



Council of the
European Union

Brussels, 21 October 2022
(OR. en)

**Interinstitutional File:
2022/0329(NLE)**

**13693/22
ADD 1**

**TRANS 651
COWEB 120
ELARG 87**

PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	21 October 2022
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2022) 536 final - Annexes
Subject:	ANNEXES to the Proposal for a Council Decision on the position to be taken on behalf of the European Union in the Regional Steering Committee of the Transport Community as regards the revision of the Regional Steering Committee rules of procedure, of the Staff Regulations, and on the introduction of the rules of procedure of the Conciliation Committee and of the rules on dispute settlement for the Transport Community Permanent Secretariat

Delegations will find attached document COM(2022) 536 final - Annexes.

Encl.: COM(2022) 536 final - Annexes.



EUROPEAN
COMMISSION

Brussels, 21.10.2022
COM(2022) 536 final

ANNEXES 1 to 3

ANNEXES

to the

Proposal for a Council Decision

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

Annex I

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 DECIDED AS FOLLOWS:

Sole Article

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

(a) Article 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) Article 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

Annex II

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 DECIDED AS FOLLOWS:

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 it in Article 14 of the Staff Regulations of the Transport community, adopted pursuant to Decision No 03/2019 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 (further on referred as “Committee”).
5. The staff members may submit an appeal to a Conciliation Committee in relation to article 2.1 (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 Conciliation Committee shall have authority to propose decisions on appeals filed by staff members against administrative decisions affecting them.
2. The Conciliation Committee shall be composed of:
 - a representative of the current Presidency of the Regional Steering Committee;
 - a representative of the Presidency of the Regional Steering Committee for the next term;
 - 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 judgement. They shall neither seek nor receive any instructions from the Secretariat, should carry out their tasks in full independence and should avoid conflicts of interest. The deliberations of the Committee shall be confidential. The

Committee members shall ensure confidentiality of personal data processed in the context of a staff appeal.

4. The Conciliation 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 Conciliation Committee.

5. Once an appeal to the Conciliation 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 of the documents submitted only;
- d) The procedure to be followed with regard to hearings of the Committee.

The procedure should 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 Conciliation 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 Conciliation committee.

9. The Chairperson shall inform the Director, the Deputy-Director of the Secretariat and staff member concerned of all procedural steps relating to the case.

10. Conciliation 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 Conciliation 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 concerned withdraws his/her appeal or if a settlement by mutual agreement is reached. The staff member concerned should inform the Chair of the Committee on the latter 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 Conciliation 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 with the Conciliation Committee 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 Conciliation Committee evaluation of the administrative decision.
5. The staff member concerned or any representative of the Secretariat are not allowed to discuss with or approach on the issue of appeal, in any form, the Committee members during the appeal procedure aside of what is defined in part II, point 7.
5. An appeal for Conciliation 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.
6. At the end of the assessment, the Conciliation 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 Conciliation 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 should be communicated in writing to the staff member concerned, to the Director and Deputy- Director. This decision may be inserted in the staff member's personal file.
4. The Secretariat's response, reflecting the outcome of the Conciliation 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 Conciliation Committee.

V. Suspension of action

1. Neither the submission of an appeal for a Conciliation 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 Conciliation Committee evaluation of an administrative decision is required:
 - a) A staff member may submit request to the Secretariat to suspend the implementation of the contested administrative decision until the Conciliation 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 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 Conciliation 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 Conciliation Committee.

VI. Final provisions

1. Any amendments to these Rules of procedure shall be adopted by a decision of the Steering Committee.
2. Following one year from the entry into force of these Rules, 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.

Rules on Dispute Settlement

I. General

1. These Rules on dispute settlement refer to article 15 of the Staff Regulations of the Transport Community, adopted pursuant to Decision No 03/2019 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, should carry out its tasks in full independence and should avoid conflicts of interest. The proceedings of the Arbitration shall be confidential. The Arbitrator shall ensure 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 of receiving an appeal is lodged with the Presidency of the Regional Steering Committee.
4. The Arbitrator shall have 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 of the documents submitted only.

The procedure shall be conducted in such a way as to give 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 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 its implementation would cause irreparable damage. Such temporary relief may include 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 appeals filed with the Arbitrator relate to the same problem, the Arbitrator may decide to handle the appeals together and formulate a single decision.

11. The dispute proceeding shall be immediately put to an end if the staff concerned withdraws his/her appeal or if a settlement by mutual agreement is reached. The staff member concerned should inform the Arbitrator on the latter in writing. The appeal proceeding shall be immediately 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 lodged with the Presidency of the Regional Steering Committee within 30 calendar days following receipt of the Committee's proposal for 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. The staff member concerned, or any representative of the Secretariat are not allowed to discuss with or approach on the issue of appeal, in any form, the Arbitrator during the proceeding, aside of what is defined 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 should be communicated in writing to the staff member concerned and the Secretariat and this 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. Following one year from the entry into force of these Rules, 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.

Annex III

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 DECIDED AS FOLLOWS:

Sole Article

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

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 them.

For the Regional Steering Committee

The President