

COMMONWEALTH SECRETARIAT ARBITRAL TRIBUNAL

RULES OF PROCEDURE

Adopted in accordance with Article VI.1 of the Statute of the Commonwealth Secretariat Arbitral Tribunal, effective from 1 October 2026.

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Rule 1, General

1. These Rules of Procedure ('Rules') of the Commonwealth Secretariat Arbitral Tribunal ('Tribunal') govern the administration and proceedings of the Tribunal, subject to the Statute of the Tribunal ('CSAT Statute').

2. The Tribunal shall establish a Code of Judicial Conduct to regulate the ethical conduct of its members, including the management of conflicts of interest and recusal.
3. Unless directed by the Tribunal to the contrary, the administrative basis of the Tribunal shall be electronic communication, materials shall not be physically produced by the parties and correspondence shall be conducted by email.
4. Written submissions, including applications, responses and any interventions in accordance with the CSAT Statute and these Rules, shall be exclusively submitted to and transmitted by the Tribunal, through csat@commonwealth.int.
5. Parties shall exclude from their submissions and evidence reference to any without prejudice pursuit of settlement outside proceedings of the Tribunal. To the extent that this exclusion is not adhered to, the Tribunal shall disregard such submissions and evidence.
6. At all times until judgment, proceedings before the Tribunal shall be confidential, except for any oral hearing held in public.

Rule 2, Time Periods

1. Time periods in accordance with these Rules begin to run on the day following receipt of written submissions transmitted or directions issued by the Tribunal.
2. If the last day of such time period is an official holiday or non-business day at the headquarters of the Commonwealth Secretariat, the period is extended until the first business day which follows. Official holidays and non-business days occurring during the running of the period of time are included in calculating the period.
3. Upon application by a party, the Tribunal may allow extensions to time periods.

Rule 3, President and Deputy President

1. The Tribunal shall nominate a President from amongst its members, for appointment in accordance with Article IV.4 of the CSAT Statute. The President shall:
 - a. judicially represent the Tribunal;
 - b. empanel a special session of the Tribunal in accordance with Rule 6;

- c. when the Tribunal is not in session, manage proceedings in accordance with Rule 8 or appoint another member of the Tribunal to do so;
 - d. empanel and preside over the Tribunal in accordance with Article IV.5 of the CSAT Statute and Rule 11;
 - e. constitute the Review Board in accordance with Article XI.8 of the CSAT Statute;
 - f. perform such other duties entrusted to the President by the CSAT Statute and these Rules; and
 - g. oversee the Executive Secretary in the performance of their functions.
2. The Tribunal shall elect a Deputy President from amongst its members, to serve for two years, or until the expiration of their current term of appointment. Tribunal members shall be eligible for re-election as Deputy President but shall not serve as President and Deputy President concurrently. In the absence of the President as contemplated by Article IV.8 of the CSAT Statute, the Deputy President shall perform the duties entrusted to the President by the CSAT Statute and these Rules.

Rule 4, Executive Secretary

1. Under the authority of the President, and in accordance with the CSAT Statute and these Rules, the Executive Secretary shall:
- a. administratively represent the Tribunal;
 - b. receive Applications commencing proceedings and transmit all written submissions, directions of the Tribunal, and any other materials to the parties;
 - c. advise the Tribunal on the application of the CSAT Statute, these Rules, the Code of Judicial Conduct, the management of proceedings, and the principles of international administrative law;
 - d. attend all sessions of the Tribunal and Review Board, and judicial meetings;
 - e. ensure the effective discharge of the CSAT Statute, these Rules and the administration of the Tribunal;
 - f. authorise non-material extensions to time periods, in accordance with Rule 2.3;

- g. call upon the parties to correct their written submissions, in accordance with Rules 5.3 and 7.3;
- h. issue *Practice Notes*, following consultation with the members of the Tribunal, as guidance to facilitate the effective implementation of these Rules;
- i. administer the budget of the Tribunal; and
- j. carry out such other duties as may be assigned by the Tribunal.

Rule 5, Commencement of Proceedings

1. Proceedings shall commence with submission of an Application to the Tribunal. The Application shall include the following nine sections, clearly headed A to I:
 - a. the name and official status of the Applicant;
 - b. the name of the Applicant's representative, if any;
 - c. the decision and its date, in accordance with Article II.3 of the CSAT Statute, challenged by the Applicant;
 - d. the basis upon which the Tribunal is regarded to possess jurisdiction in the proceedings;
 - e. a concise and chronological statement of the facts relevant to challenging this decision;
 - f. a statement of the applicable law relied upon by the Applicant, in accordance with Rule 10;
 - g. the Applicant's argument, applying the law to the facts, showing why the challenge should succeed;
 - h. a reasoned application for any directions sought, in accordance with Rule 8; and
 - i. any reasoned request for anonymisation of the judgment, whether in whole or in part.
2. The Application shall include a cross-referenced table, identifying any materials relied upon, but shall not annex or exhibit these materials with the Application.

3. If the requirements of this Rule are not complied with, the Executive Secretary may require the Applicant to correct the Application within a specified time period. If the Applicant fails to do so, the Application may be dealt with in accordance with Rule 6.

Rule 6, Summary Dismissal

1. If it appears that the Application is manifestly ill-founded, the Tribunal may be empanelled in special session, in accordance with Article IV.5 of the CSAT Statute, to consider summary dismissal. If an Application is summarily dismissed by the Tribunal, the Tribunal shall issue a notice of dismissal to the parties.
2. Otherwise, the Application shall be transmitted to the Respondent.

Rule 7, Response to the Application

1. Upon receipt of an Application, the Respondent shall submit its Response to the Tribunal within 30 days. The Response shall include the following nine sections, clearly headed A to I:
 - a. confirm or contest the name and official status of the Applicant;
 - b. the name of the Respondent's representative, if any;
 - c. confirm or contest the decision and its date, in accordance with Article II.3 of the CSAT Statute, challenged by the Applicant;
 - d. confirm or contest the jurisdiction of the Tribunal in the proceedings;
 - e. a concise and chronological statement of the relevant facts agreed between the Respondent and Applicant, and any contested and additional facts relevant to the Response;
 - f. a statement of the applicable law relied upon and agreed between the Respondent and the Applicant, and any contested and additional law applicable to the Response, in accordance with Rule 10;
 - g. the Respondent's argument, applying the law to the facts, showing why the challenge should not succeed;
 - h. concur with or contest, with reasons, the directions sought by the Applicant, and a reasoned application for any further directions sought, in accordance with Rule 8; and

- i. concur with, or contest or enlarge upon with reasons any request by the Applicant for anonymisation of the judgment, whether in whole or in part.
2. The Response shall include a cross-referenced table, identifying any materials relied upon, in common with and additional to the Applicant, but shall not annex or exhibit these materials with the Response.
3. If the requirements of this Rule are not complied with, the Executive Secretary may require the Respondent to correct the Response within a specified time period. If the Respondent fails to do so, the Tribunal may nevertheless proceed to judgment.
4. Otherwise, the Response shall be transmitted to the Applicant.

Rule 8, Management of Proceedings

1. The Tribunal shall manage proceedings, in accordance with the CSAT Statute and these Rules, in such manner as it considers appropriate, consistent with the following principles:
 - a. the Tribunal controls the conduct of its proceedings;
 - b. the Tribunal treats the parties equitably but not necessarily identically;
 - c. proceedings shall avoid unnecessary expense and delay; and
 - d. proceedings shall be adaptive, efficient and pragmatic.
2. Following transmission of the Response to the Applicant and at any time thereafter, the Tribunal may issue directions and fix time periods for their performance, including to:
 - a. identify issues to be determined in the proceedings;
 - b. require the parties to address the Tribunal on costs;
 - c. require the parties to address the Tribunal on appropriate compensation for any loss or damage occasioned;
 - d. compel the production of materials from the Respondent, in accordance with the Articles VI.5–7 of the CSAT Statute;

- e. call witnesses, including experts and representation by the Commonwealth Secretariat Staff Association, to provide evidence to the Tribunal;
 - f. require further written submissions from the parties;
 - g. require the parties to produce a consolidated bundle of materials relied upon in the proceedings;
 - h. suspend the decision challenged by the Applicant, in accordance with Article X.3 of the CSAT Statute;
 - i. adjourn the proceedings to enable the parties to pursue mediation or settlement discussions;
 - j. consolidate the proceedings with other proceedings;
 - k. recognise intervenors, including them with the parties in the application of these Rules, in accordance with Article VI.4(b) of the CSAT Statute;
 - l. invite the parties to express their views on whether an oral hearing of the Tribunal is called for; and
 - m. address any issue in the proceedings, including the Tribunal's jurisdiction, as a preliminary issue, or otherwise sequentially.
3. The Tribunal may impose limits for written submissions and evidence, and exclude duplicative and irrelevant materials from proceedings.
 4. The Tribunal may conduct a conference to discuss the management of proceedings with the parties. In the event of such conference, the Tribunal shall give the parties adequate notice of its date, time and the mode of meeting.
 5. The parties may make reasoned applications for further directions from the Tribunal, following submission of their Application and Response, but this shall be accompanied by an explanation as to why the directions could not have been requested at the time of their first written submission.
 6. If a party fails to perform a direction within the time period fixed in accordance with these Rules, without showing sufficient cause for such failure, the Tribunal may nevertheless proceed to judgment and may disregard any written materials not submitted in accordance with its directions.

Rule 9, Evidence

1. Each party shall have the burden of proving the disputed facts it relies upon to support its arguments showing why the challenge should or should not succeed.
2. The Tribunal shall determine the admissibility, relevance, materiality and weight of the evidence offered.

Rule 10, Applicable Law

1. In challenges to decisions arising from contracts of service, the Tribunal shall apply the Applicant's contract of employment or terms of appointment, including the Respondent's Regulations, Rules and other internal law, and principles of international administrative law, including:
 - a. only decisions adverse to the Applicant may be challenged to the Tribunal;
 - b. the Tribunal defers to the Respondent's discretionary authority to the extent that decisions are taken, (1) by a competent authority, (2) in accordance with the applicable procedure established by the Respondent and (3) are not arbitrary or otherwise abusive; and
 - c. the Applicant shall bear the burden of demonstrating the arbitrariness of a challenged decision, except that unreasoned or unsubstantiated administrative decisions shall be evidently arbitrary.
2. To the extent that a party seeks to enlarge upon principles of international administrative law, they shall draw upon past judgments of the Tribunal to do so.
3. To the extent that past judgments of the Tribunal are insufficient, the Tribunal shall prioritise consideration of past judgments of administrative tribunals which are also obligated by their statute to apply the principles of international administrative law.
4. In challenges to decisions arising from contracts for services, the Tribunal shall construe the applicable law from the terms of the contract.

Rule 11, Sessions of the Tribunal

1. Once the Tribunal determines that the proceedings are ready for consideration in session, the parties shall be so notified and the Tribunal shall be empanelled in accordance with Article IV.5 of the CSAT Statute.
2. The Tribunal shall meet in session at the headquarters of the Commonwealth Secretariat or any other location it determines efficient and economical, or by email correspondence or any other form of electronic communication, including video- and tele-conferencing, or any hybrid combination of these modes of meeting.
3. The Tribunal shall determine any application for anonymisation of the judgment, whether in whole or in part, and state this determination in its judgment. The Tribunal shall grant a request for anonymity where the interests of justice so require.

Rule 12, Oral Hearings

1. After considering the views of the parties, the Tribunal shall determine whether to meet in session to hear the presentation of evidence by witnesses or oral argument, or both; or to proceed to judgment on the basis of the written materials already before the Tribunal.
2. In the event of an oral hearing, the Tribunal shall give the parties adequate notice of its date, time and the mode of meeting. In the event the Tribunal determines to proceed to judgment without an oral hearing, the parties shall be so notified.
3. Witnesses and oral argument by the parties may be heard under such conditions as set by the Tribunal.

Rule 13, Judgments

1. The judgment of the Tribunal shall be made in writing and attested to by the members of the Tribunal empanelled in accordance with Article IV.5 of the CSAT Statute or members of the Review Board constituted in accordance with Article XI.8 of the CSAT Statute, and the Executive Secretary.
2. The judgment shall state in a general way the reasoning upon which it is based, but is not required to address every claim and contention by the parties.
3. The judgment shall be prefaced by an executive summary, which whilst enhancing the accessibility of the Tribunal, shall be without legal effect.

Rule 14, Review Boards

1. A request for review of a Tribunal judgment, in accordance with Article XI.5 of the CSAT Statute, shall address the basis for the requested review and substantiate the challenge to the judgment. This request shall be transmitted by the Tribunal to the other party. Upon receipt of this request, the other party shall submit to the Tribunal within 30 days, a response to the request for review and either concede or substantiate its contestation of the challenge to the judgment.
2. If the request for review does not meet the requirements of Article XI.5 of the CSAT Statute, it shall be refused. If the requirements are met, then the Review Board shall be constituted in accordance with Article XI.8 of the CSAT Statute. The parties shall be so notified.
3. The Review Board shall meet in session, elect a chair from amongst its members and determine whether to:
 - a. manage proceedings in accordance with Rule 8;
 - b. hold an oral hearing in accordance with Rule 12;
 - c. or otherwise proceed to judgment on the basis of the written materials already before the Review Board.
4. In the exercise of its competence in accordance with Articles XI.9–13 of the CSAT Statute, the Review Board shall be guided by the following scope and standard of review:
 - a. the CSAT Statute is the exhaustive basis for challenging a judgment before the Review Board;
 - b. the Review Board shall review the elements of the judgment specifically challenged, not review the entirety of the judgment, nor allow a retrial;
 - c. a request for review must relate to a finding of fact or law by the judgment and an issue not already before the Tribunal shall not be addressed;
 - d. the party requesting review bears the burden of convincing the Review Board that one or more grounds of challenge at Article XI.5 of the CSAT Statute is well founded.
5. The Review Board shall issue its judgment in accordance with Rule 13.

Rule 15, Withdrawal

1. An Application or a challenge before the Review Board may be withdrawn at any time before judgment and the Tribunal shall issue a notice of termination to the parties.
2. In these circumstances, the Tribunal retains the competence to determine costs, in accordance with Article IX.3 of the Statute.
