

DECISIONS

COUNCIL DECISION (EU) 2022/2408

of 5 December 2022

on the position to be taken on behalf of the European Union in the Regional Steering Committee of the Transport Community as regards the amendment of the Regional Steering Committee rules of procedure, of the Staff Regulations, and as regards the introduction of the rules of procedure of the Conciliation Committee and of the rules on dispute settlement for the Transport Community Permanent Secretariat

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91 and Article 100(2), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Treaty establishing the Transport Community (the ‘TCT’) was signed by the Union in accordance with Council Decision (EU) 2017/1937 ⁽¹⁾.
- (2) The TCT was approved on behalf of the Union on 4 March 2019 ⁽²⁾ and entered into force on 1 May 2019.
- (3) The Regional Steering Committee was established by the TCT for the administration and the proper implementation of the TCT.
- (4) Article 24(5) of the TCT provides that the Regional Steering Committee shall adopt its rules of procedure. In addition, Article 30 of the TCT provides that it shall lay down the rules of the Permanent Secretariat of the Transport Community.
- (5) It is envisaged that the Regional Steering Committee will adopt a decision amending its rules of procedure, in order to provide for a shorter time limit for the distribution of the draft agenda and any related documents prior to a Regional Steering Committee meeting, a decision adopting rules of procedure of the Conciliation Committee and dispute settlement rules applicable to the Permanent Secretariat, to govern disputes between the Permanent Secretariat and members of its staff, and a decision on amendments to the Staff Regulations of the Transport Community required by the adoption of those rules.
- (6) It is appropriate to establish the position to be taken on behalf of the Union in the Regional Steering Committee regarding the adoption of those decisions, as they are necessary for the smooth functioning of the Permanent Secretariat,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on behalf of the Union in the Regional Steering Committee of the Transport Community regarding the amendment of its rules of procedure, the rules of procedure of the Conciliation Committee and the rules on dispute settlement for the Transport Community Permanent Secretariat, and the amendments to the Staff Regulations of the Transport Community shall be based on the draft decisions of the Regional Steering Committee attached to this Decision.

⁽¹⁾ Council Decision (EU) 2017/1937 of 11 July 2017 on the signing, on behalf of the European Union, and provisional application of the Treaty establishing the Transport Community (OJ L 278, 27.10.2017, p. 1).

⁽²⁾ Council Decision (EU) 2019/392 of 4 March 2019 on the conclusion, on behalf of the European Union, of the Treaty establishing the Transport Community (OJ L 71, 13.3.2019, p. 1).

Minor changes to the draft decisions may be agreed to by the representatives of the Union in the Regional Steering Committee without a further decision by the Council.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 5 December 2022.

For the Council
The President
M. KUPKA

DRAFT
DECISION No .../2022 OF THE REGIONAL STEERING COMMITTEE OF THE TRANSPORT
COMMUNITY
of ...
on the amendment of the Staff Regulations of the Transport Community

THE REGIONAL STEERING COMMITTEE OF THE TRANSPORT COMMUNITY,

Having regard to the Treaty establishing the Transport Community, and in particular Article 24(1) and Article 30 thereof,

HAS ADOPTED THIS DECISION:

Sole Article

The Staff Regulations of the Transport Community, adopted as set out in Annex II to Decision No 3/2019 of the Regional Steering Committee of the Transport Community of 5 June 2019, are amended as follows:

(a) Section 14 is amended as follows:

(i) point b, subparagraph (iii) is replaced by the following:

‘(iii) a representative of the preceding Presidency of the Regional Steering Committee’;

(ii) point (c) is replaced by the following:

‘(c) The Conciliation Committee shall decide by unanimity.’;

(b) Section 15 is amended as follows:

(i) point (a) is replaced by the following:

‘(a) Any dispute between the Secretariat and a staff member concerning these Staff Regulations, the rules on recruitment, working conditions and geographical equilibrium or other relevant rules shall, in the second instance, be settled by the European Commission acting as the arbitrator.’;

(ii) point (c) is replaced by the following:

‘(c) All dispute settlement proceedings shall take place in Belgrade or online, and the language of these proceedings shall be English. The Steering Committee shall lay down the rules on dispute settlement with a view to facilitating a timely procedure with reasonable costs to the parties.’.

For the Regional Steering Committee
The President

DRAFT**DECISION No .../2022 OF THE REGIONAL STEERING COMMITTEE OF THE TRANSPORT
COMMUNITY****of ...****on the adoption of Rules of Procedure of the Conciliation Committee and of dispute settlement rules
applicable to the Transport Community Permanent Secretariat**

THE REGIONAL STEERING COMMITTEE OF THE TRANSPORT COMMUNITY,

Having regard to the Treaty establishing the Transport Community, and in particular Article 24(1) and Article 30 thereof,

HAS ADOPTED THIS DECISION:

Sole Article

The detailed Rules of Procedure of the Conciliation Committee and the rules on dispute settlement for the Transport Community Permanent Secretariat, attached to this decision, are hereby adopted.

*For the Regional Steering Committee
The President*

Rules of Procedure of the Conciliation Committee

I. General

1. These Rules of Procedure establish the internal procedures for operation of the Conciliation Committee as referred to in Section 14 of the Staff Regulations of the Transport Community, adopted pursuant to Decision No 3/2019 of the Regional Steering Committee of the Transport Community.
2. In case of any contradiction between these Rules of Procedure and the Staff Regulations, the Rules on recruitment, working conditions and geographical equilibrium or other relevant rules adopted by the Regional Steering Committee, the provisions of the latter shall apply.
3. For the purpose of the present Rules of Procedure, the expression 'staff members' shall mean all officials of the Secretariat, namely the Director, Deputy Directors and all other staff from the Contracting Parties, working permanently at the Secretariat in accordance with the Staff Regulations, excluding local staff, seconded experts and locally contracted experts.
4. Any dispute between the Secretariat and a staff member concerning the Staff Regulations, the rules on recruitment, working conditions and geographical equilibrium or other relevant rules shall, in the first instance, be submitted to a Conciliation Committee (hereinafter referred to as the 'Committee').
5. The staff members may submit an appeal to the Conciliation Committee in relation to Section 2.1, point 12 of the Staff Regulations of the Transport Community or when they have been subject to unjustifiable or unfair treatment by a superior.

II. Conciliation Committee

1. The Committee shall have authority to propose decisions on appeals filed by staff members against administrative decisions affecting them.
2. The Committee shall be composed of:
 - (a) a representative of the current Presidency of the Regional Steering Committee;
 - (b) a representative of the Presidency of the Regional Steering Committee for the next term; and
 - (c) a representative of the preceding Presidency of the Regional Steering Committee.

The Committee shall be chaired by the current Presidency of the Regional Steering Committee.

3. In discharge of their duties, the Committee members shall be completely independent and guided solely by their independent judgment. They shall neither seek nor receive any instructions from the Secretariat, shall carry out their tasks in full independence and shall avoid conflicts of interest. The deliberations of the Committee shall be confidential. The Committee members shall ensure the confidentiality of personal data processed in the context of a staff appeal.
4. The Committee shall be set up within 30 calendar days from the date an appeal is lodged with the Director or the Presidency of the Steering Committee. The Director shall forward the appeal within 10 calendar days, from the date of receiving, to the Chair of the Committee.
5. Once an appeal to the Committee is received by the Chair of the Committee, the Chair shall bring together the Committee members to examine the appeal. In the event of a dispute as to whether the Committee has competence, the matter shall be decided by the Committee.

6. To the extent possible, the Committee shall have the same composition for the entire period needed to settle the case.
7. The Committee shall determine:
 - (a) the receivability of the appeal;
 - (b) the time limits for the presentation of the response to the appeal by the Secretariat and the submission of evidence and other relevant procedural matters;
 - (c) other matters relating to the conciliation, including whether oral hearings shall be held or whether the appeal shall be decided on the basis only of the documents submitted; and,
 - (d) the procedure to be followed with regard to hearings of the Committee.

The procedure shall be conducted in such a way as to give the parties concerned the opportunity to put forward facts and circumstances relevant to the appeal.

8. The Committee shall decide on the appeal in accordance with the Staff Regulations, the rules on recruitment, working conditions and geographical equilibrium or other relevant rules. Matters concerning the interpretation of the Treaty establishing the Transport Community shall not be within the competence of the Committee.
9. The Chairperson shall inform the Director, the Deputy-Director of the Secretariat and the staff member concerned of all procedural steps relating to the case.
10. Committee sessions shall be held either in Belgrade or online, and the language of the proceedings shall be English. Administrative support to the Committee shall be provided by the Human Resources and Administration of the Secretariat.
11. If concurrent appeals filed with the Committee relate to the same problem, the Committee may decide to handle the appeals together and formulate a single decision.
12. The appeal proceeding shall be immediately put to an end if the staff member concerned withdraws his/her appeal or if a settlement by mutual agreement is reached. The staff member concerned shall inform the Chair of the Committee thereof in writing. The appeal proceeding shall be immediately put to an end in case of violation of part III, point 5.

III. Appeal procedure

1. Both the staff member and the Secretariat may initiate informal resolution of the issues involved, at any time before or after the staff member chooses to pursue the matter formally.
2. An appeal shall not be receivable by the Committee if the dispute arising from a contested decision has been resolved by an agreement reached through informal resolution.
3. However, a staff member may submit an appeal directly to the Committee in order to enforce the implementation of an agreement reached through informal resolution within 90 calendar days of the deadline for implementation as specified in the informal resolution agreement or, when the informal resolution agreement is silent on the matter, within 90 calendar days of the thirtieth calendar day from the date on which the agreement was signed.
4. A staff member wishing to formally contest an administrative decision, shall, as a first step, submit in writing to the Director or the Presidency of the Steering Committee, when the complaint concerns the Director – an appeal for a Committee evaluation of the administrative decision.
5. Neither the staff member concerned nor any representative of the Secretariat shall be allowed to discuss the issue of the appeal with the Committee members during the appeal procedure or to approach them on the issue of the appeal, in any form, other than as provided for in in part II, point 7.

6. An appeal for Committee evaluation of the administrative decision shall not be receivable by the Director or the Presidency of the Steering Committee unless it is sent within 30 calendar days from the date on which the staff member received notification of the administrative decision to be contested. This deadline may be extended by the Secretariat pending efforts for informal resolution of the dispute.
7. At the end of the assessment, the Committee shall draw up a report. The report shall set out the procedural steps followed, the facts and circumstances relevant to the appeal and its final proposal for decision.

IV. Decision making

1. The Committee shall decide by unanimity.
2. The proposal for a decision on the contested administrative decision shall be made within 120 calendar days of the day the appeal was submitted to the Director or the Presidency of the Steering Committee.
3. The proposal for a decision shall be communicated in writing to the staff member concerned, as well as to the Director and the Deputy-Directors. The decision may be inserted in the staff member's personal file.
4. The Secretariat's response, reflecting the outcome of the Committee evaluation, shall be communicated in writing to the staff member within 30 calendar days of receipt of the proposal for a decision from the Committee.

V. Suspension of action

1. Neither the submission of an appeal for a Committee evaluation nor the filing of an appeal with the Arbitrator shall have the effect of suspending the implementation of the contested administrative decision.
2. However, where a Committee evaluation of an administrative decision is required:
 - (a) a staff member may submit a request to the Secretariat to suspend the implementation of the contested administrative decision until the Committee evaluation has been completed and the staff member has received notification of the outcome. The Secretariat may suspend the implementation of a decision in cases of particular urgency and where its implementation would cause irreparable damage. The Secretariat's decision on such request is not subject to appeal;
 - (b) in cases involving separation from service, a staff member may opt to first request the Secretariat to suspend the implementation of the decision until the Committee evaluation has been completed and the staff member has received notification of the outcome. The Secretariat may suspend the implementation of a decision where it determines that the contested decision has not yet been implemented, in cases of particular urgency and where its implementation would cause irreparable damage to the staff member's rights. If the Secretariat rejects the request, the staff member may then submit a request for suspension of action to the Committee.

VI. Final provisions

1. Any amendments to these Rules of Procedure shall be adopted by a decision of the Steering Committee.
 2. One year from the entry into force of these Rules or at any time thereafter, based on practical experience with their application, the Secretariat may propose amendments to these Rules as it deems useful or necessary. Where a member of the Steering Committee wishes to propose such an amendment, the member shall consult first with the Secretariat.
 3. These Rules shall enter into force on the day of their adoption by the Steering Committee.
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Rules on Dispute Settlement

I. General

1. These Rules on dispute settlement refer to Section 15 of the Staff Regulations of the Transport Community, adopted pursuant to Decision No 3/2019 of the Regional Steering Committee of the Transport Community, in order to facilitate a timely procedure with reasonable costs to the parties.
2. In case of any contradiction between these Rules and the Staff Regulations, the Rules on recruitment, working conditions and geographical equilibrium or other relevant rules adopted by the Regional Steering Committee, the provisions of the latter shall apply.
3. Staff members or the Secretariat can submit an appeal to an Arbitrator only for contesting the proposal for decision done in the first instance by the Conciliation Committee.
4. Any remaining dispute between the Secretariat and the staff member concerning the Staff Regulations, the rules on recruitment, working conditions and geographical equilibrium or other relevant rules shall, in the second instance, be submitted to an Arbitrator.

II. Arbitrator

1. The European Commission shall act as Arbitrator in the second instance.
2. The Arbitrator shall be completely independent and guided solely by its independent judgement. It shall neither seek nor receive any instructions from the Secretariat, shall carry out its tasks in full independence and shall avoid conflicts of interest. The proceedings of the Arbitration shall be confidential. The Arbitrator shall ensure the confidentiality of personal data processed in the context of a staff appeal.
3. The Arbitrator shall be appointed within 30 calendar days from the date on which an appeal is lodged with the Presidency of the Regional Steering Committee.
4. The Arbitrator shall have a mandate for the entire period needed to settle the case.
5. The Arbitrator shall determine:
 - (a) the time limits for the presentation of the response to the dispute appeal by the Secretariat and the staff member concerned on submission of evidence; and,
 - (b) other matters relating to the proceedings, including whether oral hearings shall be held or whether the appeal shall be decided on the basis only of the documents submitted.

The procedure shall be conducted in such a way as to give the parties concerned the opportunity to put forward facts and circumstances relevant to the appeal.

6. The Arbitrator shall decide on the dispute in accordance with the Staff Regulations, the rules on recruitment, working conditions and geographical equilibrium or other relevant rules. Matters concerning the interpretation of the Treaty establishing the Transport Community shall not be within the competence of the Arbitrator.
7. The competence of the Arbitrator includes the authority to order, at any time during the proceedings, an interim measure, which is not subject to appeal, to provide temporary relief to either party where the contested decision appears *prima facie* to be unlawful, in cases of particular urgency, and where the implementation of the decision would cause irreparable damage. Such temporary relief may include the suspension of the implementation of the contested administrative decision, except in cases of appointment or termination.
8. Dispute proceedings shall be held in Belgrade or online and the language of the proceedings shall be English. Administrative support to the Arbitrator shall be provided by the Human Resources and Administration of the Secretariat.

9. The Arbitrator shall inform the staff member concerned and the Secretariat of all procedural steps relating to the case.
10. If two or more appeals filed with the Arbitrator relate to the same problem, the Arbitrator may decide to handle them together and formulate a single decision.
11. The dispute proceeding shall be immediately put to an end if the staff member concerned withdraws his/her appeal or if a settlement by mutual agreement is reached. The staff member concerned shall inform the Arbitrator thereof in writing. The appeal proceeding shall immediately be put to an end in case of violation of part III, point 3.

III. Appeal procedure

1. An appeal may be filed by either party against a contested administrative decision. It is to be lodged with the Presidency of the Regional Steering Committee within 30 calendar days following receipt of the Conciliation Committee's proposal for a decision. An appeal shall not be receivable by the Presidency of the Regional Steering Committee unless the deadline has been met.
2. The filing of an appeal with the Presidency of the Regional Steering Committee in second instance shall have the effect of suspending the execution of a decision that is contested, and which is based upon proposal of the Conciliation Committee.
3. Neither the staff member concerned, nor any representative of the Secretariat shall be allowed to discuss the issue of appeal with the Arbitrator or to approach the Arbitrator in any form, during the proceeding, other than as provided for in part II, point 5.
4. At the dispute settlement, the Arbitrator shall draw up a report. The report shall set out the procedural steps followed, the facts and circumstances relevant to the appeal and its final resolution.

IV. Decision making

1. The decision by the Arbitrator on the contested administrative decision shall be made within 90 calendar days of the day appeal was submitted to the Presidency of the Steering Committee.
2. The decision shall be communicated in writing to the staff member concerned and to the Secretariat and the decision may be inserted in the staff member's personal file.
3. The decision by Arbitrator is final and binding for all parties.

V. Final provisions

1. Any amendments to these Rules on dispute settlements shall be adopted by a decision of the Steering Committee.
 2. One year from the entry into force of these Rules or at any time thereafter, based on practical experience with their application, the Secretariat may propose amendments to these Rules as it deems useful or necessary. Where a member of the Steering Committee wishes to propose such an amendment, it shall consult first with the Secretariat.
 3. These Rules shall enter into force on the day of their adoption by the Steering Committee.
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DRAFT
DECISION No .../2022 OF THE REGIONAL STEERING COMMITTEE OF THE TRANSPORT
COMMUNITY
of ...
on the amendment of the rules of procedure of the Regional Steering Committee of the Transport
Community

THE REGIONAL STEERING COMMITTEE OF THE TRANSPORT COMMUNITY,

Having regard to the Treaty establishing the Transport Community, and in particular Article 24(5) thereof,

HAS ADOPTED THIS DECISION:

Sole Article

Heading IV, point 4 of the Rules of Procedure of the Regional Steering Committee of the Transport Community is replaced by the following:

- ‘4. The draft agenda of the meeting shall be agreed by the Presidency and the Vice-Presidency. The draft agenda and any documents related to it shall be distributed to the members and the observers at least four weeks prior to the relevant meeting. The members may make comments and propose that new items be added. Material of interest to other states, international organisations or other bodies invited in accordance with paragraph 3 of Section II shall also be distributed to those other states, international organisations and other bodies.’

For the Regional Steering Committee
The President
