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COURT OF JUSTICE

AMENDMENT OF THE RULES OF PROCEDURE OF THE COURT OF FIRST INSTANCE

THE COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THE FOLLOWING AMENDMENTS TO ITS RULES OF PROCEDURE:

Having regard to the Treaty establishing the European Community, in particular the fifth paragraph of Article 224 thereof,

Article 1

Having regard to the Treaty establishing the European Atomic Energy Community, in particular Article 140(5) thereof,

The Rules of Procedure of the Court of First Instance of the European Communities of 2 May 1991 ⁽³⁾, amended on 15 September 1994 ⁽⁴⁾, 17 February 1995 ⁽⁵⁾, 6 July 1995 ⁽⁶⁾, 12 March 1997 ⁽⁷⁾, 17 May 1999 ⁽⁸⁾, 6 December 2000 ⁽⁹⁾, 21 May 2003 ⁽¹⁰⁾, 19 April 2004 ⁽¹¹⁾ and 21 April 2004 ⁽¹²⁾ are hereby amended as follows:

Having regard to Article 63 of the Protocol on the Statute of the Court of Justice,

1) Article 7(1) shall be replaced by the following:

‘§ 1

Having regard to the agreement of the Court of Justice,

The Judges shall immediately after the partial replacement provided for in Article 224 of the EC Treaty and Article 140 of the EAEC Treaty, elect one of their number as President of the Court of First Instance for a term of three years.’;

Having regard to the approval of the Council given on 18 July 2005 and on 3 October 2005,

2) The second paragraph of Article 9 shall be replaced by the following:

Whereas:

‘If the President of the Court of First Instance and the Presidents of the Chambers are all absent or prevented from attending at the same time, or their posts are vacant at the same time, the functions of President shall be exercised by one of the other Judges according to the order of precedence laid down in Article 6.’;

(1) In the light of experience, it is necessary to amend certain provisions of the Rules of Procedure in order to clarify their scope or to adapt them to the needs of the efficient organisation of the conduct of proceedings.

3) Article 24(1) shall be replaced by the following:

‘§ 1

(2) It is necessary to adapt the provisions on legal aid, having regard to those of Council Directive 2003/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes ⁽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 in the order in which they are lodged.’;

(3) It is necessary to regulate appeals against decisions of the European Union Civil Service Tribunal established by Council Decision 2004/752/EC, Euratom of 2 November 2004 ⁽²⁾,

⁽³⁾ OJ L 136, 30.5.1991, p. 1.

⁽⁴⁾ OJ L 249, 24.9.1994, p. 17.

⁽⁵⁾ OJ L 44, 28.2.1995, p. 64.

⁽⁶⁾ OJ L 172, 22.7.1995, p. 3.

⁽⁷⁾ OJ L 103, 19.4.1997, p. 6.

⁽⁸⁾ OJ L 135, 29.5.1999, p. 92.

⁽⁹⁾ OJ L 322, 19.12.2000, p. 4.

⁽¹⁰⁾ OJ L 147, 14.3.2003, p. 22.

⁽¹¹⁾ OJ L 132, 29.4.2004, p. 3.

⁽¹²⁾ OJ L 127, 29.4.2004, p. 108.

⁽¹⁾ OJ L 26, 31.3.2005, p. 41.

⁽²⁾ OJ L 333, 9.11.2004, p. 7.

4) The following subparagraph shall be added to Article 32(3):

'If in the Grand Chamber or in any Chamber of five Judges the number of Judges provided for by Article 10(1) is not attained by reason of a Judge's being absent or prevented from attending before the date of the opening of the oral procedure, the President of the Court of First Instance shall designate a Judge to complete that Chamber in order to restore the number of Judges provided for.';

5) Article 41(1) shall be replaced by the following:

'§ 1

If the Court of First Instance considers that the conduct of an adviser or lawyer towards the Court of First Instance, the President, a Judge or the Registrar is incompatible with the dignity of the Court of First Instance or with the requirements of the proper administration of justice, or that such adviser or lawyer uses his rights for purposes other than those for which they were granted, it shall so inform the person concerned. The Court of First Instance 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 Court of First Instance may at any time, having heard the person concerned, exclude that person from the proceedings by order. That order shall have immediate effect.';

6) Article 43 shall be amended as follows:

(a) The following sentence shall be added to paragraph 6:

'Article 102(2) shall not be applicable to this period of ten days.';

(b) The following paragraph shall be added:

'§ 7

Without prejudice to the first subparagraph of paragraph 1 or to paragraphs 2 to 5, the Court of First Instance 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*.';

7) Article 46 shall be amended as follows:

(a) The first sentence shall be replaced by the following:

'Within two months after service on him of the application, the defendant shall lodge a defence, stating:';

(b) Paragraph 3 shall be replaced by the following

'§ 3

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

8) Article 50 shall be amended as follows:

(a) The single paragraph shall become paragraph 1;

(b) the following paragraph shall be added:

'§ 2

The agents, advisers or lawyers of all the parties to the joined cases, including interveners, 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 67(3), exclude secret or confidential documents from that consultation.';

9) Article 55(1) shall be replaced by the following:

'§ 1

The Court of First Instance shall deal with the cases before it in the order in which the preparatory inquiries in them have been completed. Where the preparatory inquiries in several cases are completed simultaneously, the order in which they are to be dealt with shall be determined by the dates of entry in the register of the applications initiating them respectively.';

10) Article 64(5), first subparagraph shall be replaced by the following:

'§ 5

If the Court of First Instance sitting in plenary session or as the Grand Chamber decides to prescribe measures of organisation of procedure and does not undertake such measures itself, it shall entrust the task of so doing to the Chamber to which the case was originally assigned or to the Judge-Rapporteur.';

11) Article 67(1), first subparagraph shall be replaced by the following:

'§ 1

Where the Court of First Instance sitting in plenary session or as the Grand Chamber orders a preparatory inquiry and does not undertake such an inquiry itself, it shall entrust the task of so doing to the Chamber to which the case was originally assigned or to the Judge-Rapporteur.';

12) Article 76a shall be amended as follows:

(a) In paragraph 1, second subparagraph, the following sentence shall be added:

'That application may state that certain pleas in law or arguments or certain passages of the application initiating the proceedings or the defence are raised only in the event that the case is not decided under an expedited procedure, in particular by enclosing with the application an abbreviated version of the application initiating the proceedings and a list of the annexes which are to be taken into consideration only if the case is decided under an expedited procedure.';

(b) Paragraph 2 shall be amended as follows:

- (i) the single subparagraph shall become the second subparagraph,
- (ii) the following subparagraph shall be inserted:

'By way of derogation from Article 46(1), where the applicant has requested, in accordance with paragraph 1 of this Article, that the case should be decided under an expedited procedure, the period prescribed for the lodging of the defence shall be one month. If the Court of First Instance decides not to allow the request, the defendant shall be granted an additional period of one month in order to lodge or, at the case may be, supplement the defence. The time-limits laid down in this subparagraph may be extended pursuant to Article 46(3).';

(c) The following paragraph shall be added:

'§ 4

The decision of the Court of First Instance to adjudicate under an expedited procedure may prescribe conditions as to the volume and presentation of the pleadings of the parties; the subsequent conduct of the proceedings or as to the pleas in law and arguments on which the Court of First Instance will be called upon to decide.

If one of the parties does not comply with any one of those conditions, the decision to adjudicate under an expedited procedure may be revoked. The proceedings shall then continue in accordance with the ordinary procedure.';

13) Article 93 shall be replaced by the following:

'Article 93

§ 1

Sums due from the cashier of the Court of First Instance and from debtors of the Court of First Instance shall be paid in euro.

§ 2

Where expenses to be refunded 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.';

14) Chapter 7 of Title 2 shall be replaced by the following:

'Chapter 7

LEGAL AID

Article 94

§ 1

In order to ensure effective access to justice, legal aid shall be granted for proceedings before the Court of First Instance 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 Court of First Instance. The cashier of the Court of First Instance shall be responsible for those costs.

§ 2

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

The economic 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 95

§ 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 economic situation, such as a certificate issued by the competent national authority attesting to his economic 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 Court of First Instance may provide, in accordance with Article 150, for the compulsory use of a form in making an application for legal aid.

Article 96

§ 1

Before giving its decision on an application for legal aid, the Court of First Instance 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 94(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 the President by way of an order. He may refer the matter to the Court of First Instance.

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 94(1), having regard to his economic 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 Court of First Instance.

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

§ 6

No appeal shall lie from orders made under this Article.

Article 97

§ 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 Court of First Instance by way of a reasoned order from which no appeal shall lie. He may refer the matter to the Court of First Instance.

§ 3

Where, in the decision closing the proceedings, the Court of First Instance 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 Court of First Instance 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 Court of First Instance.

§ 4

Where the recipient of the aid is unsuccessful, the Court of First Instance may, in its decision, as to costs, 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 Court of First Instance by way of legal aid.;

15) Article 113 shall be replaced by the following:

'Article 113

The Court of First Instance may at any time, of its own motion, after hearing the parties, decide whether there exists any absolute bar to proceeding with an action or declare that the action has become devoid of purpose and that there is no need to adjudicate on it; it shall give its decision in accordance with Article 114(3) and (4).';

16) Article 114(2) shall be replaced by the following:

'§ 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.;

17) The following Title 5 shall be inserted:

*TITLE 5***APPEALS AGAINST DECISIONS OF THE EUROPEAN UNION CIVIL SERVICE TRIBUNAL***Article 137*

§ 1

An appeal shall be brought by lodging a notice of appeal at the Registry of the Court of First Instance or of the Civil Service Tribunal.

§ 2

The Registry of the Civil Service Tribunal shall immediately transmit to the Registry of the Court of First Instance the papers in the case at first instance and, where necessary, the appeal.

Article 138

§ 1

The notice of appeal shall contain:

- (a) the name and address of the appellant;
- (b) the names of the other parties to the proceedings before the Civil Service Tribunal;
- (c) the pleas in law and legal arguments relied on;
- (d) the form of order sought by the appellant.

Article 43 and Article 44(2) and (3) shall apply to appeals.

§ 2

The decision of the Civil Service Tribunal appealed against shall be attached to the notice. The notice shall state the date on which the decision appealed against was notified to the appellant.

§ 3

If a notice of appeal does not comply with Article 44(3) or with paragraph (2) of this Article, Article 44(6) shall apply.

Article 139

§ 1

An appeal may seek:

- (a) to set aside, in whole or in part, the decision of the Civil Service Tribunal;
- (b) the same form of order, in whole or in part, as that sought at first instance and shall not seek a different form of order.

§ 2

The subject-matter of the proceedings before the Civil Service Tribunal may not be changed in the appeal.

Article 140

The notice of appeal shall be served on all the parties to the proceedings before the Civil Service Tribunal. Article 45 shall apply.

Article 141

§ 1

Any party to the proceedings before the Civil Service Tribunal may lodge a response within two months after service on him of the notice of appeal. The time limit for lodging a response shall not be extended.

§ 2

A response shall contain:

- (a) the name and address of the respondent;
- (b) the date on which notice of the appeal was served on the respondent;
- (c) the pleas in law and legal arguments relied on;
- (d) the form of order sought by the respondent.

Article 43 and Article 44(2) and (3) shall apply.

Article 142

§ 1

A response may seek:

- (a) to dismiss, in whole or in part, the appeal or to set aside, in whole or in part, the decision of the Civil Service Tribunal;
- (b) the same form of order, in whole or in part, as that sought at first instance and shall not seek a different form of order.

§ 2

The subject-matter of the proceedings before the Civil Service Tribunal may not be changed in the response.

Article 143

§ 1

The notice of appeal and the response may be supplemented by a reply and a rejoinder where the President, on application made by the appellant within seven days of service of the response, considers such further pleading necessary and expressly allows the submission of a reply in order to enable the appellant to put forward his point of view or in order to provide a basis for the decision on the appeal. The President shall prescribe the date by which the reply is to be submitted and, upon service of that pleading, the date by which the rejoinder is to be submitted.

§ 2

Where the response seeks to set aside, in whole or in part, the decision of the Civil Service Tribunal on a plea in law which was not raised in the appeal, the appellant or any other party may submit a reply on that plea alone within two months of the service of the response in question. Paragraph 1 shall apply to any further pleading following such a reply.

Article 144

Subject to the provisions of Articles 144 to 149 inclusive, Articles 48(2) and Articles 49, 50, 51(1), 52, 55 to 64, 76a to 110, 115(2) and (3), 116, 123 to 127 and 129 shall apply to the procedure before the Court of First Instance on appeal from a decision of the Civil Service Tribunal.

Article 145

Where the appeal is, in whole or in part, clearly inadmissible or clearly unfounded, the Court of First Instance may at any time, acting on a report from the Judge-Rapporteur and after hearing the Advocate General, by reasoned order dismiss the appeal in whole or in part.

Article 146

After the submission of pleadings as provided for in Article 141(1) and, if applicable, Article 143(1) and (2), the Court of First Instance, acting on a report from the Judge-Rapporteur and after hearing the Advocate General and the parties, may decide to rule on the appeal without an oral procedure unless one of the parties submits an application setting out the reasons for which he wishes to be heard. The application shall be submitted within a period of one month from notification to the party of the closure of the written procedure. That period may be extended by the President.

Article 147

The preliminary report referred to in Article 52 shall be presented to the Court of First Instance after the pleadings provided for in Article 141(1) and where appropriate Article 143(1) and (2) have been lodged. Where no such pleadings are lodged, the same procedure shall apply after the expiry of the period prescribed for lodging them.

Article 148

Where the appeal is unfounded or where the appeal is well founded and the Court of First Instance itself gives judgment in the case, the Court of First Instance shall make a decision as to costs.

Article 88 shall apply only to appeals brought by institutions;

By way of derogation from Article 87(2), the Court of First Instance may, in appeals brought by officials or other servants of an institution, decide to apportion the costs between the parties where equity so requires.

If the appeal is withdrawn Article 87(5) shall apply.

Article 149

An application to intervene made to the Court in appeal proceedings shall be lodged before the expiry of a period of one month running from the date of the publication of the notice referred to in Article 24(6).;

- 18) Article 136a shall be renumbered Article 150 and Article 137 shall be renumbered Article 151.

Article 2

These amendments to the Rules of Procedure, which are authentic in the languages mentioned in Article 35(1) of these Rules, shall be published in the *Official Journal of the European Union*. They shall enter into force on the first day of the second month following their publication, except for points 17 and 18 of Article 1.

Points 17 and 18 of Article 1 shall enter into force on the date on which Article 1 of Annex I to the Statute of the Court of Justice enters into force in accordance with the second paragraph of Article 4 of Decision 2004/752/EC, Euratom.

Done at Luxembourg, 12 October 2005.

The Registrar
E. COULON

The President
B. VESTERDORF
