearing the parties, stay the proceedings until the Court of First Instance has delivered its judgment.

5. The Tribunal may, on application by the third party, order a stay of enforcement of the contested decision. The provisions of Title 3, Chapter 1, shall apply.

#### **Article 118**

##### **Interpretation of decisions of the Tribunal**

1. In accordance with Article 43 of the Statute of the Court of Justice, if the meaning or scope of a decision is in doubt, the Tribunal may construe it on application by any party or any institution of the Communities establishing an interest therein.

Applications for interpretation shall not be subject to any condition as to time-limits.

2. Articles 34 and 35 shall apply to an application for interpretation. In addition such an application shall:

(a) specify the decision in question;

(b) indicate the passages of which interpretation is sought.

The application must be made against all the parties to the case in which the decision of which interpretation is sought was given.

The application for interpretation shall be assigned to the formation of the court which gave the decision which is the subject of the application.

3. The Tribunal shall give its decision by way of judgment after having given the parties an opportunity to submit their observations.

The original of the interpreting judgment shall be annexed to the original of the decision interpreted. A note of the interpreting judgment shall be made in the margin of the original of the decision interpreted.

4. Where an appeal before the Court of First Instance and an application for interpretation before the Tribunal concern the same decision of the Tribunal, the Tribunal may, after hearing the parties, stay the proceedings until the Court of First Instance has delivered its judgment.

#### **Article 119**

##### **Revision**

1. In accordance with Article 44 of the Statute of the Court of Justice, an application for revision of a decision of the Tribunal may be made only on discovery of a fact which is of such a nature as to be a decisive factor and which, before the decision was delivered or adopted, was unknown to the Tribunal and to the party claiming the revision.

Without prejudice to the period of 10 years prescribed in the third paragraph of Article 44 of the Statute of the Court of Justice, an application for revision shall be made within three months of the date on which the facts on which the application is based came to the applicant's knowledge.

2. Articles 34 and 35 shall apply to an application for revision. In addition such an application shall:

- (a) specify the decision contested;
- (b) indicate the points on which the decision is contested;
- (c) set out the facts on which the application is based;
- (d) indicate the nature of the evidence to show that there are facts justifying revision, and that the time-limits laid down in paragraph 1 of this article have been observed.

The application must be made against all the parties to the case in which the contested decision was given.

The application for revision shall be assigned to the formation of the court which gave the contested decision.

3. The Tribunal shall give its decision by way of judgment on the admissibility of the application in the light of the parties' written observations.

If the Tribunal finds the application admissible, the remainder of the procedure shall be oral, unless the Tribunal otherwise decides. It shall give its decision by way of judgment.

The original of the revising judgment shall be annexed to the original of the decision revised. A note of the revising judgment shall be made in the margin of the original of the decision revised.

4. Where an appeal before the Court of First Instance and an application for revision before the Tribunal concern the same decision of the Tribunal, the Tribunal may, after hearing the parties, stay the proceedings until the Court of First Instance has delivered its judgment.

## **Final provisions**

### **Article 120**

#### **The Tribunal's Practice Directions**

The Tribunal may issue practice directions relating, in particular, to the preparations for and conduct of hearings before it, to the amicable settlement of disputes and to the presentation and lodging of pleadings and written observations.

### **Article 121**

#### **Publication of the Rules of Procedure**

These Rules, which are authentic in the languages of the case mentioned in the Rules of Procedure of the Court of First Instance, shall be published in the *Official Journal of the European Union*. They shall enter into force on the first day of the third month following the date of their publication.

### **Article 122**

#### **Transitional provisions relating to costs**

The provisions of Title 2, Chapter 8, on costs shall apply only to cases brought before the Tribunal from the date on which these Rules enter into force.

The relevant provisions of the Rules of Procedure of the Court of First Instance on the subject shall continue to apply *mutatis mutandis* to cases pending before the Tribunal before that date.

Done at Luxembourg, 25 July 2007.

W. HAKENBERG

*The Registrar*

P.J. MAHONEY  
*The President*

## **Table of Contents**

[...]

(1) OJ L 333 of 9.11.2004, p. 7.

(2) OJ L 176 of 4.7.1991, p. 7. Rules of Procedure most recently amended by Council Decision 2006/955/EC, Euratom (OJ L 386 of 29.12.2006, p. 44).

(3) OJ L 136 of 30.5.1991, p. 1. Rules of Procedure most recently amended by Council Decision 2006/956/EC, Euratom (OJ L 386 of 29.12.2006, p. 45).