

SECRETARIAT

SECRETARIAT

P. O. Box 3243

ADDIS ABABA

B. P. 3243

LEC. 40 CON

CM/176

COUNCIL OF MINISTERS
Ninth Ordinary Session
Kinshasa, September 1967

(To be first submitted for consideration
by the Committee set up according to
resolution CM/92 (VIII), the meeting
of which it is proposed be held in
Kinshasa on August 28, 1967).

PRELIMINARY DRAFT RULES FOR
THE OAU AD HOC ADMINISTRATIVE TRIBUNAL

DESPATCHED	
Date:	10/7/67
Time:	18.00
Initial:	

RECEIVED	
Date:	10/7/67
Time:	17.30
Initial:	

PRELIMINARY DRAFT RULES FOR
THE OAU AD HOC ADMINISTRATIVE TRIBUNAL

CHAPTER I

Organization

Article 1

Each year, the Council of Ministers shall nominate three Member States alphabetically, one of which, drawn by ballot, shall be replaced at the end of the year.

Each one of these States shall designate from among members of its delegation, a qualified member to the office of Judge on the ad hoc Administrative Tribunal.

Article 2

Members of the Tribunal shall take office immediately upon designation as provided for in Article 1 of these Rules, and shall pursue the course of any procedure in which they have already taken part, until completed.

Article 3

The Tribunal shall, by concensus of opinion, designate a President. The President thereby designated shall immediately take office. The President's mandate is subject to renewal.


Article 4

The President shall direct the work of the Tribunal. He shall preside over hearings.

Article 5

The Tribunal shall have a Secretary and staff placed at its disposal by the Administrative Secretary General. The Secretary, if unable to act, shall be replaced by an official appointed by the Administrative Secretary-General of the Organization of African Unity.

Article 6

 The Secretary shall send to members of the Tribunal dossiers and other documentation relating to cases referred to them, within 10 days of receipt of applications filed by the parties concerned, in accordance with the relevant provisions of these Rules.

CHAPTER II

Sessions

Article 7

The Tribunal shall sit wherever the Council of Ministers meets in Ordinary Sessions.

Article 8

The Tribunal can only sit when all three members are present. All decisions by the Tribunal are taken by majority.

Article 9

The Tribunal shall meet twice a year, at the end of each Ordinary Session of the Council of Ministers. The sessions of the Tribunal shall not be held unless there are cases on the list which, in the opinion of the President, would justify the holding of a session.

Article 10

Notice of the convening of a session shall be given to the members of the Tribunal at the same time as the provisional agenda is communicated to the Council of Ministers.

CHAPTER III

Written proceedings

Article 11 : Applications

Applications instituting proceedings shall be submitted to the Tribunal through the Secretary in either English or French, or in any African language accompanied by a translation into English or French. These must comprise :

- detailed information concerning the personal and official status of the applicant;
- pleas;
- explanatory statement;
- annexes referred to in the three parts of the request.

1. The information concerning the personal and official status of the applicant shall be presented in the form contained in Annex I of these Rules.
2. The pleas shall indicate all the measures and decisions which the applicant is requesting the Tribunal to order or take. They shall specify :
 - Any preliminary or provisional measures, such as the production of additional documents or the hearing of witnesses, which the applicant is requesting the Tribunal to order before proceeding to consider the merits;
 - The decisions which the applicant is contesting and whose rescission he is requesting under Article 17, paragraph (ii) of the Statute;
 - The obligations which the applicant is invoking, and whose specific performance he is requesting, under Article 17, paragraph (ii) of the Statute;
 - The amount of compensation claimed by the applicant, in the event that the Tribunal decides that, in the best interests of the OAU, it would not be appropriate to rescind the decision of the Administrative Secretary-General as provided in Article 17, paragraph (iii) of the Statute of the Administrative Tribunal;
 - The amount of compensation claimed by the applicant for a damage caused by the decision which has been rescinded, or by non-performance of the obligation as provided in Article 17 paragraph (iv) of the Statute;
 - Any other relief which the applicant may request in accordance with the Statute
3. The explanatory note shall set out the facts and the legal grounds on which the pleas are based. It shall specify, inter alia, the provisions of the Staff Rules and Regulations, clauses in the contract of employment, and the employment conditions, whose non-observance is alleged.

4. The annexes shall contain the texts of all documents referred to in the first three sections of the application. They shall be presented by the applicant in accordance with the following rules :
 - i) Each document shall be annexed in the original, or failing that, in the form of a copy bearing the words "Certified true copy";
 - ii) Documents in an African language shall be accompanied by a translation into either English or French;
 - iii) Each document, regardless of its nature, shall be annexed in its entirety, notwithstanding the provisions of paragraph 5, subparagraph (ii) of this Article, even if the application refers only to one part of the document;
 - iv) Each document shall constitute a separate annex and shall be numbered. The word "Annex", followed by the number, shall appear at the top of the first page of each document.
5.
 - i) The applicant shall prepare four copies of the application, each copy containing a statement certifying that it is a true copy of the original application. An indexed list of all the documents constituting the application to institute proceedings shall preface each copy of the application;
 - ii) The Secretary may grant the applicant, at his request, permission to omit the text of an annex of unusual length.
6. The applicant shall file the duly signed original and the four copies of the application with the Secretary. In the event of the applicant's inability, the required signatures shall be furnished by his legal representative.

The Secretary shall deliver a receipt showing :

 - the number of documents comprising the application,
 - the date of receipt of the application.
7.
 - i) The applicant has a time limit of 30 days within which to file his application instituting proceedings with the Secretary. This time limit begins as from the day following notification of the final decision taken in his regard by the appropriate authority, and subject to the provisions of Article 13, paragraph (iii) of the Statute of the OAU ad hoc Administrative Tribunal;

- ii) Silence by the appropriate authority during the 30 days following an applicant's filing a petition, is interpreted as an implied rejection of this request.
8. The time-limit specified in the sub-paragraph (i) of the preceding paragraph shall be extended for 6 months in the case of an application filed by
- i) Any person who has succeeded to the staff member's rights on his death;
- ii) The legal representative of a staff member who is not in a position to manage his own affairs.

Under such circumstances, or in the event that the application instituting proceedings has been despatched from a locality outside the headquarters of the permanent Bureau of the ad hoc Administrative Tribunal's Secretariat, the post-mark stamped by the despatching post-office will stand as the date on which the application is filed.

9. If the formal requirements of this Article are not fulfilled, the Secretary may call upon the applicant to make the necessary corrections in the application and the copies thereof within a period which he shall prescribe. He shall return the necessary documents to the applicant for this purpose. He may also, with the approval of the President, make the necessary corrections himself when the substance of the application is in no way affected.
10. After ascertaining that the provisions of this Article have been complied with, the Secretary shall transmit a copy of the application to the respondent.

Article 12 : The answer

1. The respondent's answer shall be submitted to the Tribunal through the Secretary, in one of the working languages of the OAU. The answer shall include pleas, an explanatory statement and annexes. The annexes shall contain the complete texts of all documents referred to in the other sections of the answer.
2. The provisions in Article 8, paragraph 4 relating to the presentation of documents annexed to the application shall be followed for the documents annexed to the reply. The respondent shall prepare four copies of the answer. Each copy shall contain a statement certifying

that it is a true copy of the original. However, the respondent may be granted permission, at his request, to omit the text of an annex of unusual length from a specified number of copies.

3. The original and the four copies of the answer shall be signed by the respondent, or by his representative, and filed with the Secretary within the thirty days following transmission of the application.
4. After ascertaining that the requirements of this Article have been complied with, the Secretary shall transmit a copy of the answer to the applicant.

Written observations on the answer

Article 13

- i) The applicant may, if he so considers it useful, file with the Secretary written observations on the answer during the 15 days following transmission of the answer;
- ii) The rules to be observed for the preparation of the written observations are identical to those needed for the preparation of the application;
- iii) Having ascertained that the requirements of this Article are complied with, the Secretary shall transmit a copy of the written observations to the respondent.

CHAPTER IV

Additional information

Article 14

- i) The President may, on his own initiative, or at the request of either party, call upon the parties to provide additional written statements or additional documents within a period which he shall fix;
- ii) Preparation of the written statements or additional documentation shall be in accordance with the requirements governing the preparation of the application, the answer and the observations on the answer;

- iii) In order to complete the documentation of the case prior to its being placed on the list, the Tribunal may obtain any written or oral information necessary from any party, witness or expert.

CHAPTER V

Placing in the list

Article 15

When the President considers the documentation of a case to be sufficiently complete, he shall instruct the Secretary to place the case on the list. The Secretary, once the case is listed, shall immediately advise the parties concerned and, at the same time, proceed with the customary formalities of communicating the dossier.

CHAPTER VI

Notification

Article 16

- i). The Secretary shall be responsible for transmitting all documents and making all notifications required in connection with proceedings before the Tribunal;
- ii) The prior communication of the dossiers to the two parties must be effected at least 15 days prior to the commencement of the proceedings;
- iii) The Secretary shall make for each case a dossier which shall record all action taken in connection with the preparation of the case and the dates on which any document or notification forming part of the procedure is received or despatched from his office.

CHAPTER VII

Oral proceedings

Article 17

- i) The defence is given a full hearing. The President shall grant the use of the floor in the order in which it is requested;

- ii) An applicant may present his case in person either in written or orally. Subject to the provisions of Article 11 of these Rules he may either attend personally or be represented;
- iii) The Administrative Secretary-General of the OAU may be represented by a counsel retained to defend the Organization's point of view.

Waiving of procedure

Article 18

The President may, when a party claims that he is unable to comply with any rule in this chapter, waive such rule if the waiver does not affect the substance of the application.

CHAPTER VIII

Additional documentation during the proceedings

Article 19

The Tribunal may at any stage of the proceedings call for the production of documents or of such other evidence as may be required.

CHAPTER IX

Miscellaneous provisions

Article 20

The Tribunal may grant a hearing to duly authorised representatives of the Staff Council of the Organization of African Unity.

Article 21

The Secretary shall, twice a year, send to all members of the Tribunal, copies of all decisions taken by the Tribunal during the preceding period.

Article 22

All matters which are not expressly provided for in the present rules, shall be dealt with by decision of the Tribunal upon the particular case.

Article 23

These rules may be amended at the recommendation of the Tribunal by a decision of the OAU Council of Ministers.

ANNEX I

FORM OF FIRST SECTION OF APPLICATION
INFORMATION CONCERNING THE PERSONAL
AND OFFICIAL STATUS OF THE APPLICANT

Case
Against

1. Designation of respondent :
2. Designation of applicant :
 - a) Name and first names :
 - b) Date and place of birth :
 - c) Marital status :
 - d) Nationality :
 - e) Address for purposes of the proceedings :
3. Designation, as appropriate, of applicant's representative before the Tribunal :
4. Administrative status of applicant :
 - a) Department of which the applicant was a staff member at the time of the decision contested :
 - b) Date of employment :
 - c) Title and grade at time of decision contested :
 - d) Applicant's status :
5. Application by successor to staff member's rights on his death, or by staff member's legal representative :
 - a) The name, first names, nationality and administrative status of staff member whose rights are relied on :
 - b) The relation of the applicant to the said staff member which entitles the former to come before the Tribunal :
6. Answer the following questions if the dispute deals with a disciplinary measure taken against applicant :

- Date on which the disciplinary measure was taken :
- Date on which the Staff Council was petitioned to examine the measure taken :
- Opinion of the Staff Council on the measure taken : favourable or unfavourable^{1/}
- Was the applicant notified of said opinion : yes or no^{1/}.

^{1/} Strike out the words which do not apply.

AFRICAN UNION UNION AFRICAINE

African Union Common Repository

<http://archives.au.int>

Organs

Council of Ministers & Executive Council Collection

1967-09

Preliminary draft rules for the OAU ad hoc Administrative Tribunal

Organization of African Unity

Organization of African Unity

<https://archives.au.int/handle/123456789/7299>

Downloaded from African Union Common Repository