

TERMS OF REFERENCE OF THE PANEL OF ADJUDICATORS

Article I

Competence of the Panel of Adjudicators

1. In accordance with Regulation 10.02, a Panel of Adjudicators (hereinafter referred to as “the Panel”) shall be competent to decide on final appeals filed by fixed-term staff/mission members against administrative decisions affecting them.
2. For the purpose of the present Terms of Reference, the expression “fixed-term staff/mission members” shall mean any current or former fixed-term staff/mission member and any person on whom the fixed-term staff/mission member’s rights are devolved on his/her death or who can show that he/she is entitled to some right under the Staff Regulations and Staff Rules or the letter of appointment or terms of assignment of a deceased fixed-term staff/mission member.

Article II

Candidatures

1. Participating States shall notify the Chairperson of the Permanent Council of their candidates for the function of adjudicator.
2. The candidates shall be jurists or other persons of high standing with experience in the field of labour law, or international or national civil service law.
3. The candidates shall not serve as OSCE officials. Candidatures of former OSCE officials shall be considered only if three years have elapsed since separation from service. In the event that an adjudicator or deputy-adjudicator becomes an OSCE official, he/she shall resign immediately from his/her office of adjudicator.

Article III

Appointment of the Panel

1. A maximum of six adjudicators shall be appointed by the Chairmanship from the roster of candidates nominated by the participating States. The appointments shall be made within two weeks from the date of closure of candidatures.
2. Adjudicators shall be nationals of different participating States.
3. When appointing the Panel, the Chairmanship shall specify the names of the persons who will serve as the Chairperson and Deputy-Chairperson of the Panel.
4. The Secretary General shall notify the heads of institution/mission, and the OSCE officials of the names of the Chairperson, the Deputy Chairperson and the adjudicators.

Article IV

Term of office

1. Adjudicators shall be appointed for a period of three years renewable.
2. In the event of the death or resignation of an adjudicator during his/her term, the Chairmanship shall appoint a replacement to serve for the remainder of the term of office of his/her predecessor, in accordance with the procedure described in Articles II and III above.

Article V

Independence of the adjudicators and deputy-adjudicators

In the discharge of their duties, the adjudicators and deputy-adjudicators shall be completely independent and guided solely by their independent judgement. They shall neither seek nor receive any instructions.

Article VI

Composition of the Panel

1. Once an application for adjudication is received by the Chairperson of the Panel, the latter shall compose the Panel which will examine the application.
2. The Panel shall consist of three adjudicators, including the Chairperson or his/her deputy. To the extent possible, the Panel shall have the same composition for the entire period needed to settle the case.
3. The Chairperson of the Panel shall notify the applicant of the composition of the Panel within one week of receipt of the application.

Article VII

Adjudication Procedure

1. In the event of a dispute as to whether the Panel has competence, the matter shall be decided by the Panel.
2. The Panel shall determine:
 - (a) The time limits for the presentation of the response to the application by the Secretary General or the respective head of institution/mission and the submission of evidence and other relevant procedural matters;
 - (b) The procedure to be followed with regard to hearings of the Panel; and

- (c) Other matters relating to the adjudication, including whether oral hearings shall be held or whether the application shall be decided on the basis of the documents submitted only.
3. The Chairperson shall inform the Secretary General, the respective head of institution/mission and the applicant of all procedural steps relating to the case.
4. Adjudication sessions shall be held in Vienna.
5. If applications filed with the Panel relate to the same problem, the Panel may decide to handle the applications together and formulate a single decision.
6. The proceedings shall be immediately put to an end if the applicant withdraws his/her application or if a settlement by mutual agreement under Regulation 11.02 is reached.

Article VIII

Adjudication decisions

1. To the extent possible, the Panel shall take its decision within six months upon receipt of the application by the Chairperson of the Panel.
2. The Panel's decision shall be taken by consensus or, failing that, by a majority vote. The three adjudicators shall have equal voting rights; they shall be obliged to vote on matters put to the vote and shall not be allowed to abstain.
3. The adjudication decision shall state the reasons on which it is based.
4. If the Panel finds that the application is well founded it shall recommend the rescission of the impugned decision or the performance by the OSCE of the obligation invoked. The Panel shall also fix the amount of compensation to be paid to the applicant should the impugned decision not be rescinded or the obligation invoked not be performed, within thirty days of notification of the adjudication decision to the Secretary General.
5. The Panel may award costs to be reimbursed to a successful applicant for properly vouched legal fees and expenses incurred by the applicant, taking into account the nature and importance of the dispute.
6. If the Panel finds that an application is obviously frivolous it may decide to stop the examination of the application, and dismiss it immediately, or if the application was examined, to require the applicant to pay all or part of the costs incurred.
7. The Chairperson shall notify the adjudication decision to the applicant and to the Secretary General without delay. The Secretary General shall forward a copy of it to the head of the institution/mission concerned. The original of the adjudication decision shall be filed in the Secretariat, which shall publish the adjudication decision electronically in a location accessible by staff/mission members and delegations. The published version shall have names, post titles, and other personal information redacted.

8. The adjudication decisions shall be final, and binding within the OSCE. The party who was found against by the Panel shall comply with the decisions within thirty days from the date on which they were notified. The Secretary General or the respective head of institution/mission, as the case may be, shall inform the Chairperson of the Panel of the execution of its decision within the same time frame.

Article IX

Revision of an Adjudication Decision

1. The Secretary General or the respective head of institution/mission, or the applicant may request the Panel, through its Chairperson, to revise the adjudication decision, in the event of the discovery of a fact that, by its nature might have had a decisive influence on the adjudication decision of the Panel and was unknown both to the Panel and to the party/parties concerned at the time the adjudication decision was delivered. Such a request shall be made within two months of that party acquiring knowledge of such fact, but not later than six months of the date of the adjudication decision.

2. The request for revision of the adjudication decision shall contain the information necessary to show that the conditions laid down in paragraph 1 above have been complied with. It shall be accompanied by all supporting documents.

Article X

Administrative and Financial Arrangements

1. The Secretary General shall make all the administrative arrangements necessary for adjudication within the existing OSCE Budget.

2. Adjudicators shall serve without remuneration from the OSCE, but shall be entitled to reimbursement of travel expenses and payment of a subsistence allowance, if applicable, for the duration of the adjudication sessions.

3. The Secretary General shall designate an OSCE staff member at the Secretariat to serve as Executive Secretary to the Panel on an ad-hoc basis, in addition to that staff member's regular day-to-day duties. The Executive Secretary shall also keep a registry. In carrying out his/her role as Secretary to the Panel, the designated staff member shall only act according to the instructions of the Chairperson of the Panel and shall neither seek nor receive instructions from the Secretariat or the Chairmanship.

Article XI

Special case of appeals

The Secretary General and heads of institution/mission may file an application with the Panel of Adjudicators, in which case the present terms of reference shall apply *mutatis mutandis*, except that the Chairmanship shall be entrusted with the duties that are assigned to the Secretary General under these terms.

Article XII
Amendments

Any amendment to the present Terms of Reference shall not affect applications pending.