



Rules of Procedure of the Arbitration Commission for the Regulations on Representation of the Staff of the United Nations at Geneva

In accordance with Article 20(8) of the Regulations on Representation of the Staff of the United Nations at Geneva (hereafter the Regulations), the Arbitration Commission hereby establishes the following Rules of Procedure governing disputes arising under Article 19 of the Regulations.

Article 1. Scope of Application

These Rules of Procedure shall govern any disputes arising between a staff member or members and a staff body or bodies or between two (2) or more staff bodies concerning any failure to observe the Regulations. Applications for arbitration of such disputes must be submitted in accordance with the application procedures set out under these Rules.

Article 2. Application Procedures

- A. **Standing.** Any staff member(s) or staff body(ies) affected by an alleged failure to observe the Regulations may file an application for arbitration under the Rules. In the case the applicant is part of a list in an election conducted under the Regulations, which is considered a staff body, the application shall be submitted by the highest ranking member of that list on behalf of that list.
- B. **Format.** Applicants requesting arbitration of a dispute concerning the failure to observe the Regulations shall state their cause of action, specifically citing the act or omission and the provision(s) of the Regulations that such act or omission by the staff member(s) or staff body(ies) are alleged to have failed to respect. All applications should include an explanation as to how the time limits under Article 2(E) of these Rules of Procedure have been met.
- C. **Evidence.** Applicants shall attach as annexes any evidence to support their assertions. The burden of proof in all applications filed under these Rules lies with the Applicant. The Arbitration Commission shall be the sole determinant of the admissibility of any piece of evidence submitted to it.
- D. **Remedy.** Applications for arbitration under these Rules may request a remedy; provided, however, that the Arbitration Commission may not grant remedies not specifically provided for under Chapter IX of the Regulations. The Arbitration Commission retains the right to decide the remedy.
- E. **Time Limits.** Applications for arbitration under these Rules shall be filed within forty-five (45) calendar days of the act or omission that constitutes the alleged failure to observe the Regulations.
- F. **Receipt of the Application.** Applications shall be considered received when a signed hard copy of the application along with all supporting evidence has been physically received by the President of the Arbitration Commission, with a copy provided to the Executive Bureau as required by Article 21(2) of the Regulations. Receipt of an electronic copy or by any member of the Arbitration Commission who is not the President shall not be sufficient to constitute receipt of an application for arbitration under the Rules, but may constitute evidence of having met the time limits stipulated under Article 2(E) of these Rules of Procedure.

Article 4. Receivability

Upon receipt of an application to arbitrate a dispute, the Arbitration Commission shall make a preliminary determination as to whether an application falls within the scope of application under Article 1 of these Rules and has complied with the formalities of Article 2 of these Rules. Applications or parts of applications that are outside the scope of application, or those applications that have not complied with the application procedures under Article 2, shall be deemed not receivable and shall not be adjudicated. The Arbitration Commission may, however, ask an applicant to cure minor defects in compliance with the application formalities under Article 2 above. Decisions concerning receivability shall be communicated to the UN in Geneva using electronic or other means. Such decision shall, in principle, be made within three (3) working days following receipt of the application.

Article 5. Right of Reply

Any staff member(s) or staff body(ies) who are alleged in an application to have failed to observe the Regulations shall be asked to file a reply to the allegations made in the application. The reply may contain evidence to refute any claim by an applicant; provided, however, that the admissibility of any evidence submitted in reply to an application for arbitration shall be determined under the provisions of Article 2(C) above. In the case the respondent is a list in an election conducted under the Regulations, the reply shall be submitted by the highest ranking member of that list on behalf of that list. The Arbitration Commission shall fix a reasonable period of time to file such a reply.

Article 6. Inquiries

The Arbitration Commission may make any inquiries to any person that may help it in reaching an informed decision on an application for arbitration.

Article 7. Hearings

The Arbitration Commission shall, in principle, base its decisions on the pleadings and on the basis of its inquiries and its own research. Oral hearings shall be granted only on an exceptional basis where the Arbitration Commission determines that the pleadings, the supporting evidence, its research and the responses to inquiries are insufficient to come to a decision on an application and an oral hearing may yield material information that had not been available. No applicant or respondent shall have an automatic right to a hearing. In the event that an applicant is granted an oral hearing, a respondent shall have the right to be present and to reply orally; in the event that a respondent is granted an oral hearing, an applicant shall have the right to be present and to reply orally.

Article 8. Decisions of the Arbitration Commission

- A. Decisions of the Arbitration Commission shall be made by an absolute majority, as defined under Article 20(7) of the Regulations.
- B. Decisions of the Arbitration Commission shall set out the reasons why an application has merit or why it failed, and in the case of a successful application, the remedy involved.
- C. Decisions shall be communicated to the UN in Geneva by electronic means, in both English and French.

- D. The Arbitration Commission shall decide on an application within three (3) working days of obtaining all the relevant information on the case, including the reply under Article 5 of these Rules, responses to its inquiries under Article 6 of these Rules and oral hearings, if applicable, under Article 7 of these Rules.
- E. Decisions of the Arbitration Commission shall be binding and shall serve as legal precedents for future decisions in similar cases. To the extent prior decisions of the Commission are available and for all decisions henceforth, the President of the Arbitration Commission shall keep a record of all decisions, and shall make these decisions available upon request to persons who are considering filing an application or who are preparing a reply.

Article 9. Conflict of Interest

In accordance with Article 20(3) of the Regulations, Arbitration Commission members must not have been a member of a staff body during the year preceding their election. In the event that a member of the Arbitration Commission must decide a case involving his or her direct supervisor or a staff member that reports directly to him/her, the member may recuse him/herself from deciding the application. Provided, however, that this shall not apply in the event that the recusal would result in the absence of a quorum under Article 20(6) of the Regulations.

Article 10. Waiver of Time Limits

Applications for arbitration submitted beyond the time limit stipulated in Article 2(E) shall, in principle, not be accepted by the Arbitration Commission. Provided, however, that an application filed after the time limit may exceptionally contain a request to the Arbitration Commission to waive the time limit, supported by a justification as to why it was not possible to observe the time limit in this particular case. The Arbitration Commission may, by absolute majority, decide to extend a time limit fixed by these Rules if the interest of justice so require.

Article 11. Election of the President of the Commission

The Arbitration Commission shall elect, by simple majority, a President from among its members. The term of the President shall be one year, and he or she may be re-elected for a further one year term, up to a maximum of two consecutive terms. In case of the absence of the President due to mission, illness or other unavoidable circumstance, the President may designate another member to serve as acting President during his or her absence.

Article 12. Amendment of Rules

The Arbitration Commission may, from time to time and as the need arises, adopt amendments to these Rules, by way of a majority decision.

Article 13. Entry into Force

These Rules of Procedure shall enter into force on the first day of the month following their adoption by the Arbitration Commission, and communicated to the UN in Geneva by electronic means in both English and French. Any amendments to these Rules shall be similarly communicated.

