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from:	Mr Sean Van Raepenbusch, President of the European Union Civil Service Tribunal
date of receipt:	21 November 2013
to:	Mr Linas Antanas Linkevičius, President of the Council of the European Union
Subject:	Draft Rules of Procedure of the European Union Civil Service Tribunal

Delegations will find attached a copy of the above document.

Mr Linas Antanas Linkevičius
President of the EU Council
175 Rue de la Loi
B-1048 BRUSSELS

18 November 2013

Dear President,

With reference to the fifth paragraph of Article 257 of the Treaty on the Functioning of the European Union, I hereby submit for the approval of the Council the amendments to the Rules of Procedure of the European Union Civil Service Tribunal enclosed herewith.

The proposed amendments are intended to incorporate into the Rules of Procedure of the Civil Service Tribunal the innovations made during the recasting of the Rules of Procedure of the Court of Justice, which were adopted on 25 September 2012, to review a number of provisions of the Rules of Procedure in the light of the Civil Service Tribunal's first years of existence and to clarify a number of rules.

I would refer you to the introductory explanatory notes accompanying the proposed amendments.

The text is enclosed in all the official languages.

Yours faithfully,

Sean Van Raepenbusch

DRAFT RULES OF PROCEDURE OF THE EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Introductory explanatory notes

The European Union Civil Service Tribunal ('the Tribunal') adopted Rules of Procedure on 25 July 2007. [1] *Following the complete recasting of the Rules of Procedure of the Court of Justice, adopted on 25 September 2012,* [2] *the Tribunal considered it necessary to recast its own Rules of Procedure in order to incorporate in them the innovations adopted by the Court, thereby ensuring that the procedural rules relating to legal proceedings brought before the Courts of the European Union are homogeneous, while taking into account the specific nature of disputes in the civil service field. That is the first objective of this draft.*

It has also proved necessary to revisit a number of the provisions of the Tribunal's Rules of Procedure in the light of its first years of existence, in order to improve its functioning, the conduct of proceedings and the preparation of cases for hearing. That is the second objective of this draft. In this respect, it must be noted that an increasing number of cases have been brought before the Tribunal in the last few years and that it must take into account that certain types of measures of general application are liable to give rise to multiple group actions.

In addition to that wish to optimise its effectiveness, in order to dispose within a reasonable period of time of the cases brought before it, the Tribunal's intention is also to clarify the procedural rules which it applies.

The draft amendments are explained in detail in the light of each provision concerned and, so far as necessary, at the beginning of chapters or sections where observations of a more general nature are called for.

Lastly, a table has been inserted after each draft provision, reproducing the provision of the Tribunal's Rules of Procedure currently in force and the corresponding provision of the Rules of Procedure of the Court of Justice, in order to make it easier to identify similarities and differences between those various texts. In respect of referral back after setting aside, reference is made to the corresponding provisions of the Rules of Procedure of the General Court.

[1] OJ L 225, 29.8.2007, p. 1, as amended, most recently, on 18 May 2011 (OJ L 162, 22.6.2011, p. 19).
[2] OJ L 265, 29.9.2012, p. 1.

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RULES OF PROCEDURE OF THE EUROPEAN UNION CIVIL SERVICE TRIBUNAL

The European Union Civil Service Tribunal,

Having regard to the Treaty on the Functioning of the European Union, and in particular the fifth paragraph of Article 257 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a(1) thereof,

Having regard to the Protocol on the Statute of the Court of Justice of the European Union, [3] and in particular Article 62c thereof and Article 7(1) of Annex I thereto,

Whereas:

(1) It is necessary to take account of the recasting of the Rules of Procedure of the Court of Justice, adopted on 25 September 2012, [4] while taking into consideration the specific nature of disputes referred to the Civil Service Tribunal.

(2) In addition, the application of the Rules of Procedure of the Civil Service Tribunal, adopted on 25 July 2007, [5] has demonstrated the need to adapt a number of its provisions.

(3) In particular, in the light of the experience gained, it is necessary, in addition, to supplement or clarify certain rules applicable, inter alia, to confidentiality and anonymity.

(4) In order to maintain the Tribunal's capacity, in the face of an increasing caseload, to dispose within a reasonable period of time of the cases brought before it, it is also necessary to continue the efforts made to reduce the duration of proceedings before it, in particular by limiting, where necessary, the length of procedural documents, except where an exception is justified by the special features of the case, and by strengthening the rules relating to the reimbursement of costs incurred by the Tribunal where an action is manifestly an abuse of process.

(5) In the interests of making the Rules applied by the Tribunal easier to understand, it is, lastly, necessary to review the structure of the Rules of Procedure, to clarify certain rules or their applicability, inter alia so far as concerns measures of organisation of procedure, measures of inquiry, applications to set aside judgments by default and third-party proceedings, and to remove certain rules which have become outdated or were not applied.

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[3] As amended, most recently, by Regulation (EU, Euratom) No 741/2012 of the European Parliament and of the Council of 11 August 2012 (OJ L 228, 23.8.2012, p. 1).

[4] OJ L 265, 29.9.2012, p. 1.

[5] OJ L 225, 29.8.2007, p. 1, with corrigenda at OJ L 69, 13.3.2008, p. 37 and at OJ L 162, 22.6.2011, p. 20, with the amendments of 14 January 2009, published at OJ L 24, 28.1.2009, p. 10, of 17 March 2010, published at OJ L 92, 13.4.2010, p. 17, and of 18 May 2011, published at OJ L 162, 22.6.2011, p. 19.

With the agreement of the Court of Justice,

With the approval of the Council given on XXX,

Has adopted these Rules of Procedure:

INTRODUCTORY PROVISION

Article 1 Definitions

1. In these Rules:

(a) provisions of the Treaty on European Union are referred to by the number of the article concerned followed by 'TEU';

(b) provisions of the Treaty on the Functioning of the European Union are referred to by the number of the article concerned followed by 'TFEU';

(c) provisions of the Treaty establishing the European Atomic Energy Community are referred to by the number of the article concerned followed by 'TEAEC';

(d) 'Statute' means the Protocol on the Statute of the Court of Justice of the European Union;

(e) 'Staff Regulations' means the Regulation laying down the Staff Regulations of Officials of the European Union and the Conditions of Employment of other servants of the European Union.

2. For the purposes of these Rules:

(a) 'Tribunal' means the European Union Civil Service Tribunal or, for cases dealt with by a Chamber or a single Judge, that Chamber or that Judge;

(b) 'President of the Tribunal' means the President of that court exclusively, 'President' meaning the president of the formation of the court;

(c) 'Plenary meeting' means the collegial body composed of the Judges of the Tribunal, competent to rule on any administrative issue and on judicial issues relating to the assignment of cases to the various formations of the court or cross-cutting judicial issues, without, in the latter case, binding those formations;

(d) 'institutions' means the institutions of the European Union referred to in Article 13(1) TEU and bodies, offices and agencies established by the Treaties, or by an act adopted in implementation thereof, which may be parties before the Tribunal.

Current text	***Text of the Court's Rules of Procedure***
Article 1 Interpretation *1. In these Rules:* *- provisions of the Treaty on the Functioning of the European Union are referred to by the number of the article concerned followed by 'TFEU';* *- provisions of the Treaty establishing the European Atomic Energy Community are referred to by the number of the article followed by 'TEAEC';* *- 'Statute' means the Protocol on the Statute of the Court of Justice of the European Union;* *- 'Staff Regulations' means the Regulation laying down the Staff Regulations of Officials of the European Union and the Conditions of Employment of other servants of the European Union.* *2. For the purposes of these Rules:* *- 'Tribunal' means the European Union Civil Service Tribunal or, for cases dealt with by a Chamber or a single Judge, that Chamber or that Judge;* *- 'President of the Tribunal' means the President of that court exclusively, 'President' meaning the president of the formation of the court;* *- 'institution' or 'institutions' means the institutions of the Union and the bodies, offices and agencies established by the Treaties, or by an act adopted in implementation thereof, and which may be parties before the Tribunal.*	*Article 1 Definitions* *1. In these Rules:* *(a) provisions of the Treaty on European Union are referred to by the number of the article concerned followed by 'TEU',* *(b) provisions of the Treaty on the Functioning of the European Union are referred to by the number of the article concerned followed by 'TFEU',* *(c) provisions of the Treaty establishing the European Atomic Energy Community are referred to by the number of the article concerned followed by 'TEAEC',* *(d) 'Statute' means the Protocol on the Statute of the Court of Justice of the European Union,* *(e) 'EEA Agreement' means the Agreement on the European Economic Area,* *(f) 'Council Regulation No 1' means Council Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community.* *2. For the purposes of these Rules:* *(a) 'institutions' means the institutions of the European Union referred to in Article 13(1) TEU and bodies, offices and agencies established by the Treaties, or by an act adopted in implementation thereof, which may be parties before the Court,* *(b) 'EFTA Surveillance Authority' means the surveillance authority referred to in the EEA*

	Agreement, *(c) 'interested persons referred to in Article 23 of the Statute' means all the parties, States, institutions, bodies, offices and agencies authorised, pursuant to that Article, to submit statements of case or observations in the context of a reference for a preliminary ruling.*

The amendments suggested seek to align the Rules of Procedure of the Tribunal with those of the Court. However, paragraph 1(e) and (f) of Article 1 of the Court's Rules of Procedure is not reproduced since the draft Rules use the terms defined in those provisions only once, so that a convention is not necessary. Nor is paragraph 2(b) of the Court's Rules reproduced, since the Tribunal's Rules of Procedure do not refer to the EFTA Surveillance Authority. Paragraph 2(c) of the Court's Rules of Procedure concerns references for a preliminary ruling and is therefore outside the Tribunal's jurisdiction. It must also be noted that the 'president of the formation of the court' within the meaning of paragraph 2(b) of the draft does not necessarily refer to a President of a Chamber; another Judge may preside over the formation of the court where the President of the Chamber is replaced in accordance with Article 12(4) of the draft Rules. Lastly, the draft article defines the term 'plenary meeting' used at some points in the text. In the light of its competences, the plenary meeting must be distinguished from the full court which is a formation of the court.

TITLE 1
ORGANISATION OF THE TRIBUNAL

As is already the case in the Rules of Procedure currently in force, Title 1 of the draft Rules of Procedure concerns the organisation of the Tribunal. That title seeks to define the detailed rules governing the position of the members of the court and their responsibilities, to set out the rules concerning the procedures for the functioning of the Tribunal and the principles and detailed rules governing its court formations.

While the order of the chapters has not been changed in relation to that currently used, some minor changes have, on the other hand, been made so far as concerns the order of the articles.

Thus, as in the Court's Rules of Procedure, the provisions relating to the rights and obligations of agents, advisers and lawyers have been moved to the beginning of Title 2 of the draft, relating to procedural provisions. As the Court observed in the explanatory notes accompanying the draft of what are now its new Rules of Procedure, '[i]n that respect, the draft is aligned with the very structure of the Statute, since, in the Statute also, it is the title (Title III) relating to the "[p]rocedure before the Court of Justice" that contains the rules relating to representation before the Court, in Article 19 of the Statute'.

Chapter 1
PRESIDENT AND MEMBERS OF THE TRIBUNAL

Article 2 Judges' term of office

1. The term of office of a Judge shall begin on the date laid down in his instrument of appointment.

2. In the absence of any provision regarding the date, the term shall begin on the date of publication of that instrument in the *Official Journal of the European Union.*

Current text	***Text of the Court's Rules of Procedure***
Article 2 Judges' term of office *1. The term of office of a Judge shall begin on the date laid down in his instrument of appointment.* *2. In the absence of any provision regarding the date, the term shall begin on the date of the instrument.*	*Article 3 Commencement of the term of office of Judges and Advocates General* *The term of office of a Judge or Advocate General shall begin on the date fixed for that purpose in the instrument of appointment. In the absence of any provisions in that instrument regarding the date of commencement of the term of office, that term shall begin on the date of publication of the instrument in the* Official Journal of the European Union*.*

The draft text is unaltered, with the exception of paragraph 2 which reproduces the approach in the Rules of Procedure of the Court.

Article 3 Taking of the oath

Before taking up his duties, a Judge shall take the following oath, provided for in Article 2 of the Statute, before the Court of Justice:

'I swear that I will perform my duties impartially and conscientiously; I swear that I will preserve the secrecy of the deliberations of the Court.'

Current text	***Text of the Court's Rules of Procedure***

Article 3 Taking of the oath *1. Before taking up his duties, a Judge shall take the following oath before the Court of Justice:* *'I swear that I will perform my duties impartially and conscientiously; I swear that I will preserve the secrecy of the deliberations of the Court.'* *...*	*Article 4 Taking of the oath* *Before taking up his duties, a Judge or Advocate General shall, at the first public sitting of the Court which he attends after his appointment, take the following oath provided for in Article 2 of the Statute:* *'I swear that I will perform my duties impartially and conscientiously; I swear that I will preserve the secrecy of the deliberations of the Court.'*

The draft text corresponds to Article 3(1) of the Tribunal's current Rules of Procedure and to Article 4 of the Court's Rules of Procedure, with the exception of the references to the Advocates General and to the first public sitting of the Court, which are irrelevant.

Article 4 Solemn undertaking

Immediately after taking the oath, a Judge shall sign a declaration by which he gives the solemn undertaking provided for in the third paragraph of Article 4 of the Statute.

Current text	***Text of the Court's Rules of Procedure***
Article 3 Taking of the oath *…* *2. Immediately after taking the oath, a Judge shall sign a declaration by which he solemnly undertakes that, both during and after his term of office, he will respect the obligations arising therefrom, and in particular the duty to behave with integrity and discretion as regards the acceptance, after he has ceased to hold office, of certain appointments and benefits.*	*Article 5 Solemn undertaking* *Immediately after taking the oath, a Judge or Advocate General shall sign a declaration by which he gives the solemn undertaking provided for in the third paragraph of Article 4 of the Statute.*

The draft Article 4 is reproduced from Article 5 of the Court's Rules of Procedure. It corresponds, mutatis mutandis*, to Article 3(2) of the Tribunal's current Rules of Procedure.*

Article 5 Depriving a Judge of his office

1. Where the Court of Justice is called upon, pursuant to Article 6 of the Statute, to decide, after consulting the Tribunal, whether a Judge of the Tribunal no longer fulfils the requisite conditions or no longer meets the obligations arising from his office, the President of the Tribunal shall invite the Judge concerned to make representations.

2. The Tribunal shall deliberate in the absence of the Registrar.

Voting shall be by secret ballot; the Judge concerned shall not take part in the deliberations.

3. The Tribunal shall state the reasons for its opinion.

An opinion to the effect that a Judge no longer fulfils the requisite conditions or no longer meets the obligations arising from his office must receive the votes of at least a majority of the Judges of the Tribunal. In that event, particulars of the voting shall be communicated to the Court of Justice.

Current text	***Text of the Court's Rules of Procedure***
Article 4 Disqualification and removal of a Judge *1. When the Court of Justice is called upon to decide, after consulting the Tribunal, whether a Judge no longer fulfils the requisite conditions or no longer meets the obligations arising from his office, the President of the Tribunal shall invite the Judge concerned to make representations to the Tribunal in closed session and in the absence of the Registrar.* *2. The Tribunal shall state the reasons for its opinion.* *3. An opinion to the effect that a Judge no longer fulfils the requisite conditions or no longer meets the obligations arising from his office must receive the votes of at least a majority of the Judges of the Tribunal. In that event, particulars of the voting shall be communicated to the Court of Justice.* *4. Voting shall be by secret ballot; the Judge*	*Article 6 Depriving a Judge or Advocate General of his office* *1. Where the Court is called upon, pursuant to Article 6 of the Statute, to decide whether a Judge or Advocate General no longer fulfils the requisite conditions or no longer meets the obligations arising from his office, the President shall invite the Judge or Advocate General concerned to make representations.* *2. The Court shall give a decision in the absence of the Registrar.*

concerned shall not take part in the deliberations.	

Article 6 of the Court's Rules of Procedure cannot be reproduced unchanged, since it is necessary to take into account the second paragraph of Article 5 of Annex I to the Statute. Paragraphs 1 and 2 of the draft are none the less based on the equivalent provisions of Article 6.

Article 6 Seniority

1. The Judges shall rank in seniority as follows:

- the President of the Tribunal;

- the Presidents of the Chambers according to their seniority in office as Members of the Tribunal;

- the other Judges, according to the same seniority.

2. Where there is equal seniority in office, seniority shall be determined by age.

3. Judges whose terms of office are renewed shall retain their seniority in office.

Current text	***Text of the Court's Rules of Procedure***
Article 5 Precedence *1. With the exception of the President of the Tribunal and of the Presidents of the Chambers, the Judges shall rank equally in precedence according to their seniority in office.* *2. Where there is equal seniority in office, precedence shall be determined by age.* *3. Retiring Judges who are reappointed shall retain their former precedence.*	*Article 7 Order of seniority* *1. The seniority of Judges and Advocates General shall be calculated without distinction according to the date on which they took up their duties.* *2. Where there is equal seniority on that basis, the order of seniority shall be determined by age.* *3. Judges and Advocates General whose terms of office are renewed shall retain their former seniority.*

The draft article clarifies Article 5(1) of the Rules of Procedure. Seniority is determined not only by seniority in office or in age but also by the nature of the duties performed. The option adopted allows the draft article simply to be referred to in other provisions, for example, in respect of the replacement of the President of the Tribunal (draft Article 9) or of the Presidents of the Chambers (Article 12). It is dictated by the fact that the composition of the Tribunal is limited to seven Judges and by the fact that its structure is simpler than that of

the Court. It should be noted that the second indent of paragraph 1 expressly refers to 'Presidents of the Chambers' and not to 'Presidents', since, as has already been stated in Article 1 of the draft, it may be the case that the Presidents of the formations of the court, in respect of which the convention 'President' has been adopted, are not Presidents of the Chambers where the latter are replaced in accordance with Article 12(4) of the draft.

Article 7 Election of the President of the Tribunal

1. In accordance with Article 4(1) of Annex I to the Statute, the Judges shall elect the President of the Tribunal from among their number for a term of three years. He may be re-elected.

2. If the office of President of the Tribunal falls vacant before the normal date of expiry of his term, the Tribunal shall elect a successor for the remainder thereof.

3. The elections provided for in this Article shall be by secret ballot. The Judge obtaining the votes of more than half the Judges of the Tribunal shall be elected. If no Judge obtains that majority, further ballots shall be held until that majority is attained.

4. The name of the President of the Tribunal shall be published in the *Official Journal of the European Union*.

Current text	***Text of the Court's Rules of Procedure***
Article 6 Election of the President of the Tribunal *1. In accordance with Article 4(1) of Annex I to the Statute, the Judges shall elect the President of the Tribunal from among their number for a term of three years. He may be re-elected.* *2. If the office of President of the Tribunal falls vacant before the usual date of expiry of his term, the Tribunal shall elect a successor for the remainder thereof.* *3. The elections provided for in this Article shall be by secret ballot. The Judge obtaining the votes of more than half the Judges composing the Tribunal shall be elected. If no Judge obtains that majority, further ballots shall be held until that majority is attained.* *4. The name of the President of the Tribunal shall*	*Article 8 Election of the President and of the Vice-President of the Court* *1. The Judges shall, immediately after the partial replacement provided for in the second paragraph of Article 253 TFEU, elect one of their number as President of the Court for a term of three years.* *2. If the office of the President falls vacant before the normal date of expiry of the term thereof, the Court shall elect a successor for the remainder of the term.* *3. The elections provided for in this Article shall be by secret ballot. The Judge obtaining the votes of more than half the Judges of the Court shall be elected. If no Judge obtains that majority, further ballots shall be held until that majority is*

be published in the Official Journal of the European Union.	*attained.* *4. The Judges shall then elect one of their number as Vice-President of the Court for a term of three years, in accordance with the procedures laid down in the preceding paragraph. Paragraph 2 shall apply if the office of the Vice-President of the Court falls vacant before the normal date of expiry of the term thereof.* *5. The names of the President and Vice-President elected in accordance with this Article shall be published in the* Official Journal of the European Union.

The draft article corresponds to Article 6 of the current Rules of Procedure.

Article 8 Responsibilities of the President of the Tribunal

1. The President of the Tribunal shall preside at hearings and deliberations of:

- the full court;

- the Chamber of five Judges;

- any Chamber of three Judges to which he is attached.

2. The President of the Tribunal shall direct the judicial business and ensure the proper functioning of the services of the Tribunal. He shall preside at the plenary meeting.

3. The President of the Tribunal shall represent the Tribunal.

Current text	***Text of the Court's Rules of Procedure***
Article 7 Responsibilities of the President of the Tribunal *1. The President of the Tribunal shall direct the judicial business and the administration of the Tribunal.* *2. He shall preside at sittings and deliberations in*	*Article 9 Responsibilities of the President of the Court* *1. The President shall represent the Court.* *2. The President shall direct the judicial business of the Court. He shall preside at general meetings of the Members of the Court and at hearings*

closed session of: *- the full court;* *- the Chamber sitting with five Judges;* *- any Chamber sitting with three Judges to which he is attached.*	*before and deliberations of the full Court and the Grand Chamber.* *3. The President shall ensure the proper functioning of the services of the Court.*

Following on from Article 9 of the Court's Rules of Procedure, which stipulates that the President of that jurisdiction is to preside at general meetings, it is additionally provided that the President of the Tribunal is to preside at the plenary meeting. As in the Court's Rules of Procedure, it is likewise stated that the President is to represent the Tribunal.

Article 9 Replacement of the President of the Tribunal

When the President of the Tribunal is absent or prevented from acting or when the office of President is vacant, the functions of President shall be exercised according to the order of seniority laid down pursuant to Article 6.

Current text	***Text of the Court's Rules of Procedure***
Article 8 Replacement of the President of the Tribunal *When the President of the Tribunal is absent or prevented from attending or when the office of President is vacant, the functions of President shall be exercised according to the order of precedence laid down pursuant to Article 5.*	*Article 13 Where the President and Vice-President of the Court are prevented from acting* *When the President and the Vice-President of the Court are prevented from acting, the functions of President shall be exercised by one of the Presidents of the Chambers of five Judges or, failing that, by one of the Presidents of the Chambers of three Judges or, failing that, by one of the other Judges, according to the order of seniority laid down in Article 7.*

The draft article corresponds to Article 8 of the current Rules of Procedure.

Chapter 2
FORMATIONS OF THE COURT

Article 10 Formations of the court

By virtue of Article 4(2) of Annex I to the Statute, the Tribunal shall sit in full court, in a Chamber of five Judges, Chambers of three Judges or as a single Judge.

Current text	***Text of the Court's Rules of Procedure***
Article 9 Formations of the court *By virtue of Article 4(2) of Annex I to the Statute, the Tribunal shall sit in full court, in a Chamber of five Judges, Chambers of three Judges or as a single Judge.*	*No equivalent*

The draft article is reproduced from Article 9 of the Tribunal's current Rules of Procedure.

Article 11 Constitution of Chambers

1. The Tribunal shall set up Chambers of three Judges. It may set up a Chamber of five Judges.

2. The Tribunal shall decide which Judges shall be attached to the Chambers. If the number of Judges attached to a Chamber is greater than the number of Judges sitting, it shall decide how to designate the Judges taking part in the formation of the court.

3. Decisions taken in accordance with this article shall be published in the *Official Journal of the European Union*.

Current text	***Text of the Court's Rules of Procedure***
Article 10 Constitution of Chambers *1. The Tribunal shall set up Chambers sitting with*	*Article 11 Constitution of Chambers* *1. The Court shall set up Chambers of five and*

three Judges. It may set up a Chamber sitting with five Judges. *2. The Tribunal shall decide which Judges shall be attached to the Chambers. If the number of Judges attached to a Chamber is greater than the number of Judges sitting, it shall decide how to designate the Judges taking part in the formation of the court.* *3. Decisions taken in accordance with this article shall be published in the* Official Journal of the European Union*.*	*three Judges in accordance with Article 16 of the Statute and shall decide which Judges shall be attached to them.* *2. The Court shall designate the Chambers of five Judges which, for a period of one year, shall be responsible for cases of the kind referred to in Article 107 and Articles 193 and 194.* *3. In respect of cases assigned to a formation of the Court in accordance with Article 60, the word 'Court' in these Rules shall mean that formation.* *4. In respect of cases assigned to a Chamber of five or three Judges, the powers of the President of the Court shall be exercised by the President of the Chamber.* *5. The composition of the Chambers and the designation of the Chambers responsible for cases of the kind referred to in Article 107 and Articles 193 and 194 shall be published in the* Official Journal of the European Union*.*

Having regard to the composition of the Tribunal, the draft article is essentially reproduced from Article 10 of the current Rules of Procedure.

Article 12 Presidents of Chambers

1. In accordance with Article 4(3) of Annex I to the Statute, the Judges shall elect from among their number for a term of three years the Presidents of the Chambers of three Judges. They may be re-elected.

2. Article 7(2) to (4) shall apply.

3. The Presidents of Chambers shall direct the judicial business of their Chambers and shall preside at hearings and deliberations.

4. When the President of a Chamber is absent or prevented from acting or when the office of President is vacant, the Chamber shall be presided over by a member thereof according to the order of seniority laid down pursuant to Article 6.

5. If, exceptionally, the President of the Tribunal is called upon to complete the formation of the court, he shall preside.

Current text	***Text of the Court's Rules of Procedure***
Article 11 Presidents of Chambers *1. In accordance with Article 4(3) of Annex I to the Statute, the Judges shall elect from among their number for a term of three years the Presidents of the Chambers sitting with three Judges. The election shall be carried out in accordance with the procedure laid down in Article 6(3). They may be re-elected.* *2. Article 6(2) and (4) shall apply.* *3. The Presidents of Chambers shall direct the judicial business of their Chambers and shall preside at sittings and deliberations.* *4. When the President of a Chamber is absent or prevented from attending or when the office of President is vacant, the Chamber shall be presided over by a member thereof according to the order of precedence laid down pursuant to Article 5.* *5. If, exceptionally, the President of the Tribunal is called upon to complete the formation of the court, he shall preside.*	*Article 12 Election of Presidents of Chambers* *1. The Judges shall, immediately after the election of the President and Vice-President of the Court, elect the Presidents of the Chambers of five Judges for a term of three years.* *2. The Judges shall then elect the Presidents of the Chambers of three Judges for a term of one year.* *3. The provisions of Article 8(2) and (3) shall apply.* *4. The names of the Presidents of Chambers elected in accordance with this Article shall be published in the* Official Journal of the European Union. *Article 30 Where a President of a Chamber is prevented from acting* *1. When the President of a Chamber of five Judges is prevented from acting, the functions of President of the Chamber shall be exercised by a President of a Chamber of three Judges, where necessary according to the order laid down in Article 7 of these Rules, or, if that formation of the Court does not include a President of a Chamber of three Judges, by one of the other Judges according to the order laid down in Article 7.* *2. When the President of a Chamber of three Judges is prevented from acting, the functions of President of the Chamber shall be exercised by a Judge of that formation of the Court according to the order laid down in Article 7.*

Having regard to the specific features of the Tribunal, Article 11 of the current Rules of Procedure can, in essence, be retained.

Article 13 Ordinary formation of the court – Assignment of cases to Chambers

1. Without prejudice to Article 14 or Article 15, the Tribunal shall sit in Chambers of three Judges.

2. The Tribunal shall lay down criteria by which cases are to be assigned or reassigned to the Chambers.

3. The decision provided for in the previous paragraph shall be published in the *Official Journal of the European Union*.

Current text	***Text of the Court's Rules of Procedure***
Article 12 Ordinary formation of the court – Assignment of cases to Chambers *1. Without prejudice to Article 13 or Article 14, the Tribunal shall sit in Chambers of three Judges.* *2. The Tribunal shall lay down criteria by which cases are to be assigned to the Chambers.* *3. The decision provided for in the previous paragraph shall be published in the* Official Journal of the European Union*.*	*Article 60 Assignment of cases to formations of the Court* *1. The Court shall assign to the Chambers of five and of three Judges any case brought before it in so far as the difficulty or importance of the case or particular circumstances are not such as to require that it should be assigned to the Grand Chamber, unless a Member State or an institution of the European Union participating in the proceedings has requested that the case be assigned to the Grand Chamber, pursuant to the third paragraph of Article 16 of the Statute.* *...*

The draft article corresponds to Article 12 of the Tribunal's current Rules of Procedure. It is nevertheless stated that the criteria for assignment of cases to the Chambers of three Judges also include criteria for reassignment from one Chamber to another on grounds of the proper administration of justice. It must at this point be noted that that added information entails an amendment of Article 46 of the current Rules of Procedure, concerning the joinder of connected cases (see the commentary for Article 44 of the draft).

Article 14 Referral of a case to the full court or to the Chamber of five Judges

1. Whenever the difficulty of the questions of law raised or the importance of the case or special circumstances so justify, a case may be referred to the full court or to the Chamber of five Judges.

2. The decision to refer shall be taken by the Tribunal in plenary formation on a proposal by the Chamber hearing the case or by any member of the Tribunal. It may be taken at any stage of the proceedings.

Current text	***Text of the Court's Rules of Procedure***
Article 13 Referral of a case to the full court or to the Chamber sitting with five Judges *1. Whenever the difficulty of the questions of law raised or the importance of the case or special circumstances so justify, a case may be referred to the full court or to the Chamber sitting with five Judges.* *2. The decision to refer shall be taken by the full court on a proposal by the Chamber hearing the case or by any member of the Tribunal. It may be taken at any stage of the proceedings.*	*Article 60 Assignment of cases to formations of the Court* *...* *3. The formation to which a case has been assigned may, at any stage of the proceedings, request the Court to assign the case to a formation composed of a greater number of Judges.* *...*

The draft article in effect reproduces Article 13 of the Tribunal's current Rules of Procedure.

Article 15 Referral of a case to a single Judge

1. Cases assigned to a Chamber of three Judges may be heard and determined by the Judge-Rapporteur sitting as a single Judge where, having regard to the lack of difficulty of the questions of law or fact raised, to the limited importance of the case and to the absence of other special circumstances, they are suitable for being so heard and determined.

Referral to a single Judge shall not be possible in cases which raise issues as to the legality of an act of general application, unless there has already been a ruling on those issues.

2. The decision to refer shall be taken unanimously, the parties having been heard, by the Chamber before which the case is pending. It may be taken at any stage of the proceedings.

3. If the single Judge to whom the case has been referred is absent or prevented from acting, the President shall designate another Judge to replace that Judge.

4. The single Judge shall refer the case back to the Chamber if he finds that the conditions set out in paragraph 1 above are no longer satisfied.

5. In cases heard by a single Judge, the powers of the President shall be exercised by that Judge.

Current text	***Text of the Court's Rules of Procedure***
Article 14 Referral of a case to a single Judge *1. Cases assigned to a Chamber sitting with three Judges may be heard and determined by the Judge-Rapporteur sitting as a single Judge where, having regard to the lack of difficulty of the questions of law or fact raised, to the limited importance of the case and to the absence of other special circumstances, they are suitable for being so heard and determined.* *Referral to a single Judge shall not be possible in cases which raise issues as to the legality of an act of general application.* *2. The decision to refer shall be taken unanimously, the parties having been heard, by the Chamber before which the case is pending. It may be taken at any stage of the proceedings.* *3. If the single Judge to whom the case has been referred is absent or prevented from attending, the President shall designate another Judge to replace that Judge.* *4. The single Judge shall refer the case back to the Chamber if he finds that the conditions set out in paragraph 1 above are no longer satisfied.* *5. In cases heard by a single Judge, the powers of the President shall be exercised by that Judge.*	*No equivalent*

The draft article essentially corresponds to Article 14 of the Tribunal's current Rules of Procedure, which has no equivalent in the Court's Rules of Procedure.

It is, however, envisaged that cases may be entrusted to a single Judge even if they contain one or more pleas of illegality, provided there has already been a ruling on those pleas. That relaxation of the rule currently set out in

the second subparagraph of Article 14(1) of the Rules of Procedure follows on from the Council's observations on the reform of the General Court. It has to be seen, in particular, in the context of cases which are part of a series and in the context of the introduction, by the draft, of the concept of a 'test case'. That relaxation would be applicable not only when a Chamber of the Tribunal has already ruled on the plea or pleas of illegality, but also where there are judgments of the Court of Justice or the General Court in which there has been a ruling on that plea or those pleas.

Chapter 3
REGISTRY AND ADMINISTRATIVE SERVICES

Section 1 – The Registry

Article 16 Appointment of the Registrar

1. The Tribunal shall appoint the Registrar.

2. When the post of Registrar is vacant, an advertisement shall be published in the *Official Journal of the European Union*. Interested persons shall be invited to submit their applications within a time-limit of not less than three weeks, accompanied by full details of their university degrees, knowledge of languages, present and past professional occupations, experience, if any, in judicial and international fields, and their nationality.

3. Two weeks before the date fixed for making the appointment, the President of the Tribunal shall inform the Judges of the applications which have been submitted for the post.

4. The vote shall take place in accordance with the procedure laid down in Article 7(3).

5. The Registrar shall be appointed for a term of six years. He may be reappointed. The Tribunal may decide to renew the term of office of the incumbent Registrar without availing itself of the procedure laid down in paragraphs 2 and 3 of this Article. In that case, the procedure laid down in paragraph 4 shall apply.

6. Before he takes up his duties, the Registrar shall take before the Tribunal the oath set out in Article 3 and sign the declaration provided for in Article 4.

7. The name of the Registrar shall be published in the *Official Journal of the European Union*.

Current text	***Text of the Court's Rules of Procedure***
Article 15 Appointment of the Registrar	*Article 18 Appointment of the Registrar*

1. The Tribunal shall appoint the Registrar. *2. Two weeks before the date fixed for making the appointment, the President of the Tribunal shall inform the Judges of the applications which have been submitted for the post.* *3. The appointment shall be made in accordance with the procedure laid down in Article 6(3).* *4. The name of the Registrar elected shall be published in the* Official Journal of the European Union*.* *5. The Registrar shall be appointed for a term of six years. He may be reappointed.* *6. Before he takes up his duties the Registrar shall take the oath before the Tribunal in accordance with Article 3.*	*1. The Court shall appoint the Registrar.* *2. When the post of Registrar is vacant, an advertisement shall be published in the* Official Journal of the European Union*. Interested persons shall be invited to submit their applications within a time-limit of not less than three weeks, accompanied by full details of their nationality, university degrees, knowledge of languages, present and past occupations, and experience, if any, in judicial and international fields.* *3. The vote, in which the Judges and the Advocates General shall take part, shall take place in accordance with the procedure laid down in Article 8(3) of these Rules.* *4. The Registrar shall be appointed for a term of six years. He may be reappointed. The Court may decide to renew the term of office of the incumbent Registrar without availing itself of the procedure laid down in paragraph 2 of this Article.* *5. The Registrar shall take the oath set out in Article 4 and sign the declaration provided for in Article 5.* *6. The Registrar may be deprived of his office only if he no longer fulfils the requisite conditions or no longer meets the obligations arising from his office. The Court shall take its decision after giving the Registrar an opportunity to make representations.* *7. If the office of Registrar falls vacant before the normal date of expiry of the term thereof, the Court shall appoint a new Registrar for a term of six years.* *8. The name of the Registrar elected in accordance with this Article shall be published in the* Official Journal of the European Union*.*

Paragraph 2 of the draft article largely reproduces Article 18(2) of the Court's Rules of Procedure, while retaining, in the interests of clarity, paragraph 2 of Article 15 of the Tribunal's current Rules of Procedure (now paragraph 3 of the draft). It must be noted that the addition of the new paragraph 2 ensures greater publicity for the procedure for the appointment of a Registrar, by providing for the publication of a vacancy notice in the Official Journal of the European Union *when the post of Registrar is vacant.*

The addition in paragraph 5 of the draft seeks, as the Court has done, to streamline the procedure applicable in the event of the renewal of the term of office of the incumbent Registrar. The Tribunal may thus decide not to avail itself of the procedure applicable to the election of the Registrar if the latter reapplies for his own post and the Tribunal wishes to renew his term of office. This not only prevents a relatively burdensome procedure from being set in motion but also avoids creating, outside the Tribunal, expectations which will not be met where the Tribunal has decided to renew the term of office of the incumbent Registrar.

Article 17 Vacancy of the office of Registrar

1. The Registrar may be deprived of his office only if he no longer fulfils the requisite conditions or no longer meets the obligations arising from his office. The Tribunal shall take its decision after giving the Registrar an opportunity to make representations.

2. If the office of Registrar falls vacant before the normal date of expiry of the term thereof, the Tribunal shall appoint a new Registrar for a term of six years.

Current text	***Text of the Court's Rules of Procedure***
Article 16 Vacancy of the office of Registrar *1. The Registrar may be deprived of his office only if he no longer fulfils the requisite conditions or no longer meets the obligations arising from his office; the Tribunal shall take its decision after giving the Registrar an opportunity to make representations.* *2. If the office of Registrar falls vacant before the usual date of expiry of the term thereof, the Tribunal shall appoint a new Registrar for a term of six years.*	*Article 18 Appointment of the Registrar* *…* *6. The Registrar may be deprived of his office only if he no longer fulfils the requisite conditions or no longer meets the obligations arising from his office. The Court shall take its decision after giving the Registrar an opportunity to make representations.* *7. If the office of Registrar falls vacant before the normal date of expiry of the term thereof, the Court shall appoint a new Registrar for a term of six years.* *...*

The text of the draft corresponds to Article 16 of the Rules of Procedure currently in force.

Article 18 Deputy Registrar

The Tribunal may, following the procedure laid down in respect of the Registrar, appoint a Deputy Registrar to assist the Registrar and to take his place if he is prevented from acting.

Current text	***Text of the Court's Rules of Procedure***
Article 17 Assistant Registrar *The Tribunal may, following the procedure laid down in respect of the Registrar, appoint an Assistant Registrar to assist the Registrar and to take his place in so far as the Instructions to the Registrar referred to in Article 19(4) allow.*	*Article 19 Deputy Registrar* *The Court may, in accordance with the procedure laid down in respect of the Registrar, appoint a Deputy Registrar to assist the Registrar and to take his place if he is prevented from acting.*

The proposed text essentially reproduces the current text, subject to the removal of the reference to the Instructions to the Registrar. As the Court observed in the explanatory notes to the draft of what are now its new Rules of Procedure, it is not at all evident what purpose that reference is supposed to serve, since the task of the Deputy Registrar (to assist and take the place of the Registrar) is already made clear in the article itself.

Article 19 Absence or inability to act of the Registrar

1. Where the Registrar is absent or prevented from acting and where the Deputy Registrar, if any, is absent or so prevented, or where their posts are vacant, the President of the Tribunal shall designate an official or servant to carry out the duties of Registrar.

2. Where the Tribunal sits without the Registrar being present it shall, if necessary, instruct a Judge, designated in accordance with the reverse order of seniority to that referred to in Article 6, to draw up minutes. The minutes shall be signed by this Judge and by the President.

Current text	***Text of the Court's Rules of Procedure***

Article 18 Absence or inability to attend of the Registrar *Where the Registrar is absent or prevented from attending and, if necessary, where the Assistant Registrar is absent or so prevented, or where their posts are vacant, the President of the Tribunal shall designate an official or servant to carry out the duties of Registrar.* *Article 27 Deliberations* *...* *6. Where the Tribunal sits without the Registrar being present it shall, if necessary, instruct the lowest-ranking Judge, according to the order of precedence referred to in Article 5, to draw up minutes. The minutes shall be signed by this Judge and by the President.*	*No equivalent*

Paragraph 1 of the draft article corresponds to Article 18 of the Rules of Procedure currently in force. Paragraph 2 of the draft article essentially reproduces the current Article 27(6). It was considered appropriate to move that provision in so far as it concerns the absence of the Registrar more than the conduct of the deliberations, which is the subject of the aforementioned Article 27.

Article 20 Responsibilities of the Registrar

1. Under the authority of the President of the Tribunal, the Registrar shall be responsible for the Registry; he shall, inter alia, be responsible for the acceptance, transmission and custody of all documents and for effecting service as provided for by these Rules.

2. The Registrar shall assist the Members of the Tribunal in the performance of their functions. Subject to Articles 5, 17(1) and 29, the Registrar shall attend the sittings of the Tribunal and prepare minutes of them.

3. The Registrar shall have custody of the seals and shall be responsible for the records. He shall be in charge of the publications of the Tribunal and, in particular, the European Court Reports.

4. With the assistance of the services of the institution and under the authority of the President of the Tribunal, the Registrar shall be responsible for the administration of the Tribunal and shall oversee the implementation of corresponding revenue and expenditure.

Current text	***Text of the Court's Rules of Procedure***
Article 19 Duties of the Registrar *1. The Registrar shall assist the Tribunal, the President of the Tribunal and the Judges in the performance of their functions. He shall be responsible for the organisation and activities of the Registry under the authority of the President of the Tribunal.* *2. The Registrar shall have custody of the seals. He shall be responsible for the records and be in charge of the Tribunal's publications. The Registrar shall be responsible, under the authority of the President of the Tribunal, for the acceptance, transmission and custody of all documents and for effecting service as provided for by these Rules.* *3. Subject to Articles 4, 16(1) and 27, the Registrar shall attend the sittings of the Tribunal.* *4. The Tribunal shall adopt its Instructions to the Registrar, acting on a proposal from the President of the Tribunal. They shall be published in the* Official Journal of the European Union*.* *Article 22 Administration and financial management of the Tribunal* *The Registrar shall be responsible, under the authority of the President of the Tribunal, for the administration, financial management and accounts of the Tribunal; he shall be assisted in this by the departments of the Court of Justice and the General Court.*	*Article 20 Responsibilities of the Registrar* *1. The Registrar shall be responsible, under the authority of the President of the Court, for the acceptance, transmission and custody of all documents and for effecting service as provided for by these Rules.* *2. The Registrar shall assist the Members of the Court in all their official functions.* *3. The Registrar shall have custody of the seals and shall be responsible for the records. He shall be in charge of the publications of the Court and, in particular, the European Court Reports.* *4. The Registrar shall direct the services of the Court under the authority of the President of the Court. He shall be responsible for the management of the staff and the administration, and for the preparation and implementation of the budget.*

The proposed text largely takes account of the wording used by the Court in Article 20 of its Rules of Procedure. It is nevertheless also largely the result of the grouping together of Article 19 and Article 22 of the Tribunal's Rules of Procedure both of which concern the responsibilities of the Registrar. Article 20(4) of the draft takes into account the specific features of the Tribunal, which does not have its own administrative service, and Article 64 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1), under which the duties of authorising officer and accounting officer are mutually exclusive and must be segregated. Moreover, the wording in Article 20(4) of the Court's Rules of Procedure, according to which '[t]he Registrar shall direct the services of the Court', cannot be reproduced, since this is a responsibility which is specific to the Registrar of the Court.

Article 21 Keeping of the register

1. There shall be kept in the Registry, under the responsibility of the Registrar, a register in which all procedural documents shall be entered in the order in which they are submitted. Entries in the register and the notes made by the Registrar on the originals or on any copy submitted for the purpose shall be authentic.

2. Documents drawn up for the purposes of an amicable settlement within the meaning of Article 90 shall be registered separately by the Registry.

Current text	***Text of the Court's Rules of Procedure***
Article 20 Keeping of the register *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.* *2. Rules for keeping the register shall be prescribed by the Instructions to the Registrar referred to in Article 19(4).* *...*	*Article 21 Keeping of the register* *1. There shall be kept in the Registry, under the responsibility of the Registrar, a register in which all procedural documents and supporting items and documents lodged shall be entered in the order in which they are submitted.* *2. When a document has been registered, the Registrar shall make a note to that effect on the original and, if a party so requests, on any copy submitted for the purpose.* *3. Entries in the register and the notes provided for in the preceding paragraph shall be authentic.* *4. A notice shall be published in the* Official Journal of the European Union *indicating the*

	date of registration of an application initiating proceedings, the names of the parties, the form of order sought by the applicant and a summary of the pleas in law and of the main supporting arguments or, as the case may be, the date of lodging of a request for a preliminary ruling, the identity of the referring court or tribunal and the parties to the main proceedings, and the questions referred to the Court.

The first sentence of the first paragraph of the draft article broadly corresponds to Article 20(1) and to Article 21(1) of the Court's current Rules of Procedure. However, it is no longer stipulated that the documents lodged by the parties in support of their pleadings are to be entered in the register, since that is not the case in practice.

The second sentence of the first paragraph corresponds, mutatis mutandis*, to Article 21(3) of the Rules of Procedure of the Court and reproduces a provision which currently appears only in the Instructions to the Registrar.*

The documents drawn up in the context of an attempt at amicable settlement are excepted, since it is important to give them special treatment, in so far as they cannot in any way be used in support of the legal proceedings where that attempt is unsuccessful, in accordance with Article 92 of the draft.

As in the case of the Court, a separate article also concerns the consultation of the register, which is currently covered by paragraphs 3 to 5 of Article 20 of the Rules of Procedure.

The draft article does not contain any provision equivalent to Article 21(4) of the Court's Rules of Procedure, since that provision is found, mutatis mutandis*, in Article 37(2) of the Tribunal's current Rules of Procedure. That approach is retained. Having regard to the jurisdiction of the Tribunal, the notice in the* Official Journal of the European Union *cannot, unlike in the case of the Court, concern anything other than direct actions. It has therefore been deemed preferable to maintain the relevant provision in the part of the Rules describing the procedure relating to direct actions.*

Article 22 Consultation of the file and of the register

1. Without prejudice to Articles 44(3), 47 and 87(3), any party to proceedings may:

- consult at the Registry the case-file and the extracts from the register concerning his case;

- obtain, on payment of a charge on a scale fixed by the Tribunal on a proposal from the Registrar, additional copies of the procedural documents, of their annexes, of orders and judgments, and copies of other items of evidence in the file and extracts from the register; those copies shall be, where necessary, certified copies.

2. No third party, private or public, may consult a case-file without the express authorisation of the President of the Tribunal, after the parties have been heard. That authorisation may be granted, in whole or in part, only upon written request accompanied by a detailed explanation of the third party's legitimate interest in inspecting the file. The inspection may only be carried out at the Registry.

Any third party may obtain, on payment of the appropriate charge, copies of judgments and orders. Those copies shall be certified copies where there is a legitimate interest justifying this.

Any person having a duly substantiated interest may be authorised by the President of the Tribunal to consult the register at the Registry and obtain copies or extracts on payment of the appropriate charge.

On the issue of copies of judgments or orders, and on the grant of the authorisation referred to in the first or third subparagraph of this paragraph, account shall be taken, if necessary, of Articles 44(3), 47, 48 and 87(3) and of decisions taken on the basis of those articles.

Current text	***Text of the Court's Rules of Procedure***
Article 20 Keeping of the register *...* *3. Any person having a duly substantiated interest may consult the register at the Registry and obtain copies or extracts on payment of a charge on a scale fixed by the Tribunal on a proposal from the Registrar.* *4. Any party to proceedings may in addition obtain, on payment of the appropriate charge, additional copies of the pleadings or of the orders and judgments.* *5. No third party, private or public, may have access to the case-file or to the procedural documents without the express authorisation of the President, after the parties have been heard. That authorisation may be granted only upon written request accompanied by a detailed explanation of the third party's legitimate interest in inspecting the file.*	*Article 22 Consultation of the register and of judgments and orders* *1. Anyone may consult the register at the Registry and may obtain copies or extracts on payment of a charge on a scale fixed by the Court on a proposal from the Registrar.* *2. The parties to a case may, on payment of the appropriate charge, obtain certified copies of procedural documents.* *3. Anyone may, on payment of the appropriate charge, also obtain certified copies of judgments and orders.*

The draft article concerns access to the file and to the register of the Registry. It corresponds, in this respect, to paragraphs 3 to 5 of Article 20 of the Rules of Procedure, which has been split. Having regard to the nature of the jurisdiction of the Tribunal, importance has, nevertheless, been placed on the need to protect the personal

data of the parties to the proceedings or of third parties who are mentioned in the context of those proceedings. Thus, the possibility for third parties to consult a case-file or to examine the register is subject to authorisation from the President of the Tribunal on account of the personal data which those documents may contain. Account is also taken of the fact that some documents may be deemed to be confidential (see Articles 44(3), 47 and 87(3)) and that anonymity may be granted in accordance with Article 48 of the draft.

It must also be pointed out that the conditions of access to court documents will be considered by the three European Union courts in order to ensure a consistent approach.

Section 2 – The administrative services

Article 23 Officials and other servants

The officials and other servants whose task is to assist directly the President of the Tribunal, the Judges and the Registrar shall be appointed in accordance with the Staff Regulations. They shall be responsible to the Registrar, under the authority of the President of the Tribunal.

Current text	***Text of the Court's Rules of Procedure***
Article 21 Officials and other servants *1. The officials and other servants whose task is to assist directly the President of the Tribunal, the Judges and the Registrar shall be appointed in accordance with the Staff Regulations. They shall be responsible to the Registrar, under the authority of the President of the Tribunal.* *2. Before the President of the Tribunal, in the presence of the Registrar, they shall take the following oath:* *'I swear that I will perform loyally, discreetly and conscientiously the duties assigned to me by the European Union Civil Service Tribunal.'*	*No equivalent*

The draft text corresponds to Article 21(1) of the Tribunal's Rules of Procedure. Paragraph 2 has been omitted to take into account the fact that the detailed rules relating to the taking of the oath by officials and servants of the Court no longer appear in its Rules of Procedure.

Chapter 4
THE FUNCTIONING OF THE TRIBUNAL

Article 24 Dates, times and location of the sittings of the Tribunal

1. The dates and times of the sittings of the Tribunal shall be fixed by the President.

2. The Tribunal may choose to hold one or more specific sittings in a place other than that in which it has its seat.

Current text	***Text of the Court's Rules of Procedure***
Article 23 Dates, times and place of the sittings of the Tribunal *1. The dates and times of the sittings of the Tribunal shall be fixed by the President.* *2. The Tribunal may choose to hold one or more particular sittings in a place other than that in which it has its seat.*	*Article 23 Location of the sittings of the Court* *The Court may choose to hold one or more specific sittings in a place other than that in which it has its seat.*

The draft text is in effect unchanged in relation to Article 23 of the current Rules of Procedure.

Article 25 Calendar of the Tribunal's judicial business

1. The judicial year shall begin on 1 October of each calendar year and end on 30 September of the following year.

2. The dates of the judicial vacations and the list of official holidays drawn up by the Court of Justice and published in the *Official Journal of the European Union* shall apply to the Tribunal.

3. During the vacations, the functions of President of the Tribunal shall be exercised at the place where the Tribunal has its seat either by the President of the Tribunal or by a President of Chamber or other Judge invited by the President to take his place. In a case of urgency, the President may convene the Judges.

4. The Tribunal may, in proper circumstances, grant leave of absence to any Judge.

Current text	***Text of the Court's Rules of Procedure***
Article 28 Judicial vacations *1. Subject to any special decision of the Tribunal, its vacations shall be as follows:* *- from 18 December to 10 January,* *- from the Sunday before Easter to the second Sunday after Easter,* *- from 15 July to 15 September.* *2. During the vacations, the functions of President of the Tribunal shall be exercised at the place where the Tribunal has its seat either by the President of the Tribunal, keeping in touch with the Registrar, or by a President of Chamber or other Judge invited by the President to take his place.* *In a case of urgency, the President may convene the Judges.* *3. The Tribunal shall observe the official holidays of the place where it has its seat.* *4. The Tribunal may, in proper circumstances, grant leave of absence to any Judge.* *Article 100 Reckoning of time-limits – Single period of extension on account of distance* *…* *2. ...* *The list of official holidays drawn up by the Court*	*Article 24 Calendar of the Court's judicial business* *1. The judicial year shall begin on 7 October of each calendar year and end on 6 October of the following year.* *2. The judicial vacations shall be determined by the Court.* *3. In a case of urgency, the President may convene the Judges and the Advocates General during the judicial vacations.* *4. The Court shall observe the official holidays of the place in which it has its seat.* *5. The Court may, in proper circumstances, grant leave of absence to any Judge or Advocate General.* *6. The dates of the judicial vacations and the list of official holidays shall be published annually in the* Official Journal of the European Union*.*

of Justice and published in the Official Journal of the European Union *shall apply to the Tribunal.*	

As in the case of the Court, a paragraph 1 has been inserted defining the judicial year. Having regard to the specific features of the Tribunal, it is envisaged that that year will begin on 1 October. Instead of listing the judicial vacations, the Rules refer to the dates of those vacations as adopted by the Court. That course of action corresponds to current practice. As the Court itself indicated in the explanatory notes to the draft of its new Rules, the precise dates of the judicial vacations set out in the Rules of Procedure no longer correspond with reality. The draft provides that the list of official holidays drawn up by the Court and published in the Official Journal of the European Union *also applies to the Tribunal. Article 28(3) (relating to judicial vacations) and the second subparagraph of Article 100(2) (relating to the calculation of time-limits) of the current Rules of Procedure are thus rendered redundant and may be omitted.*

Article 26 Quorum

Sittings of the Tribunal shall be valid only if the following quorum is observed:

- five Judges for the full court;

- three Judges for the Chamber of five Judges or for the Chambers of three Judges, in accordance with the second paragraph of Article 17 of the Statute.

Current text	***Text of the Court's Rules of Procedure***
Article 24 Quorum *Sittings of the Tribunal shall be valid only if the following quorum is observed:* *- five Judges for the full court;* *- three Judges for the Chamber sitting with five Judges or for the Chambers sitting with three Judges.*	*No equivalent in the Court's Rules of Procedure* *Article 17 of the Statute of the Court* *Decisions of the Court of Justice shall be valid only when an uneven number of its members is sitting in the deliberations.* *Decisions of the chambers consisting of either three or five Judges shall be valid only if they are taken by three Judges.* *Decisions of the Grand Chamber shall be valid only if 11 Judges are sitting.*

	Decisions of the full Court shall be valid only if 17 Judges are sitting. *In the event of one of the Judges of a chamber being prevented from attending, a Judge of another chamber may be called upon to sit in accordance with conditions laid down in the Rules of Procedure.*

The draft article fixes the quorum for the various formations of the court and corresponds to Article 24 of the Rules of Procedure currently in force. In contrast to the latter provision, it is merely stated that the quorum for the Chambers of three and of five Judges is fixed in accordance with the second paragraph of Article 17 of the Statute, which applies to the Tribunal by virtue of the first paragraph of Article 5 of Annex I to the Statute.

Article 27 Absence or inability to act of a Judge

1. If, because a Judge is absent or prevented from acting, the quorum is not attained, the President shall adjourn the sitting until the Judge is no longer absent or prevented from acting.

2. In order to attain a quorum in a Chamber, the President may also, if the proper administration of justice so requires, complete the formation of the court with another Judge of the same Chamber or, failing that, propose that the President of the Tribunal should designate a Judge from another Chamber. The replacement Judge shall be designated by turn according to the reverse order to that provided for in Article 6.

3. If the formation of the court is completed pursuant to paragraph 2 after the hearing, the oral part of the procedure shall be reopened, unless the Tribunal decides, with the agreement of the parties and in order to be able to rule on the case within a reasonable period, not to organise a new hearing. The reopening of the oral part of the procedure shall be obligatory where the absence or inability to act concerns more than one Judge who has participated in the hearing.

Current text	***Text of the Court's Rules of Procedure***
Article 25 Absence or inability to attend of a Judge *1. If, because a Judge is absent or prevented from attending, the quorum is not attained, the President shall adjourn the sitting until the Judge is no longer absent or prevented from attending.*	*Article 34 Quorum of the Grand Chamber* *1. If, for a case assigned to the Grand Chamber, it is not possible to attain the quorum referred to in the third paragraph of Article 17 of the Statute, the President of the Court shall designate one or more other Judges according to the order of the*

2. In order to attain a quorum in a Chamber, the President may also, if the proper administration of justice so requires, complete the formation of the court with another Judge of the same Chamber or, failing that, propose that the President of the Tribunal should designate a Judge from another Chamber. The replacement Judge shall be designated by turn according to the order of precedence referred to in Article 5, with the exception, if possible, of the President of the Tribunal and of the Presidents of Chambers. *3. If the formation of the court is completed pursuant to paragraph 2 after the hearing, the oral procedure shall be reopened.*	*list referred to in Article 27(4) of these Rules.* *2. If a hearing has taken place before that designation, the Court shall re-hear oral argument from the parties and the Opinion of the Advocate General.* *Article 35 Quorum of the Chambers of five and of three Judges* *1. If, for a case assigned to a Chamber of five or of three Judges, it is not possible to attain the quorum referred to in the second paragraph of Article 17 of the Statute, the President of the Court shall designate one or more other Judges according to the order of the list referred to in Article 28(2) or (3), respectively, of these Rules. If it is not possible to replace the Judge prevented from acting by a Judge of the same Chamber, the President of that Chamber shall so inform the President of the Court forthwith who shall designate another Judge to complete the Chamber.* *2. Article 34(2) shall apply,* mutatis mutandis*, to the Chambers of five and of three Judges.*

The draft article corresponds in essence to Article 25 of the current Rules of Procedure. Nevertheless, there have been two amendments to that article.

First, the replacement of a Judge who is absent or prevented from acting will from now on proceed in the reverse order to that established in Article 6 in order to ensure a balanced allocation of tasks within the Tribunal.

Secondly, in order for the Tribunal to be able to rule on the case within a reasonable period, it is provided that the oral proceedings will not be reopened but that the Judge prevented from acting will simply be replaced for the purpose of the deliberations when he is prevented from acting after the hearing and the parties have agreed to proceed in this manner. Furthermore, in so far as the principle of the 'lawful Judge' can be classified under the broader concept of 'fair trial', it must be observed that individuals can forgo elements of that concept. It is also stated that the replacement in question cannot concern more than one Judge, so that, in all cases, the majority of the Judges participating in the deliberations will have had to have been present at the hearing. It is also recalled that Article 48(2) of the Tribunal's Rules of Procedure already currently provides that, where the parties agree, the Tribunal may decide not to hold a hearing where a second exchange of pleadings

has taken place. The proposed innovation will therefore, in practice, only concern the cases in which there has been no more than a single exchange of pleadings. Lastly, it must be pointed out that, when they take a position on the possibility of holding a further hearing, the parties will not be informed of the identity of the replacement Judge, in order to avoid any form of 'forum shopping'. That will be the case even where the replacement of the Judge is carried out under Article 27(2), in accordance with Article 6.

Article 28 Absence or inability to act, before the hearing, of a Judge of the Chamber of five Judges

If, in the Chamber of five Judges, a Judge is absent or prevented from acting before the hearing, the President of the Tribunal shall designate another Judge according to the reverse order of seniority to that referred to in Article 6. If the number of five Judges cannot be restored, the hearing may nevertheless be held, provided that the quorum is attained.

Current text	***Text of the Court's Rules of Procedure***
Article 26 Absence or inability to attend, before the hearing, of a Judge of the Chamber sitting with five Judges *If, in the Chamber sitting with five Judges, a Judge is absent or prevented from attending before the hearing, the President of the Tribunal shall designate another Judge according to the order of precedence referred to in Article 5. If the number of five Judges cannot be restored, the hearing may nevertheless be held, provided that the quorum is attained.*	*No equivalent*

The draft text corresponds to Article 26 of the current Rules of Procedure. It has however been deemed appropriate to follow the reverse order of protocol in respect of the replacement of a Judge who is absent or unable to act.

Article 29 Procedures concerning deliberations

1. The deliberations of the Tribunal shall be and shall remain secret.

2. Without prejudice to Article 27(3), when a hearing has taken place, only those Judges who participated in that hearing shall take part in the deliberations.

3. Every Judge taking part in the deliberations shall state his opinion and the reasons for it.

4. The conclusions reached by the majority of the Judges after final discussion shall determine the decision of the Tribunal.

5. Where the deliberations of the Tribunal concern questions of its own administration, the Registrar shall be present, unless the Tribunal decides to the contrary.

Article 30 Number of Judges taking part in the deliberations

In accordance with the first paragraph of Article 17 of the Statute and the first paragraph of Article 5 of Annex I to the Statute, if, in the Chamber of five Judges or in the full court, there is an even number of Judges, as a result of a Judge's being absent or prevented from acting, the Judge who is the first in the reverse order to that provided for in Article 6 shall abstain from taking part in the deliberations, unless he is the Judge-Rapporteur. In that last case, the Judge who ranks immediately after him in that reverse order shall abstain from taking part in the deliberations.

Current text	***Text of the Court's Rules of Procedure***
Article 27 Deliberations *1. The Tribunal shall deliberate in closed session.* *2. Only those Judges who were present at the hearing may take part in the deliberations.* *3. In accordance with the first paragraph of Article 17 of the Statute and the first paragraph of Article 5 of Annex I to the Statute, deliberations of the Tribunal shall be valid only if an uneven number of Judges is sitting in the deliberations.* *If, in the Chamber sitting with five Judges or in the full court, there is an even number of Judges, as a result of a Judge's being absent or prevented from attending, the lowest-ranking Judge, according to the order of precedence fixed pursuant to Article 5, shall abstain from taking*	*Article 32 Procedures concerning deliberations* *1. The deliberations of the Court shall be and shall remain secret.* *2. When a hearing has taken place, only those Judges who participated in that hearing and, where relevant, the Assistant Rapporteur responsible for the consideration of the case shall take part in the deliberations.* *3. Every Judge taking part in the deliberations shall state his opinion and the reasons for it.* *4. The conclusions reached by the majority of the Judges after final discussion shall determine the decision of the Court.* *Article 33 Number of Judges taking part in the*

part in the deliberations, unless he is the Judge-Rapporteur. In that last case, it is the Judge immediately senior to him who shall abstain. *4. Every Judge taking part in the deliberations shall state his opinion and the reasons for it.* *Any Judge may require that any question be formulated in the language of his choice and communicated in writing to the other Judges before being put to the vote.* *The conclusions reached by the majority of the Judges after final discussion shall determine the decision of the Tribunal. Votes shall be cast in reverse order to the order of precedence laid down pursuant to Article 5.* *Differences of view on the substance, wording or order of questions, or on the interpretation of a vote, shall be settled by decision of the Tribunal.* *5. Where the deliberations of the Tribunal concern questions of its own administration, the Registrar shall be present, unless the Tribunal decides to the contrary.* *6. Where the Tribunal sits without the Registrar being present it shall, if necessary, instruct the lowest-ranking Judge, according to the order of precedence referred to in Article 5, to draw up minutes. The minutes shall be signed by this Judge and by the President.*	*deliberations* *Where, by reason of a Judge being prevented from acting, there is an even number of Judges, the most junior Judge for the purposes of Article 7 of these Rules shall abstain from taking part in the deliberations unless he is the Judge-Rapporteur. In that case the Judge immediately senior to him shall abstain from taking part in the deliberations.*

Article 27 of the Tribunal's Rules of Procedure has been divided into two, in accordance with the choice made by the Court in its own Rules of Procedure. Article 27(3) has therefore become, in essence, Article 30 of the draft.

Article 29(1) of the draft reproduces the rule in Article 32(1) of the Court's Rules of Procedure.

Article 29(2) of the draft corresponds to Article 27(2) of the Tribunal's Rules of Procedure, while being based more on the wording in Article 32(2) of the Court's Rules of Procedure. It also takes account of the possibility, introduced in Article 27(3) of the draft, of deliberations taking place, provided that the parties agree, with a Judge who has not participated in the hearing, without the oral proceedings being reopened, in the event of the absence or inability to act of a Judge who was present at that hearing.

As the Court has done, the Tribunal has omitted some provisions in Article 27 of its Rules of Procedure because they have become obsolete. They are the following provisions in Article 27(4) of the Rules of Procedure:

- *'Any Judge may require that any question be formulated in the language of his choice and communicated in writing to the other Judges before being put to the vote',*
- *'Votes shall be cast in reverse order to the order of precedence laid down pursuant to Article 5',*
- *'Differences of view on the substance, wording or order of questions, or on the interpretation of a vote, shall be settled by decision of the Tribunal'.*

Lastly, it should be recalled that Article 27(6) of the Tribunal's Rules of Procedure will from now on constitute Article 19(2) of the draft.

TITLE 2
PROCEDURAL PROVISIONS

Title 2 is concerned with procedural provisions. In this title, Chapter 1 groups together, as the Court did in its 'Common procedural provisions', provisions of general application relating, inter alia, to agents, advisers and lawyers acting before the Tribunal, time-limits, the staying of proceedings, joinder, confidentiality and anonymity. Chapter 2 concerns the ordinary procedure and describes the two parts of the procedure, written and oral. Chapter 3 is concerned with measures of organisation of procedure and measures of inquiry. Chapter 4 groups together procedures which may be designated preliminary objections and issues, namely the declining of jurisdiction, the treatment of actions manifestly bound to fail, absolute bars to proceeding with a case, applications for a decision not going to the merits of the case, discontinuance and cases where there is no need to adjudicate. Chapter 5 deals with intervention. Chapter 6 is concerned with the amicable settlement of disputes. Chapter 7 relates to judgments and orders. Chapter 8 concerns costs and Chapter 9 concerns legal aid. Chapter 10 describes two special forms of procedure, that relating to suspension of operation or enforcement and that relating to judgments by default. Chapter 11, lastly, describes the requests and applications to which the Tribunal's judgments and orders may be subject.

Chapter 1
GENERAL PROVISIONS

Section 1 – Agents, advisers and lawyers

Article 31 Status of agent, adviser or lawyer

1. Pursuant to the first paragraph of Article 19 of the Statute, the agents, advisers or lawyers acting on behalf of a Member State or an institution are required to furnish proof of their status by lodging at the Registry an official document or an authority to act issued by the party whom they are representing or assisting.

2. Pursuant to the first, third and fourth paragraphs of Article 19 of the Statute, lawyers are required to furnish proof of their status by lodging at the Registry a certificate that they are authorised to practise before a court of a Member State or of another State which is a party to the Agreement on the European Economic Area.

Current text	***Text of the Court's Rules of Procedure***
Article 35 Application *…*	*Article 119 Obligation to be represented* *1. A party may be represented only by his agent*

5. The applicant's lawyer must lodge at the Registry a certificate that he is authorised to practise before a court of a Member State or of another State party to the Agreement on the European Economic Area. *Article 39 Defence* *...* *The lawyer acting for the defendant must lodge at the Registry a certificate that he is authorised to practise before a court of a Member State or of another State party to the Agreement on the European Economic Area.* *...*	*or lawyer.* *2. Agents and lawyers must lodge at the Registry an official document or an authority to act issued by the party whom they represent.* *3. The lawyer acting for a party must also lodge at the Registry a certificate that he is authorised to practise before a court of a Member State or of another State which is a party to the EEA Agreement.* *4. If those documents are not lodged, the Registrar shall prescribe a reasonable time-limit within which the party concerned is to produce them. If the applicant fails to produce the required documents within the time-limit prescribed, the Court shall, after hearing the Judge-Rapporteur and the Advocate General, decide whether the non-compliance with that procedural requirement renders the application or written pleading formally inadmissible.*

The draft article determines the documents required so that the agents, advisers and laywers can represent or assist the party for whom they act, in accordance with Article 19 of the Statute. Having regard to the types of cases the Tribunal deals with, the lawyers who appear before it are lawyers authorised to plead before the courts of a Member State. Although unlikely, it is nevertheless provided, as in Article 35(5) and in the third subparagraph of Article 39(1) of the Rules of Procedure currently in force, that an applicant can use a lawyer authorised to plead before a court of a State which is a party to the Agreement on the European Economic Area, the provisions of which the Tribunal must comply with. Paragraph 2 refers to that possibility. It must be noted, moreover, that the issue of the production of those documents where they were not previously lodged, referred to in Article 119(4) of the Court's Rules of Procedure, is addressed in the provisions relating to the application, the defence and the application to intervene.

Article 32 Privileges, immunities and facilities

1. Agents, advisers and lawyers who appear before the Tribunal or before any judicial authority to which it has addressed letters rogatory shall enjoy immunity in respect of words spoken or written by them concerning the case or the parties.

2. Agents, advisers and lawyers shall also enjoy the following privileges and facilities:

(a) all papers and documents relating to the proceedings shall be exempt from both search and seizure. In the event of a dispute, the customs officials or police may seal those papers and documents; they shall then be immediately forwarded to the Tribunal for inspection in the presence of the Registrar and of the person concerned;

(b) agents, advisers and lawyers shall be entitled to travel in the course of their duty without hindrance.

3. Agents, advisers and lawyers shall be entitled to the privileges, immunities and facilities specified in paragraphs 1 and 2, provided they observe beforehand the formalities set out in Article 31. The Registrar of the Tribunal shall issue them with a certificate, as required. The validity of this certificate shall be limited to a specified period, which may be extended or curtailed according to the length of the proceedings.

Current text	***Text of the Court's Rules of Procedure***
Article 30 Privileges, immunities and facilities	*Article 43 Privileges, immunities and facilities*
1. The parties' representatives, appearing before the Tribunal or before any judicial authority to which it has addressed letters rogatory, shall enjoy immunity in respect of words spoken or written by them concerning the case or the parties.	*1. Agents, advisers and lawyers who appear before the Court or before any judicial authority to which the Court has addressed letters rogatory shall enjoy immunity in respect of words spoken or written by them concerning the case or the parties.*
2. The parties' representatives shall enjoy the following further privileges and facilities:	*2. Agents, advisers and lawyers shall also enjoy the following privileges and facilities:*
(a) papers and documents relating to the proceedings shall be exempt from both search and seizure; in the event of a dispute the customs officials or police may seal those papers and documents; they shall then be immediately forwarded to the Tribunal for inspection in the presence of the Registrar and of the person concerned;	*(a) any papers and documents relating to the proceedings shall be exempt from both search and seizure. In the event of a dispute, the customs officials or police may seal those papers and documents; they shall then be immediately forwarded to the Court for inspection in the presence of the Registrar and of the person concerned;*
(b) the parties' representatives shall be entitled to such allocation of foreign currency as may be necessary for the performance of their duties;	*(b) agents, advisers and lawyers shall be entitled to travel in the course of duty without hindrance.*
(c) the parties' representatives shall be entitled to travel in the course of duty without hindrance.	
3. The privileges, immunities and facilities specified in paragraphs 1 and 2 are granted exclusively in the interests of the proper conduct	*Article 44 Status of the parties' representatives* *1. In order to qualify for the privileges, immunities and facilities specified in Article 43, persons entitled to them shall furnish proof of*

of proceedings. *4. The Tribunal may waive the immunity where it considers that the proper conduct of proceedings will not be hindered thereby.* *Article 31 Status of the parties' representatives* *In order to qualify for the privileges, immunities and facilities specified in Article 30, persons entitled to them shall furnish proof of their status as follows:* *(a) agents shall produce an official document issued by the party for whom they act and shall forward without delay a copy thereof to the Registrar;* *(b) advisers and lawyers shall produce a certificate signed by the Registrar. The validity of this certificate shall be limited to a specified period, which may be extended or curtailed according to the length of the proceedings.*	*their status as follows:* *(a) agents shall produce an official document issued by the party for whom they act, who shall immediately serve a copy thereof on the Registrar;* *(b) lawyers shall produce a certificate that they are authorised to practise before a court of a Member State or of another State which is a party to the EEA Agreement, and, where the party which they represent is a legal person governed by private law, an authority to act issued by that person;* *(c) advisers shall produce an authority to act issued by the party whom they are assisting.* *2. The Registrar of the Court shall issue them with a certificate, as required. The validity of this certificate shall be limited to a specified period, which may be extended or curtailed according to the length of the proceedings.*

Like the Court, and in accordance with Article 19 of the Statute, the draft distinguishes agents, advisers and lawyers and no longer refers only to the parties' 'representatives', since lawyers may, depending on the case, both represent the parties and assist them. Furthermore, as in the case of the Court, Article 30(2)(b) of the Tribunal's current Rules of Procedure has been removed as an anachronism. Paragraph 3 of the draft seeks, moreover, to align the conditions for the grant of the privileges with the formalities required in order for the agents, advisers and lawyers to be allowed to act before the Tribunal. The privileges, immunities and facilities in question are granted exclusively in the interests of the proper conduct of proceedings. Lastly, as the Court has done in respect of its own provisions, Article 30(3) and (4) of the current Rules of Procedure are recast in a specific article.

Article 33 Waiver of immunity

1. The privileges, immunities and facilities specified in Article 32 are granted exclusively in the interests of the proper conduct of proceedings.

2. The Tribunal may waive immunity where it considers that the proper conduct of proceedings will not be hindered thereby.

The Tribunal shall decide after hearing the agent, adviser or lawyer concerned.

Current text	***Text of the Court's Rules of Procedure***
Article 30 Privileges, immunities and facilities *...* *3. The privileges, immunities and facilities specified in paragraphs 1 and 2 are granted exclusively in the interests of the proper conduct of proceedings.* *4. The Tribunal may waive the immunity where it considers that the proper conduct of proceedings will not be hindered thereby.*	*Article 45 Waiver of immunity* *1. The privileges, immunities and facilities specified in Article 43 of these Rules are granted exclusively in the interests of the proper conduct of proceedings.* *2. The Court may waive immunity where it considers that the proper conduct of proceedings will not be hindered thereby.*

This article corresponds to Article 30(3) and (4) of the Tribunal's current Rules of Procedure. It is nevertheless stated that the Tribunal cannot waive immunity until it has allowed the agent, adviser or lawyer called in question to submit his observations.

Article 34 Exclusion from the proceedings

1. If the Tribunal considers that the conduct of an agent, adviser or lawyer before the Tribunal is incompatible with the dignity of the Tribunal or with the requirements of the proper administration of justice, or that such agent, adviser or lawyer is using his rights for purposes other than those for which they were granted, it shall inform the person concerned. The President of the Tribunal 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.

2. On the same grounds, the Tribunal may at any time, having heard the person concerned, decide to exclude an agent, adviser or lawyer from the proceedings by reasoned order. That order shall have immediate effect.

3. Where an agent, adviser or lawyer is excluded from the proceedings, the proceedings shall be suspended for a period fixed by the President in order to allow the party concerned to appoint another agent, adviser or lawyer.

4. Decisions taken under this Article may be rescinded.

Current text	***Text of the Court's Rules of Procedure***
Article 32 Exclusion from the proceedings *1. If the Tribunal considers that the conduct of a party's representative towards the Tribunal, the President, a Judge or the Registrar is incompatible with the dignity of the Tribunal or with the requirements of the proper administration of justice, or that such representative uses his rights for purposes other than those for which they were granted, it shall so inform the person concerned. The Tribunal 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 Tribunal may at any time, having heard the person concerned, exclude that person from the proceedings by order. That order shall have immediate effect.* *2. Where a party's representative is excluded from the proceedings, the proceedings shall be suspended for a period fixed by the President in order to allow the party concerned to appoint another representative.* *3. Decisions taken under this Article may be rescinded.*	*Article 46 Exclusion from the proceedings* *1. If the Court considers that the conduct of an agent, adviser or lawyer before the Court is incompatible with the dignity of the Court or with the requirements of the proper administration of justice, or that such agent, adviser or lawyer is using his rights for purposes other than those for which they were granted, it shall inform the person concerned. If the Court informs 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.* *2. On the same grounds, the Court may at any time, having heard the person concerned and the Advocate General, decide to exclude an agent, adviser or lawyer from the proceedings by reasoned order. That order shall have immediate effect.* *3. Where an agent, adviser or lawyer is excluded from the proceedings, the proceedings shall be suspended for a period fixed by the President in order to allow the party concerned to appoint another agent, adviser or lawyer.* *4. Decisions taken under this Article may be rescinded.*

Article 32(1) of the current Rules of Procedure is simplified in the sense that the 'conduct of an agent, adviser or lawyer before the Tribunal' refers to reprehensible conduct before any component part of the Tribunal. In addition, it must be noted that, in terms of the 'proper administration of justice', that conduct may in particular consist in acting in bad faith or in disrupting the efficient conduct of the procedure.

Article 35 University teachers

The provisions of this Section shall apply to university teachers who have a right of audience before the Tribunal in accordance with Article 19 of the Statute.

Current text	***Text of the Court's Rules of Procedure***
No equivalent	*Article 47 University teachers and parties to the main proceedings* *1. The provisions of this Chapter shall apply to university teachers who have a right of audience before the Court in accordance with Article 19 of the Statute.* *2. They shall also apply, in the context of references for a preliminary ruling, to the parties to the main proceedings where, in accordance with the national rules of procedure applicable, those parties are permitted to bring or defend court proceedings without being represented by a lawyer, and to persons authorised under those rules to represent them.*

This article corresponds to Article 47(1) of the Court's Rules of Procedure, the insertion of which into the Tribunal's Rules of Procedure is rendered necessary by the use, in the preceding articles, of the terms 'agents, advisers and lawyers' instead of the parties' 'representatives'.

Section 2 – Service of documents

Article 36 Service of documents

1. Where these Rules require that a document be served on a person, the Registrar shall ensure that service is effected at that person's address for service either by dispatch by registered post with a form for acknowledgement of receipt or by personal delivery against a receipt. The Registrar shall prepare and certify the copies of documents to be served, save where the parties themselves supply the copies in accordance with the second subparagraph of Article 45(2).

2. Where the addressee has agreed that service is to be effected on him by telefax, any procedural document, including a judgment or order of the Tribunal, shall be served by the transmission of a copy of the document by such means.

3. Where, for technical reasons or on account of the nature or length of the document, such transmission is impossible or impracticable, the document shall be served, if the addressee has not specified an address for service, at his address in accordance with the procedures laid down in paragraph 1 of this Article. The addressee shall be so informed by telefax. Service shall then be deemed to have been effected on the addressee by registered post on the 10th day following the lodging of the registered letter at the post office of the place in which the Tribunal has its seat, unless it is shown by the acknowledgement of receipt that the letter was received on a different date or the addressee informs the Registrar, within three weeks of being informed by telefax, that the document to be served has not reached him.

4. The Tribunal may, by decision, determine the criteria for a procedural document to be served by electronic means. That decision shall be published in the *Official Journal of the European Union.*

Current text	***Text of the Court's Rules of Procedure***
Article 99 Service *1. Where these Rules require a document to be served on a person, the Registrar shall ensure that service is effected:* *- where the addressee has an address for service in the place where the Tribunal has its seat, by the dispatch of a copy of the document by registered post with a form for acknowledgement of receipt or by personal delivery of the copy against a receipt, or* *- where, in accordance with Article 35(3) or the second subparagraph of Article 39(1), the addressee has agreed that service is to be effected on him by a technical means of communication available to the Tribunal, by such means.* *The Registrar shall prepare and certify the copies of documents to be served, save where the parties themselves supply the copies in accordance with the second subparagraph of Article 34(1).* *2. Where technical reasons connected with, in*	*Article 48 Methods of service* *1. Where these Rules require that a document be served on a person, the Registrar shall ensure that service is effected at that person's address for service either by the dispatch of a copy of the document by registered post with a form for acknowledgement of receipt or by personal delivery of the copy against a receipt. The Registrar shall prepare and certify the copies of documents to be served, save where the parties themselves supply the copies in accordance with Article 57(2) of these Rules.* *2. Where the addressee has agreed that service is to be effected on him by telefax or any other technical means of communication, any procedural document, including a judgment or order of the Court, may be served by the transmission of a copy of the document by such means.* *3. Where, for technical reasons or on account of the nature or length of the document, such transmission is impossible or impracticable, the document shall be served, if the addressee has*

particular, the length of the document so require, the document shall be served, if the addressee has failed to state an address for service, at his address in accordance with the procedures laid down in the first indent of paragraph 1. The addressee shall be so advised by telefax or other technical means of communication available to the Tribunal. Service shall then be deemed to have been effected on the addressee by registered post on the 10th day following the lodging of the registered letter at the post office of the place where the Tribunal has its seat, unless it is shown by the acknowledgement of receipt that the letter was received on a different date or the addressee informs the Registrar, within three weeks of being advised by telefax or another technical means of communication, that the document to be served has not reached him. *3. The Tribunal may by decision determine the criteria for a procedural document to be served by electronic means. That decision shall be published in the* Official Journal of the European Union*.*	*not specified an address for service, at his address in accordance with the procedures laid down in paragraph 1 of this Article. The addressee shall be so informed by telefax or any other technical means of communication. Service shall then be deemed to have been effected on the addressee by registered post on the 10th day following the lodging of the registered letter at the post office of the place in which the Court has its seat, unless it is shown by the acknowledgement of receipt that the letter was received on a different date or the addressee informs the Registrar, within three weeks of being informed by telefax or any other technical means of communication, that the document to be served has not reached him.* *4. The Court may, by decision, determine the criteria for a procedural document to be served by electronic means. That decision shall be published in the* Official Journal of the European Union*.*

The draft article in essence aligns Article 99 of the Tribunal's Rules of Procedure with Article 48 of the Court's Rules of Procedure.

However, the draft does not reproduce, in paragraphs 2 and 3, the possibility of effecting service by any 'other technical means of communication available to the Tribunal'. That wording refers to ordinary e-mail. That method of service poses problems because it does not provide any proof that service has been successfully accomplished, without recourse to mutual confirmation of the receipt of e-mails, which, in the past, has complicated the Registry's handling of this type of message. Admittedly, the Court's Rules of Procedure allow use of email. Nevertheless, this choice can be explained, in the Court's case, by the existence of the urgent preliminary reference procedure, where speed is of the essence, and by the fact that not all the Member States have subscribed to e-Curia, to which paragraph 4 of the draft article relates.

Articles 45(2) and 50(3) of the draft are adapted as a result.

Section 3 – Time-limits

Article 37 Calculation of time-limits

1. Any procedural time-limit prescribed by the Treaties, the Statute, the Staff Regulations or these Rules shall be calculated as follows:

(a) where a time-limit expressed in days, weeks, months or years is to be calculated from the moment at which an event occurs or an action takes place, the day during which that event occurs or that action takes place shall not be counted as falling within the time-limit in question;

(b) a time-limit expressed in weeks, months or years shall end with the expiry of whichever day in the last week, month or year is the same day of the week, or falls on the same date, as the day during which the event or action from which the time-limit is to be calculated occurred or took place. If, in a time-limit expressed in months or years, the day on which it should expire does not occur in the last month, the time-limit shall end with the expiry of the last day of that month;

(c) where a time-limit is expressed in months and days, it shall first be calculated in whole months, then in days;

(d) time-limits shall include Saturdays, Sundays and the official holidays referred to in Article 25(2);

(e) time-limits shall not be suspended during the judicial vacations.

2. If the time-limit, extended in accordance with Article 38, would otherwise end on a Saturday, Sunday or an official holiday, it shall be extended until the end of the first subsequent working day.

Current text	***Text of the Court's Rules of Procedure***
Article 100 Reckoning of time-limits – Single period of extension on account of distance *1. Any period of time prescribed by the Treaties, the Statute or these Rules for the taking of any procedural step shall be reckoned as follows:* *(a) Where a period expressed in days, weeks, months or years is to be calculated from the moment at which an event occurs or an action takes place, the day during which that event occurs or that action takes place shall not be counted as falling within the period in question;* *(b) A period expressed in weeks, months or years shall end with the expiry of whichever day in the last week, month or year is the same day of the week, or falls on the same date, as the day during which the event or action from which the period*	*Article 49 Calculation of time-limits* *1. Any procedural time-limit prescribed by the Treaties, the Statute or these Rules shall be calculated as follows:* *(a) where a time-limit expressed in days, weeks, months or years is to be calculated from the moment at which an event occurs or an action takes place, the day during which that event occurs or that action takes place shall not be counted as falling within the time-limit in question;* *(b) a time-limit expressed in weeks, months or years shall end with the expiry of whichever day in the last week, month or year is the same day of the week, or falls on the same date, as the day during which the event or action from which*

is to be calculated occurred or took place. If, in a period expressed in months or in years, the day on which it should expire does not occur in the last month, the period shall end with the expiry of the last day of that month; *(c) Where a period is expressed in months and days, it shall first be reckoned in whole months, then in days;* *(d) Periods shall include official holidays, Sundays and Saturdays;* *(e) Periods shall not be suspended during the judicial vacations.* *2. If the period would otherwise end on a Saturday, Sunday or official holiday, it shall be extended until the end of the first following working day.* *The list of official holidays drawn up by the Court of Justice and published in the* Official Journal of the European Union *shall apply to the Tribunal.* *3. The prescribed time-limits shall be extended on account of distance by a single period of 10 days.*	*the time-limit is to be calculated occurred or took place. If, in a time-limit expressed in months or years, the day on which it should expire does not occur in the last month, the time-limit shall end with the expiry of the last day of that month;* *(c) where a time-limit is expressed in months and days, it shall first be calculated in whole months, then in days;* *(d) time-limits shall include Saturdays, Sundays and the official holidays referred to in Article 24(6) of these Rules;* *(e) time-limits shall not be suspended during the judicial vacations.* *2. If the time-limit would otherwise end on a Saturday, Sunday or an official holiday, it shall be extended until the end of the first subsequent working day.*

This article in essence reproduces the content of Article 100 of the current Rules of Procedure. In paragraph 1, the words 'the Staff Regulations' have been added to fill a lacuna. Furthermore, it is not clear from the current text of Article 100 that the extension of the time-limit to the first subsequent working day (the first subparagraph of paragraph 2 of the current Rules) does not apply to the procedural time-limit as such, but to the procedural time-limit extended on account of distance (paragraph 3 of the current Rules). Thus, it is stated in Article 37(2) of the draft that that extension operates with regard to the time-limit 'extended in accordance with Article 38', which now fixes the extension on account of distance. Lastly, attention is drawn to the fact that the second subparagraph of Article 100(2) of the Tribunal's current Rules of Procedure has been moved up to Article 25, relating to the calendar of the Tribunal's judicial business.

Article 38 Extension on account of distance

The procedural time-limits prescribed for the lodging of the application, the application to intervene and the pleadings shall be extended on account of distance by a single period of 10 days.

Current text	***Text of the Court's Rules of Procedure***
Article 100 Reckoning of time-limits – Single period of extension on account of distance *...* *3. The prescribed time-limits shall be extended on account of distance by a single period of 10 days.*	*Article 51 Extension on account of distance* *The procedural time-limits shall be extended on account of distance by a single period of 10 days.*

As in the case of the Court, the extension on account of distance is now set out in a specific article. It is stated that the time-limits which are extended by this single period are those 'prescribed for the lodging of the application, the application to intervene and the pleadings' so as to explain that, in accordance with practice, the extension on account of distance does not apply to the time-limits freely decided on by the Tribunal in respect of the lodging of various observations concerning, for example, the possible joinder of cases, a stay in the proceedings, discontinuance of proceedings or the reply to measures of organisation of procedure.

Article 39 Setting and extension of time-limits

1. Dates or time-limits by which procedural documents must be lodged which are not fixed by the Staff Regulations or by these Rules shall be prescribed by the President. They may also be extended by him.

By way of derogation from the first subparagraph, the dates or time-limits by which replies to measures of organisation of procedure prescribed by the Judge-Rapporteur under Article 69(2) must be lodged shall be fixed and, if appropriate, extended by the Judge-Rapporteur.

2. The President, or the Judge-Rapporteur in the case referred to in the second subparagraph of paragraph 1, may delegate power to the Registrar for the purpose of fixing or extending certain time-limits which, pursuant to these Rules, it falls to the President or Judge-Rapporteur to prescribe or extend.

3. The Tribunal shall decide whether the failure to observe dates or time-limits which are not fixed by the Staff Regulations or by these Rules renders the procedural document or reply at issue inadmissible.

The preceding subparagraph shall apply to the failure to observe the time-limit prescribed in the first subparagraph of Article 88(3) for the lodging of the statement in intervention.

Current text	***Text of the Court's Rules of Procedure***
Article 33 General provisions	*Article 52 Setting and extension of time-limits*

... *2. The President shall fix the dates or time-limits by which the pleadings must be lodged.* *Article 101 Extension – Delegation of power of signature* *1. Any time-limit prescribed pursuant to these Rules may be extended by whoever prescribed it.* *2. The President may delegate power of signature to the Registrar for the purpose of fixing certain time-limits which, pursuant to these Rules, it falls to the President to prescribe, or of extending such time-limits.*	*1. Any time-limit prescribed by the Court pursuant to these Rules may be extended.* *2. The President and the Presidents of Chambers may delegate to the Registrar power of signature for the purposes of setting certain time-limits which, pursuant to these Rules, it falls to them to prescribe, or of extending such time-limits.*

The draft article groups together Article 33(2) and Article 101 of the current Rules of Procedure.

The current Article 33(2) is rewritten in Article 39(1) of the draft, in order to draw attention to the distinction to be made between the time-limits fixed automatically by legislation (for example, the time-limit for bringing an action) and those which it is for the President of the formation of the court or the Judge-Rapporteur to prescribe. The latter time-limits can also be extended if need be. It is necessary, moreover, not to lose sight of the fact that the time-limit for the lodging of the defence is directly fixed by the Rules of Procedure, but that that time-limit may also be extended (Article 39 of the current Rules of Procedure, now Article 53 of the draft). Likewise, it must now be observed that, as in the Court's Rules of Procedure, Article 88 of the draft also fixes the time-limit within which interveners may lodge their statement in intervention, and that that time-limit may also be extended under that article.

In addition, the words 'of signature' in the current Article 101(2) have been omitted from the draft Article 39(2) since, in practice, the delegation of power confers on the Registrar the power to fix the time-limits and not only that of signing the letter informing the parties that that has been done.

In the light of experience, it has also been shown necessary to state, in Article 39(3) of the draft, that failure to observe the time-limits fixed by the Tribunal is liable to render the document in question inadmissible. This will be a matter for the Tribunal to decide, taking into consideration all the circumstances of the case. In this respect, the onus will be on the Tribunal, inter alia, to take account, on the one hand, of the impact of the delay on the conduct of the proceedings, on the rights of the defence and on equality of arms between the parties and, on the other, of the importance for the outcome of the case of the information provided after the expiry of the time-limit. In practice, a document held inadmissible will not be entered in the register and will be sent back to its sender. It will therefore not be taken into account.

It must further be noted, in this connection, that paragraph 3 of the draft is not applicable to the defence. The time-limit for lodging that pleading is fixed by the Rules of Procedure, as stated above, and the consequences of lodging that document out of time are described in Article 121 of the draft, relating to judgments by default. Lastly, paragraph 3 must also provide for the situation in which a statement in intervention is lodged out of time, since the first subparagraph of Article 88(3) of the draft fixes the time-limit for lodging that statement.

Section 4 – Procedures for dealing with cases

In the same way as the Court has inserted into the common procedural provisions of its Rules a Chapter 4 relating to the different procedures for dealing with cases, it is envisaged that a comparable section will be inserted into the 'General Provisions' chapter of the Tribunal's Rules of Procedure. That section lists the different ways in which a case may be dealt with, and contains articles on the order in which cases are to be dealt with, on the staying of proceedings, which, ultimately, allows a derogation from that order, and on joinder.

Article 40 Procedures for dealing with cases

1. Without prejudice to the special provisions laid down in the Statute or in these Rules, the procedure before the Tribunal shall consist of a written part and an oral part.

2. By way of derogation from paragraph 1, a case may be dealt with under one of the procedures referred to in Chapter 4 of this title. The Tribunal may also, at any time, attempt to facilitate the amicable settlement of the dispute.

Current text	***Text of the Court's Rules of Procedure***
No corresponding article	*Article 53 Procedures for dealing with cases* *1. Without prejudice to the special provisions laid down in the Statute or in these Rules, the procedure before the Court shall consist of a written part and an oral part.* *2. Where it is clear that the Court has no jurisdiction to hear and determine a case or where a request or an application is manifestly inadmissible, the Court may, after hearing the Advocate General, at any time decide to give a decision by reasoned order without taking further steps in the proceedings.* *3. The President may in special circumstances*

	decide that a case be given priority over others. *4. A case may be dealt with under an expedited procedure in accordance with the conditions provided by these Rules.* *5. A reference for a preliminary ruling may be dealt with under an urgent procedure in accordance with the conditions provided by these Rules.*

The draft article presents the three main options open to the Tribunal for dealing with the cases submitted to it. Paragraph 1 lists the two parts of the normal procedure. It should be noted that the oral part of the procedure does not take place automatically in so far as the Tribunal can decide, with the agreement of the parties, to proceed to judgment without an oral part where there has been a second exchange of written pleadings (Article 7(3) of Annex I to the Statute).

Article 41 Order in which cases are to be dealt with

1. The Tribunal shall deal with the cases before it in the order in which they become ready for examination.

2. The President may in special circumstances, after hearing the parties, direct that a particular case be given priority, in particular where that case may be treated as a test case among a group of cases raising, in a similar factual context, one or more identical questions of law.

The President shall if necessary refer the matter to the President of the Tribunal.

3. The President may, after hearing the parties, in special circumstances, in particular with a view to facilitating an amicable settlement of the dispute, either on his own initiative or at the request of one of the parties, defer a case to be dealt with later.

Current text	***Text of the Court's Rules of Procedure***
Article 47 Order in which cases are to be dealt with *1. The Tribunal shall deal with the cases before it in the order in which they become ready for examination.* *2. The President may in special circumstances*	*Article 56 Deferment of the determination of a case* *After hearing the Judge-Rapporteur, the Advocate General and the parties, the President may in special circumstances, either of his own motion or at the request of one of the parties,*

direct that a particular case be given priority. *3. The President may, after hearing the parties, in special circumstances, in particular with a view to facilitating an amicable settlement of the dispute, either on his own initiative or at the request of one of the parties, defer a case to be dealt with later.*	*defer a case to be dealt with at a later date.*

The draft article corresponds to Article 47 of the Tribunal's Rules of Procedure. Nevertheless, it should be stated that the 'special circumstances' referred to in paragraph 2 cover in particular the situation where there is a 'test' case, whose outcome is significant for a number of other similar cases.

Both the parties in the 'test' case and those in the cases which will be stayed pending the delivery of the judgment in the 'test' case (see Article 42(1)(c) and Article 42(2) of the draft) will be consulted beforehand.

Lastly, it is specified that the President of the Chamber will, if necessary, refer the question of the choice of the case to be given priority to the President of the Tribunal in order to take account, inter alia, of situations in which cases comprising a series have been allocated to more than one chamber.

Article 42 Conditions and procedure for staying of proceedings

1. Without prejudice to Articles 125(5), 126(4) and 127(6), proceedings may be stayed:

(a) where the Tribunal and either the General Court or the Court of Justice are seised of cases in which the same issue of interpretation is raised or the validity of the same act is called in question;

(b) where an appeal is brought before the General Court against a decision of the Tribunal disposing of the substantive issues in part only, disposing of a procedural issue concerning a plea of lack of competence or inadmissibility or dismissing an application to intervene;

(c) where the Tribunal is seised of cases raising, in a similar factual context, one or more identical questions of law and one or more of those cases may be treated as test cases;

(d) at the request of the parties or of one of them;

(e) in other particular cases where the proper administration of justice so requires.

2. The President shall decide, after hearing the parties. He may refer the matter to the Tribunal. In the event of an objection, a decision on the staying of proceedings shall be made by reasoned order.

3. Any decision ordering the resumption of proceedings before the end of the stay or as referred to in Article 43(3) shall be adopted in accordance with the same procedure.

Current text	***Text of the Court's Rules of Procedure***
Article 71 Conditions and procedure for staying of proceedings *1. Without prejudice to Articles 117(4), 118(4) and 119(4), proceedings may be stayed:* *(a) where the Tribunal and either the General Court or the Court of Justice are seised of cases in which the same issue of interpretation is raised or the validity of the same act is called in question, until the judgment of the General Court or the Court of Justice has been delivered;* *(b) where an appeal is brought before the General Court against a decision of the Tribunal disposing of the substantive issues in part only, disposing of a procedural issue concerning a plea of lack of competence or inadmissibility or dismissing an application to intervene;* *(c) at the joint request of the parties;* *(d) in other particular cases where the proper administration of justice so requires.* *2. The decision to stay the proceedings shall be made by reasoned order of the President after hearing the parties; the President may refer the matter to the Tribunal.* *3. Any decision ordering the resumption of proceedings before the end of the stay or as referred to in Article 72(2) shall be adopted in accordance with the same procedure.*	*Article 55 Stay of proceedings* *1. The proceedings may be stayed:* *(a) in the circumstances specified in the third paragraph of Article 54 of the Statute, by order of the Court, made after hearing the Advocate General;* *(b) in all other cases, by decision of the President adopted after hearing the Judge-Rapporteur and the Advocate General and, save in the case of references for a preliminary ruling, the parties.* *2. The proceedings may be resumed by order or decision, following the same procedure.* *3. The orders or decisions referred to in paragraphs 1 and 2 shall be served on the parties or interested persons referred to in Article 23 of the Statute.* *...*

The provisions on the staying of the proceedings are inserted into the general provisions after the article concerning the order in which cases are to be dealt with, since such a stay of proceedings results in a derogation from that order.

Article 71(1)(a) of the current Rules of Procedure states that, where the Court of Justice or the General Court is seised of a case in which the same problem is raised as in an action pending before the Tribunal, a stay of the proceedings is possible only until the judgment of those courts has been delivered. It thereby derogates from

the current Article 72(2) which leaves a wide margin of discretion to the Tribunal to fix the end of the stay of proceedings or even not to fix any end at all. In the situation referred to in Article 71(1)(a), it is therefore not possible to provide that the stay of proceedings will apply until the decision of the General Court has become definitive. In the event of an appeal before the Court of Justice against a first instance decision by the General Court (in the situation, for example, of a parallel action brought by a staff union before the General Court) or in the event of review, the Tribunal must then reinitiate the procedure for staying the proceedings. Likewise, where the judgment of the General Court or the Court of Justice calls for implementing measures by the administration for which a certain period of time is necessary and which determine whether proceedings will be continued before the Tribunal, the Tribunal must also reinitiate the procedure for staying the proceedings. Article 71(1)(a) has been simplified for those reasons.

A new point (c) has been inserted in order to deal expressly with the relatively common situation in which the Tribunal stays the examination of cases in order to give priority to a test case. That concept, which is well known, is moreover borrowed from the Rules of Court of the European Court of Human Rights ('the ECHR'). Point (a) also allows cases before the Tribunal to be stayed pending a judgment of the Court of Justice or General Court on a case also operating as a test case.

Article 71(1)(c) (now (d)) has also been amended to take account of the relatively common situation in which a single party requests a stay of proceedings.

Lastly, Article 71(2) has been clarified in order to state that the parties are to be heard before a ruling on a request for a stay of proceedings and not, as is implied by the current Article 71(2), only before 'the decision to stay the proceedings' is made. Furthermore, in the interests of rationalising the procedure, use of a reasoned order is limited to the situation where consultation of the parties results in an objection as regards the possibility of staying the proceedings. Where there is no objection, the stay will be decided on by a simple decision, of which the parties will be informed by the Registry.

Article 43 Duration and effects of a stay of proceedings

1. The stay of proceedings shall take effect on the date indicated in the decision or order of stay or, in the absence of such indication, on the date of that decision or that order.

2. While proceedings are stayed time shall cease to run for the purposes of procedural time-limits, except for the time-limit prescribed in Article 86(1) for an application to intervene.

3. Where the decision or order of stay does not fix the length of stay, it shall end on the date indicated in the decision or order of resumption or, in the absence of such indication, on the date of the decision or order of resumption.

4. From the date of resumption of proceedings following a stay, the suspended procedural time-limits shall be replaced by new time-limits and time shall begin to run from the date of that resumption.

Current text	***Text of the Court's Rules of Procedure***
Article 72 Duration and effects of a stay of proceedings *1. The stay of proceedings shall take effect on the date indicated in the order of stay or, in the absence of such an indication, on the date of that order.* *2. Where the order of stay does not fix the length of the stay, it shall end on the date indicated in the order of resumption or, in the absence of such indication, on the date of the order of resumption.* *3. While proceedings are stayed time shall, except for the purposes of the time-limit prescribed in Article 109(1) for an application to intervene, cease to run for the purposes of procedural time-limits.* *Time shall begin to run afresh from the beginning for the purposes of the time-limits from the date on which the stay of proceedings comes to an end.*	*Article 55 Stay of proceedings* *...* *4. The stay of proceedings shall take effect on the date indicated in the order or decision of stay or, in the absence of such indication, on the date of that order or decision.* *5. While proceedings are stayed time shall cease to run for the parties or interested persons referred to in Article 23 of the Statute for the purposes of procedural time-limits.* *6. Where the order or decision of stay does not fix the length of stay, it shall end on the date indicated in the order or decision of resumption or, in the absence of such indication, on the date of the order or decision of resumption.* *7. From the date of resumption of proceedings following a stay, the suspended procedural time-limits shall be replaced by new time-limits and time shall begin to run from the date of that resumption.*

The draft article corresponds to Article 72 of the Tribunal's Rules of Procedure. However, it must be observed that, in the interests of clarification and protection of the rights of the parties, the Tribunal has essentially followed the wording used in Article 55(7) of the Court's Rules of Procedure.

The draft article is also in line with the amendment made to Article 42 in order to allow the proceedings to be stayed by simple decision.

Article 44 Joinder, disjoinder and separation of cases

1. Two or more cases may be joined, on account of the connection between them, for the purposes of the written or oral part of the procedure or of the decision which closes the proceedings.

A decision on whether cases should be joined shall be taken at any time by the President, after hearing the parties. In the event of an objection, that decision shall take the form of a reasoned order. The President may refer that matter to the Tribunal.

2. In accordance with the provisions of the second subparagraph of paragraph 1, the President may disjoin previously joined cases or separate the case of one or more applicants who, together with others, have brought a group action.

3. The representatives of the parties to the joined cases may examine at the Registry the procedural documents served on the parties in the other cases concerned. The President may, however, on application by a party, without prejudice to Article 47(1) to (3), exclude secret or confidential documents from that examination.

Current text	***Text of the Court's Rules of Procedure***
Article 46 Connection – Joinder *1. In the interests of the proper administration of justice, the President may, at any time, after hearing the parties, order that two or more cases shall, on account of the connection between them, be joined for the purposes of the written or oral procedure or of the final decision. The cases may subsequently be disjoined. The President may refer these matters to the Tribunal.* *2. Where cases assigned to different formations of the court are to be joined on account of the connection between them, the President of the Tribunal shall decide on their re-assignment.* *3. The representatives of the parties to the joined cases 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 44(1) and (2), exclude secret or confidential documents from that examination.*	*Article 54 Joinder* *1. Two or more cases of the same type concerning the same subject-matter may at any time be joined, on account of the connection between them, for the purposes of the written or oral part of the procedure or of the judgment which closes the proceedings.* *2. A decision on whether cases should be joined shall be taken by the President after hearing the Judge-Rapporteur and the Advocate General, if the cases concerned have already been assigned, and, save in the case of references for a preliminary ruling, after also hearing the parties. The President may refer the decision on this matter to the Court.* *3. Joined cases may be disjoined, in accordance with the provisions of paragraph 2.*

The draft article largely reproduces Article 46 of the current Rules of Procedure. However, it contains two innovations.

First, it is provided that joinder may be ordered by simple decision in the absence of an objection by one or more of the parties. In the situation where a party raises an objection to joinder or to access to certain items of evidence, the joinder may be decided upon only by reasoned order. That amendment has already been encountered in the provisions relating to the staying of proceedings.

Secondly, in the case of a group action, the draft article provides for the possibility of separating the action of one or more applicants, to enable it to be treated as a test case.

In addition, the amendment made to Article 12 of the Rules of Procedure by Article 13(2) of the draft renders nugatory the current Article 46(2).

Section 5 – Procedural and other documents and items of evidence

It is proposed that a section relating to procedural and other documents and items of evidence should be inserted in the general provisions. That section contains the article concerning the lodging of procedural documents (currently Article 34 of the Tribunal's Rules of Procedure), so as to render it applicable to all procedural documents and not only to those comprising the written part of the procedure. It would therefore apply automatically to observations on the measures of organisation of procedure, to statements in intervention and to observations on those statements. For the same reason, the article concerning the length of procedural documents, taken from the Court's Rules of Procedure, is also inserted in this section. Lastly this section also includes two articles relating to confidentiality and anonymity.

Article 45 Lodging of procedural documents

1. All procedural documents shall bear a date. In the calculation of procedural time-limits, only the date and time of lodging of the original at the Registry shall be taken into account.

To every procedural document there shall be annexed a file containing the items of evidence and documents relied on in support of it, together with a schedule listing them.

Where in view of the length of an item of evidence or document only extracts from it are annexed to the procedural document, the whole item of evidence or document or a full copy of it shall be lodged at the Registry.

The institutions shall in addition produce, within time-limits laid down by the Tribunal, translations of the procedural documents of which they are the author into the other languages provided for by Article 1 of Council Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community.

2. The original paper version of every procedural document must bear the handwritten signature of the party's representative.

The original, accompanied by all annexes referred to therein, shall be submitted together with five copies for the Tribunal and a copy for every other party to the proceedings. Copies shall be certified by the party lodging them.

By way of derogation from the second sentence of the first subparagraph of paragraph 1, the date on and time at which a copy of the signed original of a procedural document, including the schedule of items of evidence and documents referred to in the second subparagraph of paragraph 1 is received at the Registry by telefax shall be deemed to be the date and time of lodging for the purposes of compliance with the procedural time-limits, provided that the signed original of the procedural document, accompanied by the annexes and copies referred to in the second subparagraph of paragraph 1, is lodged at the Registry no later than 10 days after the copy of the original was received. Article 38 shall not apply to this period of 10 days.

3. The Tribunal shall, 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*.

Current text	***Text of the Court's Rules of Procedure***
Article 34 Lodging of pleadings *1. The original of every pleading must be signed by the party's representative.* *The original, accompanied by all annexes referred to therein, shall be lodged together with five copies for the Tribunal and a copy for every other party to the proceedings. Copies shall be certified by the party lodging them.* *2. Institutions shall in addition produce, within time-limits laid down by the Tribunal, translations of the pleadings of which they are the author into the other languages provided for by Article 1 of Council Regulation No 1. The second subparagraph of paragraph 1 shall apply.* *3. All pleadings shall bear a date. In the reckoning of time-limits for taking steps in proceedings only the date of lodging at the Registry shall be taken into account.* *4. To every pleading there shall be annexed a file*	*Article 57 Lodging of procedural documents* *1. The original of every procedural document must bear the handwritten signature of the party's agent or lawyer or, in the case of observations submitted in the context of preliminary ruling proceedings, that of the party to the main proceedings or his representative, if the national rules of procedure applicable to those main proceedings so permit.* *2. The original, accompanied by all annexes referred to therein, shall be submitted together with five copies for the Court and, in the case of proceedings other than preliminary ruling proceedings, a copy for every other party to the proceedings. Copies shall be certified by the party lodging them.* *3. The institutions shall in addition produce, within time-limits laid down by the Court, translations of any procedural document into the other languages provided for by Article 1 of Council Regulation No 1. The preceding*

containing the documents relied on in support of it, together with a schedule listing them. *5. Where in view of the length of a document only extracts from it are annexed to the pleading, the whole document or a full copy of it shall be lodged at the Registry.* *6. Without prejudice to the provisions of paragraphs 1 to 4, the date on which a copy of the signed original of a pleading, including the schedule of documents referred to in paragraph 4, is received at the Registry by any technical means of communication available to the Tribunal shall be deemed to be the date of lodging for the purposes of compliance with the time-limits for taking steps in proceedings, provided that the signed original of the pleading, accompanied by the annexes and copies referred to in the second subparagraph of paragraph 1, is lodged at the Registry no later than 10 days after the copy of the original was received.* *Article 100(3) shall not be applicable to this period of 10 days.* *7. Without prejudice to the first subparagraph of paragraph 1 or to paragraphs 2 to 4, the Tribunal 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*.*	*paragraph of this Article shall apply.* *4. To every procedural document there shall be annexed a file containing the items and documents relied on in support of it, together with a schedule listing them.* *5. Where in view of the length of an item or document only extracts from it are annexed to the procedural document, the whole item or document or a full copy of it shall be lodged at the Registry.* *6. All procedural documents shall bear a date. In the calculation of procedural time-limits, only the date and time of lodgment of the original at the Registry shall be taken into account.* *7. Without prejudice to the provisions of paragraphs 1 to 6, the date on and time at which a copy of the signed original of a procedural document, including the schedule of items and documents referred to in paragraph 4, is received at the Registry by telefax or any other technical means of communication available to the Court shall be deemed to be the date and time of lodgment for the purposes of compliance with the procedural time-limits, provided that the signed original of the procedural document, accompanied by the annexes and copies referred to in paragraph 2, is lodged at the Registry no later than 10 days thereafter.* *8. Without prejudice to paragraphs 3 to 6, the Court 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*.*

The draft text corresponds in essence to Article 34 of the current Rules of Procedure. As has been stated in the commentary on Article 36 of the draft, the draft article no longer provides for the possibility of using e-mail.

Article 46 Length of procedural documents

Without prejudice to any special provisions laid down in these Rules, the Tribunal may, by decision, set the maximum length of procedural documents lodged before it. That decision shall be published in the *Official Journal of the European Union*.

Current text	***Text of the Court's Rules of Procedure***
No equivalent in the Rules of Procedure	*Article 58 Length of procedural documents* *Without prejudice to any special provisions laid down in these Rules, the Court may, by decision, set the maximum length of written pleadings or observations lodged before it. That decision shall be published in the* Official Journal of the European Union*.*

The draft article corresponds to Article 58 of the Court's new Rules of Procedure. It is intended to allow the Tribunal to fix the maximum length of 'procedural documents'. That measure pursues a legitimate aim. This is to give the Tribunal the means to ensure that each party is granted a fair share of the time available to it to deal with the case (see, on this allocation of the court's time, Opinion No 6 (2004) of the Consultative Council of European Judges to the attention of the Committee of Ministers of the Council of Europe on fair trial within a reasonable time and judge's role in trials taking into account alternative means of dispute settlement, Strasbourg, 22-24 November 2004, paragraph 104).

The measure is also proportionate because, in the same way as is provided currently in point 12 of the Practice Directions to Parties, [6] the limit which will be set on the length of procedural documents will be sufficiently flexible to take account of the special features of certain cases. In addition, as provided for in, inter alia, Article 50 of the draft, the sanction of formal inadmissibility that may be applied in the event of that limit being exceeded is surrounded by safeguards which should restrict its impact. Exceeding the limit will give rise to an opportunity to put the document in order and the Tribunal will, in any event, be prompted to take into consideration the circumstances of the case and the extent to which the limit in question has been exceeded, while having regard to the fact that another measure may, if appropriate, be found in Article 108 of the draft (Article 94 of the current Rules of Procedure).

[6] OJ L 260, 27.9.2012, p. 6

Article 47 Confidentiality of documents and items of evidence

1. Subject to Article 44(3) and Article 87(3), the Tribunal shall take into consideration only those documents and items of evidence which have been made available to the parties personally or to their agents, advisers or lawyers and on which they have been given an opportunity of expressing their views.

2. Where the protection of a person's fundamental rights or another overriding interest so requires, the Tribunal may decide, in respect of one or more parties personally and, where appropriate, their agents, advisers and lawyers, that documents and items of evidence and the information they contain are to be treated as confidential, while nevertheless taking those documents and items of evidence into consideration if they are essential to the disposal of the case. In that event, the Tribunal shall determine the procedure necessary to reconcile, as far as possible, that confidentiality with the principle *audi alteram partem*.

3. Where it is necessary for the Tribunal to verify the confidentiality, in respect of one or more parties, of a document that may be relevant in order to rule in a case, that document shall not be communicated to the parties before such verification is completed.

4. Where a document to which access has been denied by an institution has been produced before the Tribunal in proceedings relating to the legality of that denial, that document shall not be communicated to the other parties.

Current text	***Text of the Court's Rules of Procedure***
Article 44 Documents – Confidentiality – Anonymity *1. Subject to the provisions of Article 109(5), the Tribunal shall take into consideration only those documents which have been made available to the parties' representatives and on which they have been given an opportunity of expressing their views.* *2. Where it is necessary for the Tribunal to verify the confidentiality, in respect of one or more parties, of a document that may be relevant in order to rule in a case, that document shall not be communicated to the parties before such verification is completed. The Tribunal may by way of order request the production of such a document.* *3. Where a document to which access has been denied by an institution has been produced before the Tribunal in proceedings relating to the*	*No equivalent*

legality of that denial, that document shall not be communicated to the other parties. *...*	

The draft article partly corresponds to Article 44(1) to (3) of the Tribunal's Rules of Procedure. However, it recognises the practice of allowing the applicant to consult the case-file in person.

Furthermore, and above all, the draft article allows account to be taken of the situation where, exceptionally, the Tribunal must, in order to dispose of the case, take into consideration a document which it has acknowledged to be confidential with respect to a main party to the proceedings, or even, depending on the case, with respect to his adviser (see judgment of 12 May 2011 in Case F-50/09 Missir Mamachi di Lusignano *v* Commission*, especially paragraph 44 et seq. and paragraph 141 et seq. and the orders cited, appeal pending before the General Court, Case T-401/11 P). While the possibility for the parties to take cognisance of the facts and documents submitted to the court constitutes a 'fundamental principle' (judgment of 10 January 2002 in Case C-480/99 P* Plant and Others *v* Commission and South Wales Small Mines*, paragraph 24), it may nevertheless be legitimate and necessary, in certain exceptional cases, not to disclose certain information to a party, in order to protect a person's fundamental rights or another overriding interest (see, inter alia, decision of the ECHR in* Previti v. Italy (dec.)*, no. 45291/06, § 179, 8 December 2009,). The Court of Justice itself has acknowledged that the principle* audi alteram partem *is not absolute and that it must, on the contrary, be balanced with other rights, even if it constitutes 'one of the factors which enables [the] fairness [of a trial] to be assessed' (judgment of 14 February 2008 in Case C-450/06* Varec*, paragraphs 46 and 47). In that respect, and in accordance with the case-law, the Tribunal must ensure, on a case-by-case basis, that the difficulties posed for the other party by the restriction on his right to be apprised of the file are adequately compensated by the procedure followed (judgment of the ECHR in* Van Mechelen and Others v. the Netherlands*, 23 April 1997, § 54,* Reports of Judgments and Decisions *1997-III).*

Lastly, the second sentence of Article 44(2) of the current Rules of Procedure has not been reproduced since it was considered preferable to group together in a single article all the measures of inquiry which may be ordered by the Tribunal (see Article 70 below).

Article 48 Anonymity

1. The applicant shall be informed, as soon as the action has been brought, that the Tribunal's decisions are published on the Internet. On a reasoned application or of its own motion, the Tribunal shall omit the name of the applicant and, if necessary, other information from the publications of the Tribunal, if there are legitimate reasons for that anonymity.

The first subparagraph shall apply to interveners who are natural persons.

2. On a reasoned application by a party or of its own motion, the Tribunal may omit the names of other persons or entities mentioned in connection with the proceedings, or certain information concerning them, from documents issued by the Tribunal, if there are legitimate reasons for keeping the identity of those persons or entities or the information confidential.

Current text	***Text of the Court's Rules of Procedure***
Article 44 Documents – Confidentiality – Anonymity *...* *4. On a reasoned application by a party or of its own motion, the Tribunal may omit the name of the applicant or of other persons mentioned in connection with the proceedings, or certain information, from the publications relating to a case if there are legitimate reasons for keeping the identity of a person or the information confidential.*	*Article 95 Anonymity* *1. Where anonymity has been granted by the referring court or tribunal, the Court shall respect that anonymity in the proceedings pending before it.* *2. At the request of the referring court or tribunal, at the duly reasoned request of a party to the main proceedings or of its own motion, the Court may also, if it considers it necessary, render anonymous one or more persons or entities concerned by the case.*

The draft article affirms current practice as regards the anonymising of the Tribunal's decisions published on the Internet.

The objective is to balance, on the one hand, the principle of transparency, by which the Courts of the European Union are bound and which is reflected in Article 47 of the Charter of Fundamental Rights and in Article 37 of the Statute of the Court, which leads to judicial decisions being made public, and, on the other, the interest of the parties or third persons in preventing – in the light of the development of the Internet and search engines – the possibility of a search being performed on a person using only their name. For some years, the Tribunal has been particularly careful to safeguard the privacy of individuals.

As regards information other than names, account must be taken, in the balancing exercise described above, of the fact that it is impossible, in certain circumstances, not to mention such information, particularly where its omission would affect the actual comprehension of the judgment.

Chapter 2
ORDINARY PROCEDURE

As signalled by Article 40 of the draft, Chapter 2 concerns the ordinary procedure, as opposed to the procedures relating to preliminary objections and issues, which will be dealt with in detail in Chapter 4.

Apart from some provisions brought forward to the general provisions (lodging of procedural documents, confidentiality, etc.) this chapter follows the scheme, which is in fact chronological, of the current Rules of Procedure, concerning the written part and the oral part of the procedure.

Section 1 – Written part of the procedure

Article 49 General rule

The written part of the procedure shall comprise the lodging of the application and of the defence and, in the circumstances provided for in Article 55, the lodging of a reply and a rejoinder.

Current text	***Text of the Court's Rules of Procedure***
Article 33 General provisions *1. The written procedure shall comprise the lodging of the application and of the defence and, in the circumstances provided for in Article 41, the lodging of a reply and a rejoinder.* *2. The President shall fix the dates or time-limits by which the pleadings must be lodged.*	*No longer any equivalent*

The draft article corresponds to Article 33(1) of the current Rules of Procedure. Paragraph 2 has been moved to Article 39 of the draft.

Article 50 Application

1. An application of the kind referred to in Article 21 of the Statute shall state:

(a) the name and address of the applicant;

(b) the professional capacity and address of the signatory;

(c) the name of the party against whom the application is made;

(d) the subject-matter of the proceedings and the form of order sought by the applicant;

(e) a clear summary of the relevant facts presented in chronological order, and a separate, precise and structured summary of the pleas in law and arguments of law relied on;

(f) where appropriate, any evidence offered.

2. To the application there shall be annexed, where appropriate:

(a) the act of which annulment is sought;

(b) the complaint within the meaning of Article 90(2) of the Staff Regulations and the decision responding to the complaint together with an indication of the dates on which the complaint was submitted and the decision notified.

3. For the purposes of the proceedings, the application shall state:

- an address for service and the name of the person authorised to accept service; or

- the agreement of the applicant's representative to receive service of documents by the electronic means referred to in Article 36(4) or by telefax; or else

- the three methods of service of documents referred to above.

4. If the application does not comply with the requirements referred to in paragraph 3, for the purposes of the proceedings service on the party concerned shall be effected, until the defect has been remedied, by registered letter addressed to that party's representative. By way of derogation from Article 36(1), service shall then be deemed to have been duly effected by the lodging of the registered letter at the post office of the place where the Tribunal has its seat.

5. The applicant's lawyer must attach to the application the document referred to in Article 31(2).

6. If the application does not comply with the requirements set out in the second and third subparagraphs of Article 45(1), in the second subparagraph of Article 45(2), in Article 46 or in paragraph 1(a), (b) and (c), in paragraph 2 or in paragraph 5 of this Article, the Registrar shall prescribe a time-limit within which the applicant is to put the application in order. If the applicant fails to put the application in order within the time-limit prescribed, the Tribunal shall decide whether the non-compliance with these conditions renders the application formally inadmissible.

Current text	***Text of the Court's Rules of Procedure***
Article 35 Application *1. An application of the kind referred to in*	*Article 120 Content of the application* *An application of the kind referred to in Article 21*

Article 21 of the Statute shall state: *(a) the name and address of the applicant;* *(b) the description and address of the signatory;* *(c) the designation of the party against whom the application is made;* *(d) the subject-matter of the proceedings and the form of order sought by the applicant;* *(e) the pleas in law and the arguments of fact and law relied on;* *(f) where appropriate, the nature of any evidence offered in support.* *2. To the application there shall be annexed, where appropriate:* *(a) the act of which annulment is sought;* *(b) the complaint within the meaning of Article 90(2) of the Staff Regulations and the decision responding to the complaint together with the dates on which the complaint was submitted and the decision notified.* *3. For the purposes of the proceedings, the application shall state:* *- an address for service in the place where the Tribunal has its seat and the name of the person authorised to accept service;* *- or any technical means of communication available to the Tribunal by which the applicant's representative agrees to accept service;* *- or else both the methods of transmission of service referred to above.* *4. If the application does not comply with the requirements referred to in paragraph 3, all service on the party concerned for the purposes of the proceedings shall be effected, for so long as the defect has not been cured, by registered*	*of the Statute shall state:* *(a) the name and address of the applicant;* *(b) the name of the party against whom the application is made;* *(c) the subject-matter of the proceedings, the pleas in law and arguments relied on and a summary of those pleas in law;* *(d) the form of order sought by the applicant;* *(e) where appropriate, any evidence produced or offered.* *Article 121 Information relating to service* *1. For the purpose of the proceedings, the application shall state an address for service. It shall indicate the name of the person who is authorised and has expressed willingness to accept service.* *2. In addition to, or instead of, specifying an address for service as referred to in paragraph 1, the application may state that the lawyer or agent agrees that service is to be effected on him by telefax or any other technical means of communication.* *3. If the application does not comply with the requirements referred to in paragraphs 1 or 2, all service on the party concerned for the purpose of the proceedings shall be effected, for so long as the defect has not been cured, by registered letter addressed to the agent or lawyer of that party. By way of derogation from Article 48, service shall then be deemed to be duly effected by the lodging of the registered letter at the post office of the place in which the Court has its seat.*

letter addressed to that party's representative. By way of derogation from Article 99(1), service shall then be deemed to have been duly effected by the lodging of the registered letter at the post office of the place where the Tribunal has its seat. *5. The applicant's lawyer must lodge at the Registry a certificate that he is authorised to practise before a court of a Member State or of another State party to the Agreement on the European Economic Area.*	*Article 122 Annexes to the application* *1. The application shall be accompanied, where appropriate, by the documents specified in the second paragraph of Article 21 of the Statute.* *2. An application submitted under Article 273 TFEU shall be accompanied by a copy of the special agreement concluded between the Member States concerned.* *3. If an application does not comply with the requirements set out in paragraphs 1 or 2 of this Article, the Registrar shall prescribe a reasonable time-limit within which the applicant is to produce the abovementioned documents. If the applicant fails to put the application in order, the Court shall, after hearing the Judge-Rapporteur and the Advocate General, decide whether the non-compliance with these conditions renders the application formally inadmissible.*

The draft article largely matches Article 35 of the current Rules of Procedure. As with the Court's Rules of Procedure, it is no longer specified, in paragraph 3, that the address for service must be in the place where the Tribunal has its seat. It is also proposed that, as the Court has done, the Tribunal should include the requirements for putting the application in order, currently in Article 36 of the Rules of Procedure, in the article dealing with the application.

Three significant changes have however been made.

The first concerns the structuring of the application. The reading, comprehension and processing of applications with a view to incorporating them in the judgment can comprise a significant part of the Tribunal's work, particularly where poorly structured applications, combining facts and law or the grounds for annulment, have to be restructured before being incorporated. Admittedly, in the light of Article 35(1)(e) of the Tribunal's current Rules of Procedure, case-law already provides that, if it is not to be held inadmissible, the summary of the pleas in law and factual and legal arguments relied on must be sufficiently clear and precise to enable the defendant to prepare its defence and the Tribunal to give judgment in the action, if necessary, without any further information. However, the very general wording of Article 35(1)(e) is not sufficient to highlight the obligation on applicants, and specifically on their representatives, to ensure that documents initiating proceedings are well presented – in the interest of all legal parties, judges, lawyers and individuals. Those considerations explain the new wording of paragraph 1(e). It must be added that a template for an application is now available on the Tribunal's website.

Two other amendments concern the formal requirements which, if not met, may form the basis of a request to put the application in order. First, it is proposed, by reference to Article 45(1), second and third subparagraphs, and to Article 45(2), second subparagraph, to add to such formal requirements the lodging of annexes and the number of copies which should accompany the application. Secondly, the reference to Article 46 of the draft reinforces the legal basis under which the Registry will be able to request the shortening of an application of excessive length. As has already been pointed out, it also follows from that reference that, where the applicant refuses, the Tribunal could dismiss the application as inadmissible. However, this is merely an option.

Article 51 Service of the application and notice in the Official Journal

1. The application shall be served on the defendant. In the cases provided for by Article 50(6), service shall be effected as soon as the application has been put in order or, failing that, as soon as the Tribunal has declared it admissible.

2. Notice shall be given in the *Official Journal of the European Union* of the date on which the application was lodged, the defendant, the subject-matter and description of the proceedings and the form of order sought by the applicant.

Current text	***Text of the Court's Rules of Procedure***
Article 37 Service of the application and notice in the Official Journal *1. The application shall be served on the defendant. In the cases provided for by Article 36, service shall be effected as soon as the application has been put in order or, failing that, as soon as the Tribunal has declared it admissible.* *2. Notice shall be given in the* Official Journal of the European Union *of the date on which the application was lodged, the parties, the subject-matter and description of the proceedings and the form of order sought by the applicant.*	*Article 123 Service of the application* *The application shall be served on the defendant. In cases where Article 119(4) or Article 122(3) applies, service shall be effected as soon as the application has been put in order or the Court has declared it admissible notwithstanding the failure to observe the requirements set out in those two Articles.* *Article 21 Keeping of the register* *...* *4. A notice shall be published in the* Official Journal of the European Union *indicating the date of registration of an application initiating proceedings, the names of the parties, the form of order sought by the applicant and a summary of the pleas in law and of the main supporting*

	arguments or, as the case may be, the date of lodging of a request for a preliminary ruling, the identity of the referring court or tribunal and the parties to the main proceedings, and the questions referred to the Court.

The draft essentially reproduces the text of Article 37 of the current Rules of Procedure. That article is nevertheless amended in order to make it consistent with current practice. Having regard to the significant number of cases in which the applicants are granted anonymity, the Tribunal has found it necessary automatically to omit the identity of the applicants from notices published in the Official Journal of the European Union *announcing the lodging of applications, in order not to render ineffective any subsequent decision to grant anonymity.*

Article 52 First assignment of a case to a formation of the court

As soon as the application initiating proceedings has been lodged, the President of the Tribunal shall assign the case to one of the Chambers of three Judges in accordance with the criteria set out in Article 13(2).

The President of that Chamber shall propose to the President of the Tribunal, in respect of each case assigned, the designation of a Judge to act as Rapporteur. The President of the Tribunal shall decide on the proposal.

Current text	***Text of the Court's Rules of Procedure***
Article 38 First assignment of a case to a formation of the court *As soon as the application initiating proceedings has been lodged, the President of the Tribunal shall assign the case to one of the Chambers sitting with three Judges in accordance with the criteria set out in Article 12(2).* *The President of that Chamber shall propose to the President of the Tribunal, in respect of each case assigned, the designation of a Judge to act as Rapporteur; the President of the Tribunal shall decide on the proposal.*	*No equivalent*

The draft article corresponds to Article 38 of the Rules of Procedure.

Article 53 Defence

1. Within two months after service of the application, the defendant shall lodge a defence stating:

(a) the name and address of the defendant;

(b) the professional capacity and address of the signatory;

(c) the form of order sought by the defendant;

(d) the legal context of the case, a clear summary of the relevant facts presented in chronological order, and a separate, precise and structured summary of the pleas in law and arguments of law relied on;

(e) where appropriate, any evidence offered.

2. The provisions of Article 50(3) and (4) shall apply.

3. The agent representing the defendant and the adviser or lawyer assisting him are required to lodge at the latest together with the defence the documents referred to in Article 31.

To the defence shall be annexed the texts not published in the *Official Journal of the European Union* and which form the legal context of the case, together with details of the dates on which they were adopted, on which they entered into force and, where applicable, on which they were repealed.

4. If the defence does not comply with the requirements set out in the second, third and fourth subparagraphs of Article 45(1), in the second subparagraph of Article 45(2), in Article 46 or in paragraph 3 of this Article, the Registrar shall prescribe a time-limit within which the defendant is to put the defence in order. If the defendant fails to put the defence in order within the time-limit prescribed, the Tribunal shall decide whether the non-compliance with these conditions renders the defence formally inadmissible.

5. The time-limit laid down in paragraph 1 may, in exceptional circumstances, be extended by the President at the duly reasoned request of the defendant or of the President's own motion in the interests of the proper administration of justice.

Current text	***Text of the Court's Rules of Procedure***
Article 39 Defence *1. Within two months after service of the application, the defendant shall lodge a defence stating:*	*Article 124 Content of the defence* *1. Within two months after service on him of the application, the defendant shall lodge a defence, stating:*

(a) the name and address of the defendant; *(b) the description and address of the signatory;* *(c) the form of order sought by the defendant;* *(d) the pleas in law and the arguments of fact and law relied on;* *(e) where appropriate, the nature of any evidence offered in support.* *The provisions of Article 35(3) and (4) shall apply.* *The lawyer acting for the defendant must lodge at the Registry a certificate that he is authorised to practise before a court of a Member State or of another State party to the Agreement on the European Economic Area.* *2. The time-limit laid down in paragraph 1 may, in exceptional circumstances, be extended by the President on a reasoned application by the defendant.*	*(a) the name and address of the defendant;* *(b) the pleas in law and arguments relied on;* *(c) the form of order sought by the defendant;* *(d) where appropriate, any evidence produced or offered.* *2. Article 121 shall apply to the defence.* *3. The time-limit laid down in paragraph 1 may exceptionally be extended by the President at the duly reasoned request of the defendant.*

The draft article largely reproduces Article 39 of the Rules of Procedure.

For reasons of equality between the parties, it is nevertheless proposed that a provision comparable to Article 50(1)(e) concerning the structuring of applications should be inserted in paragraph 1. For the same reasons, it is suggested that a paragraph 4 be introduced requiring that the defence be put in order in situations similar to those provided for in relation to the application and which may be applicable to this stage (number of copies, length of the pleading and lodging of the certificate of authorisation to practise). The penalty for a failure to put the defence in order could consist in the pleading being formally held inadmissible and lead to a procedure for judgment by default (Article 41 of the Statute and Article 116 of the Tribunal's current Rules of Procedure).

Paragraph 5 introduces a new point. Experience has shown that, exceptionally, it is desirable to allow the President of the Chamber to extend of his own motion the time-limit for lodging the defence in the interests of the proper administration of justice. That could be the case, for example, where a stay of proceedings or the joinder of a number of cases is envisaged, but the order for a stay of proceedings or for joinder could not be adopted before the expiry of that time-limit. In all cases, the Tribunal obviously has the responsibility of ensuring that there is equality of arms.

Article 54 Transmission of documents

Where the European Parliament, the Council or the European Commission is not a party to a case, the Tribunal shall send them copies of the application and of the defence, without the annexes thereto, to enable them to assess whether the inapplicability of one of their acts is being invoked under Article 277 TFEU.

Current text	***Text of the Court's Rules of Procedure***
Article 40 Forwarding pleadings to the Council and the European Commission Where the Council or the European Commission is not a party to a case, the Tribunal shall send to it copies of the application and of the defence, without the annexes thereto, to enable it to assess whether the inapplicability of one of its acts is being invoked under Article 277 TFEU.	*Article 125 Transmission of documents* *Where the European Parliament, the Council or the European Commission is not a party to a case, the Court shall send to them copies of the application and of the defence, without the annexes thereto, to enable them to assess whether the inapplicability of one of their acts is being invoked under Article 277 TFEU.*

The draft text takes account of the fact that the Parliament will from now on adopt the Staff Regulations with the Council in its role as co-legislator (Article 336 TFEU).

Article 55 Second exchange of pleadings

1. Pursuant to Article 7(3) of Annex I to the Statute, the Tribunal may decide, either of its own motion or on a reasoned application by the applicant, that a second exchange of pleadings is necessary to supplement the documents before the Tribunal.

2. The Tribunal may restrict the second exchange of pleadings to questions of law or of fact which it shall specify.

3. If the pleading does not comply with the requirements set out in the second, third and fourth subparagraphs of Article 45(1), in the second subparagraph of Article 45(2), in Article 46 or in paragraph 2 of this Article, the Registrar shall prescribe a time-limit within which the party concerned is to put the pleading in order. If the party concerned fails to put the pleading in order within the time-limit prescribed, the Tribunal shall decide whether the non-compliance with these conditions renders the pleading formally inadmissible.

Current text	***Text of the Court's Rules of Procedure***
Article 41 Second exchange of pleadings *Pursuant to Article 7(3) of Annex I to the Statute,*	*Article 126 Reply and rejoinder* *1. The application initiating proceedings and the*

the Tribunal may decide, either of its own motion or on a reasoned application by the applicant, that a second exchange of written pleadings is necessary to supplement the documents before the Tribunal.	*defence may be supplemented by a reply from the applicant and by a rejoinder from the defendant.* *2. The President shall prescribe the time-limits within which those procedural documents are to be produced. He may specify the matters to which the reply or the rejoinder should relate.*

The first paragraph of the draft article reproduces Article 41 of the Rules of Procedure. The Court's text cannot be reproduced, having regard to Article 7(3) of Annex I to the Statute. Paragraph 2 affirms the Tribunal's practice which consists of restricting, in certain cases, the subject-matter of the second exchange of pleadings, for example to the pleas of inadmissibility raised in the defence. Lastly, it is suggested that, in paragraph 3, a provision should be inserted on putting replies and rejoinders in order, comparable to that set out in respect of the application and the defence.

Section 2 – Pleas in law and evidence in the course of the procedure

As in the case of the Court's Rules of Procedure, it is proposed that the articles concerning the introduction of new pleas in law in the course of the procedure and the lodging of new evidence or offers of evidence should be grouped together in one section.

Article 56 New pleas in law

1. No new plea in law may be introduced after the first exchange of pleadings unless it is based on matters of law or of fact which come to light in the course of the procedure.

2. If in the course of the procedure one of the parties puts forward a new plea in law, the President may, even after the expiry of the normal procedural time-limits, acting on a report of the Judge-Rapporteur, prescribe a time-limit within which the other party may respond to that plea.

3. Consideration of the admissibility of new pleas in law shall be reserved for the final decision.

Current text	***Text of the Court's Rules of Procedure***
Article 43 New pleas in law	*Article 127 New pleas in law*

1. No new plea in law may be introduced after the first exchange of pleadings unless it is based on matters of law or of fact which come to light in the course of the procedure. *2. If in the course of the procedure one of the parties puts forward a new plea in law, the President may, even after the expiry of the normal procedural time-limits, acting on a report of the Judge-Rapporteur, allow the other party time to answer on that plea.* *Consideration of the admissibility of the plea shall be reserved for the final decision.*	*1. No new plea in law may be introduced in the course of proceedings unless it is based on matters of law or of fact which come to light in the course of the procedure.* *2. Without prejudice to the decision to be taken on the admissibility of the plea in law, the President may, on a proposal from the Judge-Rapporteur and after hearing the Advocate General, prescribe a time-limit within which the other party may respond to that plea.*

The draft article corresponds in effect to Article 43 of the Tribunal's Rules of Procedure.

Article 57 Production or offer to produce further evidence

The parties may produce or offer further evidence in support of their arguments up until the end of the hearing, on condition that the delay in producing or offering to produce it is duly justified. The other parties shall be given an opportunity to comment.

Current text	***Text of the Court's Rules of Procedure***
Article 42 Offers of further evidence *The parties may offer further evidence in support of their arguments until the end of the hearing, on condition that the delay in offering it is duly justified.*	*Article 128 Evidence produced or offered* *1. In reply or rejoinder a party may produce or offer further evidence in support of his arguments. The party must give reasons for the delay in submitting such evidence.* *2. The parties may, exceptionally, produce or offer further evidence after the close of the written part of the procedure. They must give reasons for the delay in submitting such evidence. The President may, on a proposal from the Judge-Rapporteur and after hearing the Advocate General, prescribe a time-limit within which the*

	other party may comment on such evidence.

Article 42 of the current Rules of Procedure is supplemented by a reference to the direct production of evidence, following on from the Rules of Procedure of the Court. It is also envisaged that the other parties are to be invited to submit observations on the further evidence produced or offered. Those observations may, depending on the circumstances, be submitted orally or in writing.

Section 3 – The preliminary report

Article 58 Preliminary report

1. When the written part of the procedure is closed, the President shall fix a date on which the Judge-Rapporteur is to present his preliminary report to the Tribunal.

2. The preliminary report shall contain proposals as to whether measures of organisation of procedure or measures of inquiry should be undertaken, as to whether to dispense with a hearing, as to the possibility of an amicable settlement of the dispute and as to whether the case should be referred to the full court, to the Chamber of five Judges or to the Judge-Rapporteur sitting as a single Judge.

3. The Tribunal shall decide what action to take on the proposals of the Judge-Rapporteur.

Current text	***Text of the Court's Rules of Procedure***
Article 45 Preliminary report *1. After the final exchange of the parties' pleadings, the President shall fix a date on which the Judge-Rapporteur is to present his preliminary report to the Tribunal.* *2. The preliminary report shall contain recommendations as to whether measures of organisation of procedure or measures of inquiry should be undertaken, as to the possibility of an amicable settlement of the dispute and as to whether the case should be referred to the full court, to the Chamber sitting with five Judges or to the Judge-Rapporteur sitting as a single Judge.* *3. The Tribunal shall decide what action to take*	*Article 59 Preliminary report* *1. When the written part of the procedure is closed, the President shall fix a date on which the Judge-Rapporteur is to present a preliminary report to the general meeting of the Court.* *2. The preliminary report shall contain proposals as to whether particular measures of organisation of procedure, measures of inquiry or, if appropriate, requests to the referring court or tribunal for clarification should be undertaken, and as to the formation to which the case should be assigned. It shall also contain the Judge-Rapporteur's proposals, if any, as to whether to dispense with a hearing and as to whether to dispense with an Opinion of the Advocate*

upon the recommendations of the Judge-Rapporteur.	*General pursuant to the fifth paragraph of Article 20 of the Statute.* *3. The Court shall decide, after hearing the Advocate General, what action to take on the proposals of the Judge-Rapporteur.*

The draft text largely reproduces Article 45 of the Rules of Procedure, while providing, in accordance with current practice, that the preliminary report may contain proposals as to the possibility of ruling without a hearing (Article 48 of the current Rules of Procedure).

Section 4 – Oral part of the procedure

Article 59 Holding of hearings

1. Without prejudice to the special provisions of these Rules permitting the Tribunal to adjudicate by way of order, and subject to paragraph 2, the procedure before the Tribunal shall include a hearing.

2. Where there has been a second exchange of pleadings and the Tribunal considers that it is unnecessary to hold a hearing, it may, with the agreement of the parties, decide to proceed to judgment without a hearing.

Current text	***Text of the Court's Rules of Procedure***
Article 48 Holding of hearings *1. Without prejudice to the special provisions of these Rules permitting the Tribunal to adjudicate by way of order, and subject to paragraph 2, the procedure before the Tribunal shall include a hearing.* *2. Where there has been a second exchange of pleadings and the Tribunal considers that it is unnecessary to hold a hearing, it may, with the agreement of the parties, decide to proceed to judgment without a hearing.*	*Article 76 Hearing* *1. Any reasoned requests for a hearing shall be submitted within three weeks after service on the parties or the interested persons referred to in Article 23 of the Statute of notification of the close of the written part of the procedure. That period may be extended by the President.* *2. On a proposal from the Judge-Rapporteur and after hearing the Advocate General, the Court may decide not to hold a hearing if it considers, on reading the written pleadings or observations lodged during the written part of the procedure, that it has sufficient information to give a ruling.*

	3. The preceding paragraph shall not apply where a request for a hearing, stating reasons, has been submitted by an interested person referred to in Article 23 of the Statute who did not participate in the written part of the procedure.

The draft article reproduces Article 48 of the Tribunal's Rules of Procedure.

Article 60 Date of the hearing

The President shall fix the date of the hearing.

Current text	***Text of the Court's Rules of Procedure***
Article 49 Date of the hearing *The President shall fix the date of the hearing.*	*No equivalent*

The draft article corresponds to Article 49 of the Tribunal's Rules of Procedure.

Article 61 Joint hearing

If the similarities between two or more cases so permit, the Tribunal may decide to organise a joint hearing of those cases.

Current text	***Text of the Court's Rules of Procedure***
No equivalent	*Article 77 Joint hearing* *If the similarities between two or more cases of the same type so permit, the Court may decide to organise a joint hearing of those cases.*

The draft article is new and has been inserted both to maximise the value of the hearing and in order to mirror Article 77 of the Rules of Procedure of the Court.

Article 62 Absence of the parties from the hearing

1. The representatives of the parties who have been duly summoned to the hearing shall be required to inform the Tribunal in good time if they will be absent.

The absence, without excuse, of a party's representative who has been duly summoned shall not prevent the hearing from taking place.

2. Where the representatives of all the parties have stated that they will not be present at the hearing, the Tribunal may decide that the oral part of the procedure is closed.

Current text	***Text of the Court's Rules of Procedure***
Article 50 Absence of the parties from the hearing *The parties' representatives, duly invited to the hearing, shall be required to inform the Registry in good time if they do not wish to be present.* *Where the representatives of all the parties have stated that they will not be present at the hearing, the Tribunal may decide that the oral procedure is closed.*	*No equivalent*

The insertion of a second subparagraph into paragraph 1 of Article 50 of the current Rules of Procedure is intended, essentially, to enshrine in those Rules a rule which already appears at point 55 of the Tribunal's Practice Directions to Parties.

Article 63 Conduct of the hearing

1. The oral proceedings shall be opened and directed by the President, who shall be responsible for the proper conduct of the hearing.

2. The oral proceedings in cases heard *in camera* in accordance with Article 31 of the Statute shall not be published.

3. A party may address the Tribunal only through his agent or lawyer.

4. The President and each of the Judges may in the course of the hearing:

(a) put questions to the parties' agents, advisers or lawyers;

(b) invite the parties themselves to express their views on certain aspects of the case.

Current text	***Text of the Court's Rules of Procedure***
Article 51 Conduct of the hearing *1. The proceedings shall be opened and directed by the President, who shall be responsible for the proper conduct of the hearing.* *2. The oral proceedings in cases heard in camera shall not be published.* *3. A party may address the Tribunal only through his representative.* *4. The President and each of the Judges may in the course of the hearing:* *(a) put questions to the parties' representatives;* *(b) invite the parties themselves to express their views on certain aspects of the case.*	*Article 78 Conduct of oral proceedings* *Oral proceedings shall be opened and directed by the President, who shall be responsible for the proper conduct of the hearing.* *Article 79 Cases heard in camera* *1. For serious reasons related, in particular, to the security of the Member States or to the protection of minors, the Court may decide to hear a case* in camera*.* *2. The oral proceedings in cases heard* in camera *shall not be published.* *Article 80 Questions* *The members of the formation of the Court and the Advocate General may in the course of the hearing put questions to the agents, advisers or lawyers of the parties and, in the circumstances referred to in Article 47(2) of these Rules, to the parties to the main proceedings or to their representatives.*

The draft text corresponds to Article 51 of the current Rules of Procedure. The reference to Article 31 of the Statute is intended to clarify paragraph 2.

Article 64 Close or re-opening of the oral part of the procedure

1. The President shall declare the oral part of the procedure closed at the end of the hearing.

2. The Tribunal may order the reopening of the oral part of the procedure.

Current text	***Text of the Court's Rules of Procedure***
Article 52 Close of the oral procedure *1. The President shall declare the oral procedure closed at the end of the hearing.* *2. The Tribunal may order the reopening of the oral procedure.*	*Article 81 Close of the hearing* *After the parties or the interested persons referred to in Article 23 of the Statute have presented oral argument, the President shall declare the hearing closed.* *Article 83 Opening or reopening of the oral part of the procedure* *The Court may at any time, after hearing the Advocate General, order the opening or reopening of the oral part of the procedure, in particular if it considers that it lacks sufficient information or where a party has, after the close of that part of the procedure, submitted a new fact which is of such a nature as to be a decisive factor for the decision of the Court, or where the case must be decided on the basis of an argument which has not been debated between the parties or the interested persons referred to in Article 23 of the Statute.*

The draft article corresponds to Article 52 of the current Rules of Procedure.

Article 65 Minutes of the hearing

The Registrar shall draw up minutes of every hearing. The minutes shall be signed by the President and by the Registrar. They shall constitute an official record and shall be served on the parties.

Current text	***Text of the Court's Rules of Procedure***
Article 53 Minutes of the hearing *1. The Registrar shall draw up minutes of every hearing. The minutes shall be signed by the President and by the Registrar and shall constitute an official record.* *2. The parties may inspect the minutes at the Registry and obtain copies at their own expense.*	*Article 84 Minutes of hearings* *1. The Registrar shall draw up minutes of every hearing. The minutes shall be signed by the President and by the Registrar. They shall constitute an official record.* *2. The parties and interested persons referred to in Article 23 of the Statute may inspect the minutes at the Registry and obtain copies.*

The amendment made to Article 53 of the Rules of Procedure is intended to recognise a practice resulting from Article 12(3) of the Instructions to the Registrar of the Civil Service Tribunal. [7]

Article 66 Recording of the hearing

The President may, on a duly substantiated request, authorise a party to listen, on the Tribunal's premises, to the soundtrack of the hearing in the language used by the speaker during that hearing.

Current text	***Text of the Court's Rules of Procedure***
No equivalent	*Article 85 Recording of the hearing* *The President may, on a duly substantiated request, authorise a party or an interested person referred to in Article 23 of the Statute who has participated in the written or oral part of the proceedings to listen, on the Court's premises, to the soundtrack of the hearing in the language used by the speaker during that hearing.*

[7] OJ L 260, 27.9.2012, p. 1.

Like the Court's Rules of Procedure, the draft provides for a party to be able to contact the President of the formation of the court in order to obtain access to the original soundtrack of the hearing. That will allow the party to listen again, in the order and in the language in which they were made, to all the speeches given during that hearing.

Chapter 3
MEASURES OF ORGANISATION OF PROCEDURE AND MEASURES OF INQUIRY

Section 1 – Objectives

Article 67 Objectives

The purpose of measures of organisation of procedure and measures of inquiry shall be to ensure that cases are prepared for hearing under the best possible conditions, to ensure efficient conduct of the written and oral part of the procedure and to facilitate the taking of evidence and the resolution of disputes.

Current text	***Text of the Court's Rules of Procedure***
Article 54 General provisions *1. The purpose of measures of organisation of procedure and measures of inquiry shall be to ensure that cases are prepared for hearing, procedures carried out and disputes resolved under the best possible conditions.* *Those measures may be adopted or varied at any stage of the proceedings.* *2. Each party may, at any stage of the proceedings, propose the adoption or modification of measures of organisation of procedure or of inquiry. In that case, the other parties shall be heard before those measures are prescribed.* *3. Where the procedural circumstances so require, the Judge-Rapporteur or, where appropriate, the Tribunal shall inform the parties*	*No equivalent*

of the measures envisaged in order to give them an opportunity to submit their observations orally or in writing.	

The draft article is the result of a simplification of Article 54 of the current Rules of Procedure. That article partially duplicates Articles 55 and 56 of those Rules. In addition, the choice has been made to gather together in two articles, relating to measures of organisation of procedure and to measures of inquiry respectively, all the procedural provisions relating to those measures.

Section 2 – Measures of organisation of procedure

Article 68 Purpose

Measures of organisation of procedure may, in particular, consist of:

(a) putting questions to the parties;

(b) inviting the parties to make written or oral submissions on certain aspects of the proceedings and, in particular, to clarify the forms of order they are seeking and their pleas in law and arguments or to clarify the points at issue;

(c) asking the parties for information or particulars;

(d) asking the parties to produce documents or any items of evidence relating to the case;

(e) inviting the participants in the hearing to concentrate in particular in their oral pleadings on one or more specified issues;

(f) summoning the parties to meetings.

Current text	***Text of the Court's Rules of Procedure***
Article 55 Purpose and types *1. Measures of organisation of procedure shall have as their purpose:* *(a) to ensure efficient conduct of the written and oral procedure and to facilitate the taking of*	*Article 61 Measures of organisation prescribed by the Court* *1. In addition to the measures which may be prescribed in accordance with Article 24 of the Statute, the Court may invite the parties or the interested persons referred to in Article 23 of the*

evidence; *(b) to determine the points on which the parties must present further argument or which would call for a measure of inquiry;* *(c) to clarify the forms of order sought by the parties, their pleas in law and arguments and the points at issue between them.* *2. Measures of organisation of procedure may, in particular, consist of:* *(a) putting questions to the parties;* *(b) inviting the parties to make written or oral submissions on certain aspects of the proceedings;* *(c) asking the parties for information or particulars;* *(d) asking the parties to produce documents or any papers relating to the case;* *(e) summoning the parties to meetings.*	*Statute to answer certain questions in writing, within the time-limit laid down by the Court, or at the hearing. The written replies shall be communicated to the other parties or the interested persons referred to in Article 23 of the Statute.* *2. Where a hearing is organised, the Court shall, in so far as possible, invite the participants in that hearing to concentrate in their oral pleadings on one or more specified issues.* *Article 62 Measures of organisation prescribed by the Judge-Rapporteur or the Advocate General* *1. The Judge-Rapporteur or the Advocate General may request the parties or the interested persons referred to in Article 23 of the Statute to submit within a specified time-limit all such information relating to the facts, and all such documents or other particulars, as they may consider relevant. The replies and documents provided shall be communicated to the other parties or the interested persons referred to in Article 23 of the Statute.* *2. The Judge-Rapporteur or the Advocate General may also send to the parties or the interested persons referred to in Article 23 of the Statute questions to be answered at the hearing.*

The proposed article relates to the purpose of measures of organisation of procedure. It simplifies the presentation of Article 55 of the current Rules of Procedure.

Article 55(1)(b) of the Tribunal's Rules of Procedure is not reproduced in so far as it envisages the adoption of measures of organisation of procedure with a view to determining the points 'which would call for a measure of inquiry'. That provision does not seem to be essential, since the list in the draft article is not exhaustive. In addition, account must be taken of Article 71(3) and of the second indent of Article 71(4) of the draft, which reproduce, mutatis mutandis*, Article 54(3) of the current Rules of Procedure.*

The insertion of a new point (e) is based on Article 61(2) of the Court's Rules of Procedure and is intended to recognise current practice.

Article 69 Procedure

1. Measures of organisation of procedure may be adopted or varied at any stage of the proceedings. They shall be prescribed by the Tribunal, if necessary of its own motion.

2. Measures of organisation of procedure shall be prescribed by the Judge-Rapporteur unless he refers the matter to the Tribunal on account of the scope of the measures envisaged or of their importance to the disposal of the case.

3. Each party may propose the adoption or modification of measures of organisation of procedure.

4. The Registrar shall be responsible for notifying measures of organisation of procedure to the parties.

5. If the written observations submitted by the parties do not comply with the requirements set out in the second, third and fourth subparagraphs of Article 45(1), in the second subparagraph of Article 45(2), or in Article 46, the Registrar shall prescribe a time-limit within which the party concerned is to put the observations in order. If the party concerned fails to put the observations in order within the time-limit prescribed, the Tribunal shall decide whether the non-compliance with these conditions renders the observations formally inadmissible.

Current text	***Text of the Court's Rules of Procedure***
Article 56 Procedure *Without prejudice to Article 44(2), measures of organisation of procedure shall be prescribed by the Judge-Rapporteur unless he refers the matter to the Tribunal on account of the scope of the measures envisaged or of their importance to the disposal of the case. The Registrar shall be responsible for notifying them to the parties.*	

The amendments suggested take account of the aim of conferring on each article a specific purpose. On the other hand, they do not make any substantial amendments to the existing text.

Paragraph 1 corresponds to the second subparagraph of Article 54(1) of the current Rules of Procedure.

Paragraph 2 corresponds, in the current Rules of Procedure, to the first sentence of Article 56.

Paragraph 3 corresponds, in essence, to Article 54(2) of the current Rules of Procedure. However, since it concerns measures of organisation of procedure, which are not mandatory, it is no longer envisaged that the other parties will be heard on the measures suggested by one of the parties.

Paragraph 4 corresponds to the second sentence of Article 56 of the current Rules of Procedure.

Paragraph 5 is new and takes account of the intention to mirror the provisions of Articles 50, 53 and 55.

Section 3 – Measures of inquiry

Article 70 Purpose

Without prejudice to the provisions of Articles 24 and 25 of the Statute, the following measures of inquiry may be adopted:

(a) the appearance of the parties themselves;

(b) asking third parties for information or particulars;

(c) asking third parties to produce documents or any items of evidence relating to the case;

(d) oral testimony;

(e) the commissioning of an expert's report;

(f) an inspection of the place or thing in question;

(g) asking a party to produce documents or any items of evidence relating to the case, where that party refuses to comply with a measure of organisation of procedure adopted for that purpose.

Current text	***Text of the Court's Rules of Procedure***
Article 57 Types *Without prejudice to the provisions of Articles 24 and 25 of the Statute, the following measures of inquiry may be adopted:* *(a) the appearance of the parties themselves;* *(b) asking third parties for information or particulars;*	*Article 64 Determination of measures of inquiry* *1. The Court, after hearing the Advocate General, shall prescribe the measures of inquiry that it considers appropriate by means of an order setting out the facts to be proved.* *2. Without prejudice to Articles 24 and 25 of the Statute, the following measures of inquiry may be adopted:*

(c) asking third parties to produce documents or any papers relating to the case; *(d) oral testimony;* *(e) the commissioning of an expert's report;* *(f) an inspection of the place or thing in question.*	*(a) the personal appearance of the parties;* *(b) a request for information and production of documents;* *(c) oral testimony;* *(d) the commissioning of an expert's report;* *(e) an inspection of the place or thing in question.* *3. Evidence may be submitted in rebuttal and previous evidence may be amplified.*

Point (g) is intended to clarify a situation which was the subject-matter of the General Court's judgment of 12 May 2010 in Case T-560/08 P Commission *v* Meierhofer*. To that end, it is suggested that the measures of inquiry should include an option for the Tribunal to require, by order, the production of a document which a party refuses to produce, where appropriate despite a measure of organisation of procedure. In this respect, attention should be drawn to the fact that measures of inquiry are distinguishable from measures of organisation of procedure by the fact that they are mandatory.*

In the light of the insertion of that new category of measures of inquiry, it should be noted that the second sentence of Article 44(2) of the current Rules of Procedure has not been reproduced in Article 47 of the draft.

Article 71 Procedure

1. The measures of inquiry necessary for disposing of the case may be adopted or varied at any stage of the proceedings. They shall be prescribed by the Tribunal, if necessary of its own motion.

2. Each party may propose the adoption or modification of measures of inquiry by stating precisely their subject-matter and the reasons which justify their adoption or modification. The other parties shall be heard before those measures can be adopted.

3. Where the procedural circumstances so require, the parties shall be requested to submit their observations on the measures envisaged by the Tribunal and referred to in Article 70(a), (b), (c) and (g).

4. The decision concerning:

- the measures referred to in Article 70(a), (b) and (c) shall be notified to the parties by the Registrar;

- the measures referred to in Article 70(d), (e) and (f) shall be taken by means of an order setting out the facts to be proved, after the parties have been heard;

- the measure referred to in Article 70(g) shall be adopted by means of an order.

5. Where the Tribunal decides to adopt a measure of inquiry but does not undertake such a measure itself, it shall entrust the task of so doing to the Judge-Rapporteur.

6. The parties shall be entitled to attend the measures of inquiry.

7. A party may submit evidence in rebuttal or amplify previous evidence at any stage of the proceedings.

Current text	***Text of the Court's Rules of Procedure***
Article 58 Procedure *1. Measures of inquiry shall be prescribed by the Tribunal.* *2. The decision concerning the measures referred to in Article 57(d), (e) and (f) shall be taken by means of an order setting out the facts to be proved, after the parties have been heard.* *The decision concerning the measures referred to in Article 57(a), (b) and (c) shall be notified to the parties by the Registrar.* *3. The parties may be present at the measures of inquiry.* *4. Where the Tribunal decides to adopt a measure of inquiry but does not undertake such a measure itself, it shall entrust the task of so doing to the Judge-Rapporteur.* *5. A party may always submit evidence in rebuttal or amplify previous evidence.*	*Article 64 Determination of measures of inquiry* *1. The Court, after hearing the Advocate General, shall prescribe the measures of inquiry that it considers appropriate by means of an order setting out the facts to be proved.* *2. Without prejudice to Articles 24 and 25 of the Statute, the following measures of inquiry may be adopted:* *(a) the personal appearance of the parties;* *(b) a request for information and production of documents;* *(c) oral testimony;* *(d) the commissioning of an expert's report;* *(e) an inspection of the place or thing in question.* *3. Evidence may be submitted in rebuttal and previous evidence may be amplified.* *Article 65 Participation in measures of inquiry* *1. Where the formation of the Court does not undertake the inquiry itself, it shall entrust the task of so doing to the Judge-Rapporteur.* *2. The Advocate General shall take part in the measures of inquiry.*

	3. The parties shall be entitled to attend the measures of inquiry.

The purpose of the amendments made to Article 58 of the current Rules of Procedure is to group together the procedural provisions, adopting the same approach as that taken in relation to measures of organisation of procedure above.

Paragraph 1 reproduces the second subparagraph of Article 54(1) of the Tribunal's Rules of Procedure. The words 'if necessary of its own motion' are intended to draw attention to the fact that measures of inquiry do not necessarily need to be instigated by a party.

Paragraph 2 corresponds, mutatis mutandis*, to the current Article 54(2). The words 'can be' are intended to clarify the fact that the Tribunal retains a discretion as regards measures of inquiry.*

Paragraph 3 corresponds to the current Article 54(3). However, it concerns only the measures referred to in Article 70(a), (b), (c) and (g) because the other measures must necessarily be taken 'after the parties have been heard' (draft article, paragraph 4, second indent).

Paragraph 4 corresponds to the current Article 58(2).

It is also apparent from paragraph 4 of the draft that 'the measure referred to in Article 70(g)' does not, in principle, need to be adopted 'after the parties have been heard'. That can be explained by the fact that the order in question will in practice be made after a measure of organisation of procedure that has not been complied with, so that the party concerned will already have been able to set out the reasons for its refusal to comply with that measure. However, it is possible that in certain cases the proper administration of justice will require that the parties be consulted. For that reason it is proposed that it should be provided in paragraph 3 that, where the procedural circumstances so require, the parties are to be requested to submit their observations on the measure in question. That provision is indeed already included in the current Article 54 which applies both to measures of organisation of procedure and to measures of inquiry.

Article 72 Summoning of witnesses

A witness whose examination is considered necessary shall be summoned by the Tribunal. The order referred to in Article 71(4), second indent, shall contain the following information:

(a) the surname, forenames, professional capacity and residence of the witness;

(b) the date and place of the hearing;

(c) an indication of the facts about which the witness is to be heard;

(d) where appropriate, particulars of the arrangements made under Article 78 by the Tribunal for reimbursement of expenses incurred by the witness, and of the sanctions which may be imposed on defaulting witnesses under Article 74.

Current text	***Text of the Court's Rules of Procedure***
Article 59 Summoning of witnesses *1. The Tribunal may, either of its own motion or on application by one of the parties, order that certain facts be proved by witnesses.* *An application by a party for the examination of a witness shall state precisely about what facts and for what reasons the witness should be examined.* *2. A witness whose examination is considered necessary shall be summoned by the Tribunal by means of an order containing the following information:* *(a) the surname, forenames, description and residence of the witness;* *(b) the date and place of the hearing;* *(c) an indication of the facts about which the witness is to be examined;* *(d) where appropriate, particulars of the arrangements made by the Tribunal for reimbursement of expenses incurred by the witness, and of the sanctions which may be imposed on defaulting witnesses.* *3. The Tribunal may, in exceptional circumstances, make the summoning of a witness for whose examination a party has applied conditional upon the deposit with the cashier of the Tribunal of a sum sufficient to cover the taxed costs thereof; the Tribunal shall fix the amount of the payment.* *The cashier of the Tribunal shall advance the funds necessary in connection with the*	*Article 66 Oral testimony* *1. The Court may, either of its own motion or at the request of one of the parties, and after hearing the Advocate General, order that certain facts be proved by witnesses.* *2. A request by a party for the examination of a witness shall state precisely about what facts and for what reasons the witness should be examined.* *3. The Court shall rule by reasoned order on the request referred to in the preceding paragraph. If the request is granted, the order shall set out the facts to be established and state which witnesses are to be heard in respect of each of those facts.* *4. Witnesses shall be summoned by the Court, where appropriate after lodgment of the security provided for in Article 73(1) of these Rules.*

examination of any witness summoned by the Tribunal of its own motion.	

Article 59(1) of the current Rules of Procedure has not been reproduced because its content is already to be found in the general provisions of Article 71(1) to (3) and in Article 71(4), second indent, of the draft. It should be pointed out in that regard that, in providing that '[e]ach party may propose the adoption or modification of measures of inquiry by stating precisely their subject-matter and the reasons which justify their adoption or modification', Article 71(2) of the draft extends to all measures of inquiry the requirement, currently set out in the second subparagraph of Article 59(1), that an application for examination of a witness 'shall state precisely about what facts and for what reasons the witness should be examined'.

Article 73 Examination of witnesses

1. After the identity of the witness has been established, the President shall instruct him to tell the truth and shall draw his attention to the consequences provided for by his national law in the event of any breach of that obligation.

2. Unless they are exempted by the Tribunal, the parties having been heard, witnesses shall take the following oath before giving evidence:

'I swear that I shall tell the truth, the whole truth and nothing but the truth.'

3. The witness shall give his evidence to the Tribunal, the parties having been given notice to attend. After the witness has given his main evidence the President and each of the Judges may, at the request of a party or of his own motion, put questions to him.

Subject to the control of the President, questions may be put to witnesses by the representatives of the parties.

4. The Registrar shall draw up minutes in which the evidence of the witnesses is reproduced.

The minutes shall be signed by the President or by the Judge-Rapporteur responsible for conducting the examination of the witness, and by the Registrar. Before the minutes are thus signed, witnesses shall be given an opportunity to verify the content of the minutes and to sign them.

The minutes shall constitute an official record. They shall be served on the parties.

Current text	***Text of the Court's Rules of Procedure***
Article 60 Examination of witnesses	*Article 67 Examination of witnesses*

1. After the identity of the witness has been established, the President shall inform him that he will be required to vouch the truth of his evidence in the manner laid down in paragraph 2 and in Article 63. *The witness shall give his evidence to the Tribunal, the parties having been given notice to attend. After the witness has given his main evidence the President and each of the Judges may, at the request of a party or of his own motion, put questions to him.* *Subject to the control of the President, questions may be put to witnesses by the representatives of the parties.* *2. Subject to the provisions of Article 63, the witness shall, before giving his evidence, take the following oath:* *'I swear that I shall tell the truth, the whole truth and nothing but the truth.'* *The Tribunal may, after hearing the parties, exempt a witness from taking the oath.* *3. The Registrar shall draw up minutes in which the evidence of each witness is reproduced.* *The minutes shall be signed by the President or by the Judge-Rapporteur responsible for conducting the examination of the witness, and by the Registrar. Before the minutes are thus signed, witnesses must be given an opportunity to check the content of the minutes and to sign them.* *The minutes shall constitute an official record.*	*1. After the identity of the witness has been established, the President shall inform him that he will be required to vouch the truth of his evidence in the manner laid down in these Rules.* *2. The witness shall give his evidence to the Court, the parties having been given notice to attend. After the witness has given his evidence the President may, at the request of one of the parties or of his own motion, put questions to him.* *3. The other Judges and the Advocate General may do likewise.* *4. Subject to the control of the President, questions may be put to witnesses by the representatives of the parties.* *Article 68 Witnesses' oath* *1. After giving his evidence, the witness shall take the following oath:* *'I swear that I have spoken the truth, the whole truth and nothing but the truth.'* *2. The Court may, after hearing the parties, exempt a witness from taking the oath.*

Unlike Article 48 of the Court's former Rules of Procedure, the Court's new Rules of Procedure no longer refer to the solemn affirmation equivalent to the oath, which is also referred to in Article 63(3) of the Tribunal's current Rules of Procedure. According to the Court of Justice, that reference appears somewhat anachronistic and out of step with the Statute of the Court of Justice.

Furthermore, the Court's Rules of Procedure do not reproduce either Article 124 of its former Rules which gave a witness or expert the possibility of taking the oath 'in the manner laid down by [his] national law'. This wording is found in Article 63(2) of the Tribunal's current Rules of Procedure.

Paragraphs 1 and 2 of the draft are therefore drafted taking account of the foregoing and so as to dispense with an article specifically relating to the oath.

Article 74 Duties of witnesses

1. Witnesses who have been duly summoned shall obey the summons and attend for examination.

2. If, without good reason, a witness who has been duly summoned fails to appear before the Tribunal, the latter may impose upon him a pecuniary penalty not exceeding EUR 5 000 and may order that a further summons be served on the witness at his own expense.

3. The same penalty may be imposed upon a witness who, without good reason, refuses to give evidence or to take the oath.

4. If a witness proffers a valid excuse to the Tribunal that he was unable to submit beforehand, the pecuniary penalty imposed on him may be cancelled. The pecuniary penalty imposed may be reduced at the request of the witness where he establishes that it is disproportionate to his income.

Current text	***Text of the Court's Rules of Procedure***
Article 61 Duties of witnesses *1. Witnesses who have been duly summoned shall obey the summons and attend for examination.* *2. If a witness who has been duly summoned fails to appear before the Tribunal, the latter may impose upon him a pecuniary sanction not exceeding EUR 5 000 and may order that a further summons be served at the witness's own expense.* *The same sanction may be imposed upon a witness who, without good reason, refuses to give evidence or to take the oath or where appropriate to make a solemn affirmation equivalent thereto.*	*Article 69 Pecuniary penalties* *1. Witnesses who have been duly summoned shall obey the summons and attend for examination.* *2. If, without good reason, a witness who has been duly summoned fails to appear before the Court, the Court may impose upon him a pecuniary penalty not exceeding EUR 5 000 and may order that a further summons be served on the witness at his own expense.* *3. The same penalty may be imposed upon a witness who, without good reason, refuses to give evidence or to take the oath.*

3. If the witness proffers a valid excuse to the Tribunal, the pecuniary sanction imposed on him may be cancelled. The pecuniary sanction imposed may be reduced at the request of the witness where he establishes that it is disproportionate to his income. *4. Sanctions imposed and other measures ordered under this Article shall be enforced in accordance with Articles 280 TFEU and 299 TFEU and Article 164 TEAEC.*	

The draft article largely reproduces Article 61 of the Tribunal's current Rules of Procedure. Paragraph 4 of the current Rules of Procedure is, however, omitted since it does not add anything to Articles 280 TFEU and 299 TFEU or to Article 164 TEAEC.

Article 75 Experts' reports

1. The Tribunal may, either of its own motion or on application by a party, order that an expert's report be obtained. The order appointing the expert shall define his task and set a time-limit within which he is to submit his report.

2. The expert shall receive a copy of the order, together with all the items of evidence necessary for carrying out his task. He shall be instructed to tell the truth and to carry out his task conscientiously and impartially and his attention shall be drawn to the consequences provided for by his national law in the event of any breach of those obligations.

3. The expert shall be under the supervision of the Judge-Rapporteur, who may be present during his investigation and who shall be kept informed of his progress in carrying out his task.

4. At the request of the expert, the Tribunal may order the examination of witnesses. Their examination shall be carried out in accordance with Article 73.

5. The expert may give his opinion only on points which have been expressly referred to him.

6. Unless he is exempted by the Tribunal, the parties having been heard, the expert shall take the following oath when submitting his report:

'I swear that I have conscientiously and impartially carried out my task.'

7. After the expert has submitted his report and that report has been served on the parties, the Tribunal may order that the expert be examined, after giving the parties notice to attend.

8. The President and each of the Judges may put questions to the expert. Subject to the control of the President, questions may be put to the expert by the representatives of the parties.

9. The Registrar shall draw up minutes in which the evidence of the expert is reproduced. The minutes shall be signed by the President or by the Judge-Rapporteur responsible for conducting the examination of the expert, and by the Registrar. Before the minutes are thus signed, the expert shall be given an opportunity to verify the content of the minutes and to sign them. Those minutes shall constitute an official record. They shall be served on the parties.

Current text	***Text of the Court's Rules of Procedure***
Article 62 Experts' reports *1. The Tribunal may, either of its own motion or on application by one of the parties, order that an expert's report be obtained. The order appointing the expert shall define his task and set a time-limit within which he is to make his report.* *2. The expert shall receive a copy of the order, together with all the documents necessary for carrying out his task. He shall be under the supervision of the Judge-Rapporteur, who may be present during his investigation and who shall be kept informed of his progress in carrying out his task.* *The Tribunal may request the parties or one of them to lodge security for the costs of the expert's report.* *3. At the request of the expert, the Tribunal may order the examination of witnesses. Their examination shall be carried out in accordance with Article 60.* *4. The expert may give his opinion only on points which have been expressly referred to him.* *5. After the expert has made his report, the Tribunal may order that he be examined, the parties having been given notice to attend.* *Subject to the control of the President, questions may be put to the expert by the representatives*	*Article 70 Expert's report* *1. The Court may order that an expert's report be obtained. The order appointing the expert shall define his task and set a time-limit within which he is to submit his report.* *2. After the expert has submitted his report and that report has been served on the parties, the Court may order that the expert be examined, the parties having been given notice to attend. At the request of one of the parties or of his own motion, the President may put questions to the expert.* *3. The other Judges and the Advocate General may do likewise.* *4. Subject to the control of the President, questions may be put to the expert by the representatives of the parties.* *Article 71 Expert's oath* *1. After making his report, the expert shall take the following oath:* *'I swear that I have conscientiously and impartially carried out my task.'* *2. The Court may, after hearing the parties, exempt the expert from taking the oath.*

of the parties. *6. Subject to the provisions of Article 63, the expert shall, after making his report, take the following oath before the Tribunal:* *'I swear that I have conscientiously and impartially carried out my task.'* *The Tribunal may, after hearing the parties, exempt the expert from taking the oath.*	*Article 74 Minutes of inquiry hearings* *1. The Registrar shall draw up minutes of every inquiry hearing. The minutes shall be signed by the President and by the Registrar. They shall constitute an official record.* *2. In the case of the examination of witnesses or experts, the minutes shall be signed by the President or by the Judge-Rapporteur responsible for conducting the examination of the witness or expert, and by the Registrar. Before the minutes are thus signed, the witness or expert must be given an opportunity to check the content of the minutes and to sign them.* *3. The minutes shall be served on the parties.*

The draft article corresponds in part to Article 62 of the Tribunal's current Rules of Procedure.

Paragraph 2 of the draft has been adapted so as to state that the expert would be warned when commencing his mission that he must carry out his task conscientiously and impartially. As in the Court's Rules of Procedure, the second subparagraph of the present Article 62(2) is reproduced in a new provision on 'Witnesses' and experts' costs'.

Interpreted strictly, Article 62(5) of the current Rules of Procedure does not allow the Tribunal to put questions to the expert of its own motion. By contrast, the Court's Rules of Procedure provide for this (Article 70(2) and (3) of those Rules). This has been allowed for in paragraph 8 of the draft. The removal, by the Court, of any reference to an affirmation equivalent to the oath and the removal of the possibility of taking the oath in the manner laid down by national law have also been taken into account.

Lastly, a paragraph 9 governs the drawing-up of minutes of the examination of experts. In essence, it reproduces the provisions concerning witnesses. The Court has inserted an equivalent provision in Article 74 of its new Rules of Procedure.

Article 76 Perjury and violation of the oath

1. Pursuant to Article 30 of the Statute, the Tribunal may decide to report to the competent authority, referred to in the Rules supplementing the Rules of Procedure of the Court of Justice, of the Member State whose courts have criminal jurisdiction any case of perjury on the part of a witness or expert before the Tribunal.

2. The Registrar shall be responsible for communicating the decision of the Tribunal. The decision shall set out the facts and circumstances on which the report is based.

Current text	***Text of the Court's Rules of Procedure***
Article 64 Perjury *1. The Tribunal may decide to report to the competent authority, referred to in Annex III to the Rules supplementing the Rules of Procedure of the Court of Justice, of the Member State whose courts have criminal jurisdiction any case of perjury on the part of a witness or expert before the Tribunal, account being taken of the provisions of Article 63.* *2. The Registrar shall be responsible for communicating the decision of the Tribunal. The decision shall set out the facts and circumstances on which the report is based.*	*No equivalent, but:* *Article 207 Supplementary rules* *Subject to the provisions of Article 253 TFEU and after consultation with the Governments concerned, the Court shall adopt supplementary rules concerning its practice in relation to:* *(a) letters rogatory;* *(b) applications for legal aid;* *(c) reports by the Court of perjury by witnesses or experts, delivered pursuant to Article 30 of the Statute.* *Current Supplementary Rules – Article 6* *The Court, after hearing the Advocate General, may decide to report to the competent authority referred to in Annex III of the Member State whose courts have penal jurisdiction in any case of perjury on the part of a witness or expert before the Court, account being taken of the provisions of Article 124 of the Rules of Procedure.*

The proposed amendments to Article 64 of the current Rules of Procedure are purely formal and take account of the omission of the affirmation equivalent to the oath (Article 63 of the Tribunal's current Rules of Procedure).

Article 77 Objection to a witness or expert

1. If one of the parties objects to a witness or to an expert on the ground that he is not a competent or proper person to act as witness or expert or for any other reason, or if a witness or expert refuses to give evidence or to take the oath, the Tribunal shall adjudicate by way of reasoned order.

2. An objection to a witness or to an expert shall be raised within two weeks after service of the order summoning the witness or appointing the expert; the statement of objection must set out the grounds of objection and indicate the nature of any evidence offered.

Current text	***Text of the Court's Rules of Procedure***
Article 65 Objection *1. If one of the parties objects to a witness or to an expert on the ground that he is not a competent or proper person to act as witness or expert or for any other reason, or if a witness or expert refuses to give evidence, to take the oath or to make a solemn affirmation equivalent thereto, the Tribunal shall adjudicate by way of reasoned order.* *2. An objection to a witness or to an expert shall be raised within two weeks after service of the order summoning the witness or appointing the expert; the statement of objection must set out the grounds of objection and indicate the nature of any evidence offered.*	*Article 72 Objection to a witness or expert* *1. If one of the parties objects to a witness or an expert on the ground that he is not a competent or proper person to act as a witness or expert or for any other reason, or if a witness or expert refuses to give evidence or to take the oath, the matter shall be resolved by the Court.* *2. An objection to a witness or an expert shall be raised within two weeks after service of the order summoning the witness or appointing the expert; the statement of objection must set out the grounds of objection and indicate the nature of any evidence offered.*

The draft article reproduces Article 65 of the Tribunal's current Rules of Procedure, subject to the removal, which has already been mentioned, of the reference to the solemn affirmation equivalent to the oath and to the clarification, in the title of this article, that it concerns objections to a witness or expert.

Article 78 Witnesses' and experts' costs

1. Where the Tribunal orders the examination of witnesses or an expert's report, it may request the parties or one of them to lodge with the cashier of the Tribunal security for the witnesses' costs or the costs of the expert's report. The Tribunal shall determine the amount.

2. Witnesses and experts shall be entitled to reimbursement of their travel and subsistence expenses. The cashier of the Tribunal may make an advance payment towards these expenses.

3. Witnesses shall be entitled to compensation for loss of earnings, and experts to fees for their services. The cashier of the Tribunal shall pay witnesses and experts these sums after they have carried out their respective duties or tasks.

Current text	***Text of the Court's Rules of Procedure***
Article 66 Reimbursement of expenses – Compensation or fees *1. Witnesses and experts shall be entitled to reimbursement of their travel and subsistence expenses. The cashier of the Tribunal may make a payment to them towards these expenses in advance.* *2. Witnesses shall be entitled to compensation for loss of earnings, and experts to fees for their services. The cashier of the Tribunal shall pay witnesses and experts their compensation or fees after they have carried out their respective duties or tasks.* *Article 59 Summoning of witnesses* *...* *3. The Tribunal may, in exceptional circumstances, make the summoning of a witness for whose examination a party has applied conditional upon the deposit with the cashier of the Tribunal of a sum sufficient to cover the taxed costs thereof; the Tribunal shall fix the amount of the payment.* *The cashier of the Tribunal shall advance the funds necessary in connection with the examination of any witness summoned by the Tribunal of its own motion.*	*Article 73 Witnesses' and experts' costs* *1. Where the Court orders the examination of witnesses or an expert's report, it may request the parties or one of them to lodge security for the witnesses' costs or the costs of the expert's report.* *2. Witnesses and experts shall be entitled to reimbursement of their travel and subsistence expenses. The cashier of the Court may make an advance payment towards these expenses.* *3. Witnesses shall be entitled to compensation for loss of earnings, and experts to fees for their services. The cashier of the Court shall pay witnesses and experts these sums after they have carried out their respective duties or tasks.*

Article 62 Experts' reports *...* *2. ...* *The Tribunal may request the parties or one of them to lodge security for the costs of the expert's report.* *...*	

Like the Court, and in the interests of clarity and transparency, it is suggested that the issue of expenses linked to examination of witnesses or to an expert's report be dealt with in a single provision. The first paragraph corresponds, in essence, to Article 73(1) of the Court's Rules of Procedure. The second and third paragraphs essentially reproduce Article 66 of the Tribunal's current Rules of Procedure.

Article 79 Letters rogatory

1. The Tribunal may, on application by a party or of its own motion, issue letters rogatory for the examination of witnesses or experts.

2. Letters rogatory shall be issued in the form of an order which shall contain the name, forenames, professional capacity and address of the witness or expert, set out the facts on which the witness or expert is to be examined, name the parties, their representatives, indicate their addresses and briefly describe the subject-matter of the proceedings.

3. The Registrar shall send the order to the competent authority named in the Rules supplementing the Rules of Procedure of the Court of Justice of the Member State in whose territory the witness or expert is to be examined. Where necessary, the order shall be accompanied by a translation into the official language or languages of the Member State to which it is addressed.

The authority named pursuant to the first subparagraph shall pass on the order to the judicial authority which is competent according to its national law.

The competent judicial authority shall give effect to the letters rogatory in accordance with its national law. After implementation the competent judicial authority shall transmit to the authority named pursuant to the first subparagraph the order embodying the letters rogatory, any documents arising from the implementation and a detailed statement of costs. These documents shall be sent to the Registrar.

4. The Registrar shall be responsible for the translation of the documents into the language of the case.

5. Where the Tribunal issues letters rogatory, it may request the parties or one of them to lodge with the cashier of the Tribunal security for the costs thereof. The Tribunal shall determine the amount.

Current text	***Text of the Court's Rules of Procedure***
Article 67 Letters rogatory *1. The Tribunal may, on application by a party or of its own motion, issue letters rogatory for the examination of witnesses or experts.* *2. Letters rogatory shall be issued in the form of an order which shall contain the name, forenames, description and address of the witness or expert, set out the facts on which the witness or expert is to be examined, name the parties, their representatives, indicate their addresses and briefly describe the subject-matter of the proceedings.* *3. The Registrar shall send the order to the competent authority named in Annex I to the Rules supplementing the Rules of Procedure of the Court of Justice of the Member State in whose territory the witness or expert is to be examined. Where necessary, the order shall be accompanied by a translation into the official language or languages of the Member State to which it is addressed.* *The authority named pursuant to the first subparagraph shall pass on the order to the judicial authority which is competent according to its national law.* *The competent judicial authority shall give effect to the letters rogatory in accordance with its national law. After implementation the competent judicial authority shall transmit to the authority named pursuant to the first subparagraph the order embodying the letters rogatory, any documents arising from the implementation and a detailed statement of costs. These documents shall be sent to the*	*No equivalent, but:* *Article 207 Supplementary rules* *Subject to the provisions of Article 253 TFEU and after consultation with the Governments concerned, the Court shall adopt supplementary rules concerning its practice in relation to:* *(a) letters rogatory;* *(b) applications for legal aid;* *(c) reports by the Court of perjury by witnesses or experts, delivered pursuant to Article 30 of the Statute.*

Registrar. *The Registrar shall be responsible for the translation of the documents into the language of the case.* *4. The Tribunal shall defray the expenses occasioned by the letters rogatory without prejudice to the right to charge them, where appropriate, to the parties.*	

The draft article corresponds in essence to Article 67 of the Tribunal's current Rules of Procedure. It has, nevertheless, been deemed appropriate to treat the expenses occasioned by letters rogatory as costs (see Article 105 of the draft). As a result, a provision similar to Article 78(1) of the draft has been substituted, in Article 79 of the draft, for Article 67(4) of the current Rules of Procedure.

Chapter 4
PRELIMINARY OBJECTIONS AND ISSUES

This chapter deals with the declining of jurisdiction, actions manifestly bound to fail, absolute bars to proceeding with a case, applications for a decision not going to the merits of the case, discontinuance, and cases that do not proceed to judgment. It is the counterpart to Chapter 2, which describes the ordinary procedure.

Article 80 Declining of jurisdiction

1. In accordance with Article 8(2) of Annex I to the Statute, where the Tribunal finds that the action before it or part of the heads of claim in that action falls within the jurisdiction of the Court of Justice or of the General Court, it shall refer that action to the Court of Justice or to the General Court.

2. The Tribunal shall make its decision by way of reasoned order.

Current text	***Text of the Court's Rules of Procedure***
Article 73 Declining of jurisdiction *1. In accordance with Article 8(2) of Annex I to the Statute, where the Tribunal finds that the action before it falls within the jurisdiction of the Court of Justice or of the General Court, it shall refer that action to the Court of Justice or to the General Court.* *2. The Tribunal shall make its decision by way of reasoned order.*	*No equivalent*

The draft article corresponds to Article 73 of the current Rules of Procedure. In the light of experience, Article 73 has nevertheless been supplemented in order to cover the situation where only part of the heads of claim in an action falls within the jurisdiction of the Court of Justice or the General Court.

Article 81 Action manifestly bound to fail

Where it is clear that the Tribunal has no jurisdiction to hear and determine an action or certain of the claims therein or where the action is, in whole or in part, manifestly inadmissible or manifestly lacking any foundation in law, the Tribunal may at any time decide to give a decision by reasoned order without taking further steps in the proceedings.

Current text	***Text of the Court's Rules of Procedure***
Article 76 Action manifestly bound to fail *Where it is clear that the Tribunal has no jurisdiction to take cognisance of an action or of certain of the claims therein or where the action is, in whole or in part, manifestly inadmissible or manifestly lacking any foundation in law, the Tribunal may, without taking further steps in the proceedings, give a decision by way of reasoned order.*	*Article 53 Procedures for dealing with cases* *...* *2. Where it is clear that the Court has no jurisdiction to hear and determine a case or where a request or an application is manifestly inadmissible, the Court may, after hearing the Advocate General, at any time decide to give a decision by reasoned order without taking further steps in the proceedings.* *...*

The text of the draft corresponds to Article 76 of the current Rules of Procedure, but has been adapted to be as closely aligned as possible with the Court's Rules of Procedure.

Article 82 Absolute bar to proceeding with a case

The Tribunal may at any time, of its own motion, after hearing the parties, decide whether there exists any absolute bar to proceeding with a case. If the Tribunal considers that it possesses sufficient information, it may, without taking further steps in the proceedings, give a decision by way of reasoned order.

Current text	***Text of the Court's Rules of Procedure***
Article 77 Absolute bar to proceeding *The Tribunal may at any time, of its own motion, after hearing the parties, decide whether there exists any absolute bar to proceeding with an action. If the Tribunal considers that it possesses sufficient information, it may, without taking further steps in the proceedings, give a decision by way of reasoned order.*	*Article 150 Absolute bar to proceeding with a case* *On a proposal from the Judge-Rapporteur, the Court may at any time of its own motion, after hearing the parties and the Advocate General, decide to rule by reasoned order on whether there exists any absolute bar to proceeding with a case.*

The text of the draft in effect reproduces Article 77 of the Rules of Procedure.

Article 83 Application for a decision not going to the merits of the case

1. A party applying to the Tribunal for a decision on admissibility, on lack of competence or on any other preliminary plea not going to the merits of the case shall submit the application by a separate document.

The application must contain the pleas of fact and law relied on and the form of order sought by the applicant; any supporting documents and items of evidence must be annexed to it.

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.

Unless the Tribunal otherwise decides, the remainder of the proceedings on the application shall be oral.

3. The Tribunal shall decide on the application by way of reasoned order and as soon as possible or, where special circumstances so justify, reserve its decision until it rules on the merits of the case.

If the Tribunal refuses the application or reserves its decision, the President shall prescribe new time-limits for the further steps in the proceedings.

Where the case falls within the jurisdiction of the Court of Justice or the General Court, the Tribunal shall refer the case to the court concerned in accordance with Article 80.

Current text	***Text of the Court's Rules of Procedure***
Article 78 Application for a decision not going to the substance of the case *1. A party applying to the Tribunal for a decision on admissibility, on lack of competence or other preliminary plea not going to the substance of the case shall make the application by a separate document within a month of service of the application.* *The application must contain the pleas of fact and law relied on and the form of order sought by the applicant; any supporting documents must be annexed to it.* *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.* *Unless the Tribunal otherwise decides, the remainder of the proceedings shall be oral.* *3. The Tribunal shall decide on the application by way of reasoned order or reserve its decision for the final judgment.* *If the Tribunal refuses the application or reserves its decision, the President shall prescribe new time-limits for further steps in the proceedings.* *4. The Tribunal shall refer the case to the Court of Justice or to the General Court if the case falls*	*Article 151 Preliminary objections and issues* *1. A party applying to the Court for a decision on a preliminary objection or issue not going to the substance of the case shall submit the application by a separate document.* *2. The application must state the pleas of law and arguments relied on and the form of order sought by the applicant; any supporting items and documents must be annexed to it.* *3. As soon as the application has been submitted, the President shall prescribe a time-limit within which the opposite party may submit in writing his pleas in law and the form of order which he seeks.* *4. Unless the Court decides otherwise, the remainder of the proceedings on the application shall be oral.* *5. The Court shall, after hearing the Advocate General, decide on the application as soon as possible or, where special circumstances so justify, reserve its decision until it rules on the substance of the case.* *6. If the Court refuses the application or reserves its decision, the President shall prescribe new time-limits for the further steps in the proceedings.*

within the jurisdiction of either of those Courts.	

The time-limit for lodging a plea of inadmissibility is currently fixed at one month by the first subparagraph of Article 78(1) of the Rules of Procedure, while the time-limit for submitting a defence is fixed at two months. That difference has already given rise to problems (see, for example, the order of the Tribunal of 17 September 2009 in Case F-121/07 Strack *v* Commission*) and attracts criticism. It also leads to defendants submitting their pleas of inadmissibility in the defence, which often leads to a need to order a second exchange of pleadings. It is thus counter-productive in terms of saving time. The repeal of the last part of the first subparagraph of Article 78(1) of the Rules of Procedure has the consequence that the defendant will now have the two-month time-limit prescribed for lodging the defence within which to raise a plea of inadmissibility and to apply for it to be determined by a decision not going to the merits of the case. This solution is that provided for in Article 114 of the Rules of Procedure of the General Court.*

Article 84 Discontinuance

If the applicant informs the Tribunal, in writing or at the hearing, that he wishes to discontinue the proceedings, the President shall order the case to be removed from the register and shall give a decision as to costs in accordance with Article 103(5).

Current text	***Text of the Court's Rules of Procedure***
Article 74 Discontinuance *If the applicant informs the Tribunal, in writing or at the hearing, that he wishes to discontinue the proceedings, the President shall order the case to be removed from the register and shall give a decision as to costs in accordance with Article 89(5).*	*Article 148 Discontinuance* *If the applicant informs the Court in writing or at the hearing that he wishes to discontinue the proceedings, the President shall order the case to be removed from the register and shall give a decision as to costs in accordance with Article 141.*

The draft text reproduces Article 74 of the Tribunal's Rules of Procedure.

Article 85 Cases that do not proceed to judgment

1. If the Tribunal finds that an action has become devoid of purpose and that there is no longer any need to adjudicate on it, it may at any time, if necessary of its own motion, after hearing the parties, close the proceedings by means of a reasoned order.

2. If the applicant ceases to reply to the Tribunal's requests, the Tribunal may find, if necessary of its own motion, after hearing the parties, that there is no longer any need to adjudicate and close the proceedings by means of a reasoned order.

Current text	***Text of the Court's Rules of Procedure***
Article 75 No need to adjudicate *If the Tribunal finds that an action has become devoid of purpose and that there is no longer any need to adjudicate on it, it may at any time, of its own motion, after hearing the parties, adopt a reasoned order.*	*Article 149 Cases that do not proceed to judgment* *If the Court declares that the action has become devoid of purpose and that there is no longer any need to adjudicate on it, the Court may at any time of its own motion, on a proposal from the Judge-Rapporteur and after hearing the parties and the Advocate General, decide to rule by reasoned order. It shall give a decision as to costs.*

Paragraph 1 of the draft article corresponds in essence to Article 75 of the Rules of Procedure. It is not stated, as it is in the Court's Rules of Procedure, that the Tribunal is to give a decision as to costs, since such a provision would duplicate Articles 100 and 103(6) of the draft.

Paragraph 2 is new and is intended to recognise the case-law of the Tribunal and the General Court. A finding that there is no need to adjudicate in that situation is explained on grounds of procedural economy. The draft article may be compared to Article 44C of the Rules of Court of the ECHR.

Chapter 5
INTERVENTION

As the Court stated in the explanatory notes to the draft of what are now its new Rules of Procedure, the intervener should not be confused with the main parties. Since the application to intervene must be joined to

pre-existing proceedings, it cannot have any other purpose than to support one of the parties to those proceedings and the claims which that party has submitted. That support may, however, be no more than partial and concern no more than one or more of the pleas in law put forward by the applicant or defendant, and not all of them. It follows from this ancillary nature of the application to intervene that it becomes devoid of purpose if the main proceedings lapse, for example as a result of their discontinuance or an agreement between the applicant and defendant.

Article 86 Application to intervene

1. Any application to intervene must be made within six weeks of the date of publication of the notice referred to in Article 51(2).

2. The application to intervene shall contain:

(a) a description of the case;

(b) particulars of the main parties;

(c) the name and address of the intervener;

(d) the professional capacity and address of the signatory;

(e) the intervener's address for service or the agreement of the intervener's representative to receive service of documents by the electronic means referred to in Article 36(4) or by telefax;

(f) the form of order sought by the intervener, in support of or opposing the form of order sought by the applicant;

(g) a statement of the circumstances establishing the right to intervene pursuant to the second paragraph of Article 40 of the Statute or on the basis of a specific provision.

3. If the application to intervene does not comply with the requirements referred to in paragraph 2(e), for the purposes of the proceedings service on the party concerned shall be effected, until the defect has been remedied, by registered letter addressed to the intervener's representative. By way of derogation from Article 36(1), service shall then be deemed to have been duly effected by the lodging of the registered letter at the post office of the place where the Tribunal has its seat.

4. The intervener shall be represented in accordance with Article 19 of the Statute.

5. The intervener's agent, adviser or lawyer must attach to the application to intervene the documents referred to in Article 31.

6. If the application to intervene does not comply with the requirements set out in the second, third and fourth subparagraphs of Article 45(1), in the second subparagraph of Article 45(2), or in paragraph 5 of this Article, the Registrar shall prescribe a time-limit within which the intervener is to put the application to intervene in order. If the intervener fails to put the application to intervene in order within the time-limit prescribed, the Tribunal

shall decide whether the non-compliance with these conditions renders the application to intervene formally inadmissible.

Current text	***Text of the Court's Rules of Procedure***
Article 109 Application to intervene *1. Any application to intervene must be made within four weeks of the date of publication of the notice referred to in Article 37(2).* *2. The application to intervene shall contain:* *(a) the description of the case;* *(b) the description of the parties;* *(c) the name and address of the intervener;* *(d) the intervener's address for service at the place where the Tribunal has its seat or an indication of the technical means of communication available to the Tribunal by which his representative agrees to accept service;* *(e) the form of order sought by the intervener, in support of or opposing the form of order sought by the applicant;* *(f) a statement of the circumstances establishing the right to intervene pursuant to the second paragraph of Article 40 of the Statute or on the basis of a specific provision.* *3. Articles 34 and 35 shall apply.* *4. The intervener shall be represented in accordance with Article 19 of the Statute.* *5. The application to intervene shall be served on the parties, so as to permit them an opportunity to submit their written or oral observations and to indicate to the Registry, where appropriate, those documents which they consider to be secret or confidential and which, in consequence, they do not wish to be communicated to the*	*Article 130 Application to intervene* *1. An application to intervene must be submitted within six weeks of the publication of the notice referred to in Article 21(4).* *2. The application to intervene shall contain:* *(a) a description of the case;* *(b) a description of the main parties;* *(c) the name and address of the intervener;* *(d) the form of order sought, in support of which the intervener is applying for leave to intervene;* *(e) a statement of the circumstances establishing the right to intervene, where the application is submitted pursuant to the second or third paragraph of Article 40 of the Statute.* *3. The intervener shall be represented in accordance with Article 19 of the Statute.* *4. Articles 119, 121 and 122 of these Rules shall apply.*

interveners. *6. The President shall decide on the application to intervene by way of order or shall refer it to the Tribunal. The order must be reasoned if the application is dismissed.*	

The amendments made by the draft to Article 109 of the current Rules of Procedure stem primarily from the removal of the reference to Articles 34 and 35 of those Rules. The reference to Article 34 is no longer necessary, in so far as that article has been moved to a general article covering all procedural documents (Article 45 of the draft). In addition, the reference to Article 35 (now Article 50 of the draft) is too general.

It must be noted that:

- *Article 35(1)(a) and (c) of the current Rules is covered by Article 109(2)(b) of those Rules;*
- *Article 35(1)(d) of the current Rules is covered by Article 109(2)(a);*
- *Article 35(1)(e) of the current Rules is premature, since the pleas in law and arguments must be provided in the statement in intervention;*
- *Article 35(2) of the current Rules is redundant as regards the application to intervene;*
- *Article 35(3) of the current Rules is covered by Article 109(2)(d);*
- *the reference to Article 35(4) also presents a difficulty in so far as that paragraph refers to Article 35(3) which, as has just been shown, is essentially reproduced in Article 109(2)(d).*

Furthermore, it is recommended that, in the interests of equality between the main parties and the interveners, the Rules include a provision on putting the application to intervene in order similar to that provided for in respect of the application.

Lastly, the time-limit for submitting the application to intervene has been changed to six weeks in the interests of establishing uniformity with the Court's Rules of Procedure.

Article 87 Decision on applications to intervene

1. The application to intervene shall be served on the main parties, so as to permit them an opportunity to submit their written or oral observations and to indicate, where appropriate, those documents or items of evidence which they consider to be secret or confidential and which, in consequence, they do not wish to be communicated to the interveners.

2. Where the main parties have not, within the time-limit prescribed, put forward any objection to the application to intervene or identified secret or confidential items of evidence or documents which, if communicated to the intervener, the parties claim would be prejudicial to them, the intervention shall be authorised by decision of the President.

3. In any other case, the President shall decide by reasoned order on the application to intervene and, where applicable, on the communication of items of evidence or documents which it is claimed are secret or confidential. He may also refer those matters to the Tribunal which shall decide by the same means.

Current text	***Text of the Court's Rules of Procedure***
Article 109 Application to intervene *...* *5. The application to intervene shall be served on the parties, so as to permit them an opportunity to submit their written or oral observations and to indicate to the Registry, where appropriate, those documents which they consider to be secret or confidential and which, in consequence, they do not wish to be communicated to the interveners.* *6. The President shall decide on the application to intervene by way of order or shall refer it to the Tribunal. The order must be reasoned if the application is dismissed.*	*Article 131 Decision on applications to intervene* *1. The application to intervene shall be served on the parties in order to obtain any written or oral observations they may wish to make on that application.* *2. Where the application is submitted pursuant to the first or third paragraph of Article 40 of the Statute, the intervention shall be allowed by decision of the President and the intervener shall receive a copy of every procedural document served on the parties, provided that those parties have not, within 10 days after the service referred to in paragraph 1 has been effected, put forward observations on the application to intervene or identified secret or confidential items or documents which, if communicated to the intervener, the parties claim would be prejudicial to them.* *3. In any other case, the President shall decide on the application to intervene by order or shall refer the application to the Court.* *4. If the application to intervene is granted, the intervener shall receive a copy of every procedural document served on the parties, save, where applicable, for the secret or confidential items or documents excluded from such communication pursuant to paragraph 3.*

As the Court has done, it is suggested that paragraphs 5 and 6 of Article 109 of the Tribunal's current Rules of Procedure be set out in a new article. As in the case of the provisions on a stay of proceedings and joinder, in the interests of rationalisation no order will need to be drawn up in respect of the application to intervene if it is not opposed by the main parties.

Article 88 Submission of statements and observations on them

1. If an intervention is allowed, the intervener must accept the case as he finds it at the time of his intervention.

2. The intervener shall receive a copy of all the procedural documents served on the main parties, except for items of evidence or documents which have been acknowledged to be secret or confidential under Article 87(3).

3. The intervener may submit a statement in intervention within one month after communication of the procedural documents referred to in paragraph 2. That time-limit may be extended by the President at the duly reasoned request of the intervener.

The statement in intervention shall contain:

(a) the form of order sought by the intervener;

(b) a clear summary of the relevant facts presented in chronological order, and a separate, precise and structured summary of the pleas in law and arguments of law relied on by the intervener;

(c) where appropriate, any evidence offered.

4. The statement in intervention shall be admissible only if it is made in support, in whole or in part, of the form of order sought by one of the main parties.

5. After the statement in intervention has been lodged, the President shall prescribe a time-limit within which the main parties may reply in writing to that statement or shall invite them to present their replies during the oral part of the procedure.

6. If the statement in intervention or the written observations of the parties do not comply with the requirements set out in the second, third and fourth subparagraphs of Article 45(1), in the second subparagraph of Article 45(2), or in Article 46, the Registrar shall prescribe a time-limit within which the party concerned is to put the document in order. If the party concerned fails to put the document in order within the time-limit prescribed, the Tribunal shall decide whether the non-compliance with these conditions renders that document formally inadmissible.

Current text	***Text of the Court's Rules of Procedure***

Article 110 Conditions for intervention *1. If an intervention is allowed, the President shall prescribe a period within which the intervener may submit a statement in intervention.* *2. The intervener shall receive a copy of all the pleadings served on the parties. The President may, however, on application by one of the parties, omit secret or confidential documents.* *3. The statement in intervention shall contain:* *(a) a statement of the form of order sought by the intervener;* *(b) the pleas in law and arguments relied on by the intervener;* *(c) where appropriate, the nature of any evidence offered.* *4. The statement in intervention is admissible only if it is made in support, in whole or in part, of the form of order sought by one of the parties.* *5. After the statement in intervention has been lodged, the President shall prescribe a time-limit within which the parties may reply in writing to that statement or shall invite them to present their replies during the oral procedure.* *6. For the purposes of these Rules, the intervener shall be treated as a party, save as otherwise provided.*	*Article 129 Object and effects of the intervention* *1. The intervention shall be limited to supporting, in whole or in part, the form of order sought by one of the parties. It shall not confer the same procedural rights as those conferred on the parties and, in particular, shall not give rise to any right to request that a hearing be held.* *2. The intervention shall be ancillary to the main proceedings. It shall become devoid of purpose if the case is removed from the register of the Court as a result of a party's discontinuance or withdrawal from the proceedings or of an agreement between the parties, or where the application is declared inadmissible.* *3. The intervener must accept the case as he finds it at the time of his intervention.* *…* *Article 132 Submission of statements* *1. The intervener may submit a statement in intervention within one month after communication of the procedural documents referred to in the preceding Article. That time-limit may be extended by the President at the duly reasoned request of the intervener.* *2. The statement in intervention shall contain:* *(a) the form of order sought by the intervener in support, in whole or in part, of the form of order sought by one of the parties;* *(b) the pleas in law and arguments relied on by the intervener;* *(c) where appropriate, any evidence produced or offered.* *3. After the statement in intervention has been lodged, the President shall, where necessary, prescribe a time-limit within which the parties may reply to that statement.*

Paragraph 1 has been inserted in order to clarify, as the Court has done in Article 129 of its Rules of Procedure, that the intervener must accept the case as he finds it at the time of his intervention. In other words, the intervention cannot, in particular, have the effect that the proceedings recommence from their starting point, by granting, for example, if the written part of the procedure is closed, new time-limits for the submission of a defence, reply or rejoinder.

It must be noted that most of the provisions of Articles 129 to 132 of the Court's Rules of Procedure are to be found, mutatis mutandis*, in the articles of this draft dealing with intervention. Thus the rule, in Article 129 of the Court's Rules of Procedure, that the intervention is to be limited to supporting, in whole or in part, the form of order sought by one of the main parties is to be found in paragraph 4 of the draft article. Furthermore, paragraph 3 of the draft provides that the statement in intervention must be submitted within a time-limit of one month so as to provide for uniformity with Article 132(1) of the Court's Rules of Procedure.*

Lastly, paragraph 6 corresponds to provisions which have been added to previous articles of the draft. It concerns the putting in order of statements in intervention and the observations of the main parties on those statements.

Article 89 Invitation to intervene

1. At any stage in the proceedings the President may, after hearing the parties, invite any person, any institution or any Member State concerned by the outcome of the dispute to inform the Tribunal, within the time-limit prescribed by the President, if he or it wishes to intervene in the proceedings. The notice referred to in Article 51(2) shall be mentioned in the invitation.

2. The person, institution or Member State who or which wishes to intervene shall submit an application to that effect to the Tribunal within the time-limit prescribed pursuant to paragraph 1. Article 86(2)(a) to (f) and Article 86(3) to (6) shall apply to that application.

3. The application to intervene shall be served on the main parties, so as to permit them to indicate, where appropriate, those items of evidence which they consider to be secret or confidential and which, in consequence, they do not wish to be communicated to the interveners.

Where the main parties have not, within the time-limit prescribed, identified secret or confidential items of evidence or documents which, if communicated to the intervener, the parties claim would be prejudicial to them, the intervention shall be allowed by decision of the President.

In any other case, the President shall decide by reasoned order on the application to intervene and, where applicable, on the communication of items of evidence and documents which it is claimed are secret or confidential. He may also refer those matters to the Tribunal which shall decide by the same means.

4. Article 88 shall apply.

Current text	***Text of the Court's Rules of Procedure***
Article 111 Invitation to intervene *1. At any stage in the proceedings the President may, after hearing the parties, invite any person, any institution or any Member State concerned by the outcome of the dispute to inform the Tribunal if he or it wishes to intervene in the proceedings. The notice referred to in Article 37(2) shall be mentioned in the invitation.* *2. If the person, institution or Member State concerned informs the Tribunal within the period prescribed by the President that he or it wishes to intervene, the President shall inform the parties so as to permit them to indicate to the Registry, where appropriate, those documents which they consider to be secret or confidential and which, in consequence, they do not wish to be communicated to the person, institution or Member State concerned.* *The provisions of Article 110(2) shall apply.* *3. The person, institution or Member State concerned shall present its statement in intervention within a month of the communication of the pleadings.* *The provisions of Articles 34, 35, 109(2)(a) to (e) and (4) and 110(3) to (6) shall apply.*	*No equivalent*

The draft article corresponds to Article 111 of the current Rules of Procedure. It has been partially rewritten to take account of the fact that the reference to certain articles was not appropriate. Thus the reference in Article 111 of the current Rules of Procedure to Article 34 has become unnecessary, since the latter has been moved to a general article (Article 45 of the draft) covering all procedural documents. Furthermore, the reference in Article 111 of the current Rules of Procedure to Article 35 (now Article 50 of the draft) duplicates the provisions of Article 109 of the current Rules of Procedure, to which Article 111 refers (compare Article 35(1)(a) and (c) and Article 35(3) with Article 109(2)(b) and (d)), is premature (see Article 35(1)(e)) or is redundant (see Article 35(2)).

It has consequently been deemed preferable to treat, in paragraph 2 of the draft, the wish to intervene, sent by the intervener to the Tribunal in response to the invitation to intervene, as an application to intervene within the meaning of Article 86 of the draft.

Paragraph 3 of the draft article reproduces, in essence, the provisions of Article 87 of the draft, to which it was not possible simply to refer because the parties, who have already been consulted on the possibility of inviting a third party to intervene, are no longer required to submit observations on that issue.

By contrast, paragraph 4 of the draft article simply refers to Article 88 of the draft, which deals with the submission of statements.

Chapter 6
THE AMICABLE SETTLEMENT OF DISPUTES

Article 90 Measures

1. The Tribunal may, at all stages of the procedure, examine the possibilities of an amicable settlement of the dispute between the applicant and the defendant.

The Tribunal shall instruct the Judge-Rapporteur, assisted by the Registrar, to seek the amicable settlement of a dispute.

2. The Judge-Rapporteur may propose one or more solutions capable of putting an end to the dispute, adopt appropriate measures with a view to facilitating its amicable settlement and implement the measures which he has adopted to that end.

He may, amongst other things:

- ask the parties to supply information or particulars;

- ask the parties to produce documents;

- invite to meetings the parties' representatives, the parties themselves or any official or other servant of the institution empowered to negotiate an agreement;

- on the occasion of the meetings referred to in the third indent, have contact with each of the parties separately, if they consent to that.

3. Paragraphs 1 and 2 shall apply to proceedings for interim measures also.

Current text	*Text of the Court's Rules of Procedure*
Article 68 Measures *1. The Tribunal may, at all stages of the procedure, examine the possibilities of an amicable settlement of the dispute between the applicant and the defendant, propose one or more solutions capable of putting an end to the dispute and adopt appropriate measures with a view to facilitating such settlement.* *It may, amongst other things:* *- ask the parties or third parties to supply information or particulars;* *- ask the parties or third parties to produce documents;* *- invite to meetings the parties' representatives, the parties themselves or any official or other servant of the institution empowered to negotiate an agreement.* *2. Paragraph 1 shall apply to proceedings for interim measures also.* *3. The Tribunal may instruct the Judge-Rapporteur, assisted by the Registrar, to seek the amicable settlement of a dispute or to implement the measures which it has adopted to that end.*	

The draft text still makes the formation of the court responsible for examining whether an amicable settlement of the dispute can be found. Nevertheless, it clarifies the respective roles of the formation of the court and the Judge-Rapporteur, whose function as supervisor in the search for such a settlement is confirmed. The Judge-Rapporteur may, in this respect, take any appropriate measure to achieve this objective and, if necessary, designate a mediator. However, he may no longer ask third parties to the dispute to provide particulars or documents. Article 68 of the current Rules of Procedure is inconsistent in so far as, on principle, those third parties can only be asked to do so by a measure of inquiry. Lastly, it is stated that the Judge-Rapporteur may, if necessary, have contact with the parties separately. The agreement of each party is, however, required in order to maintain the mutual trust which must govern any attempt at amicable settlement. Moreover, that rule recognises a practice already followed by the Tribunal.

Article 91 Agreement of the parties

1. Where the applicant and the defendant come to an agreement before the Judge-Rapporteur on a solution which brings the dispute to an end, the terms of that agreement may be recorded in a document signed by the Judge-Rapporteur and by the Registrar. That document shall be served on the parties and shall constitute an official record.

The case shall be removed from the register by reasoned order of the President.

At the request of the applicant and defendant, the President shall set out the terms of the agreement in the order removing the case from the register.

2. Where the applicant and the defendant notify the Tribunal that they have reached an agreement out of court as to the resolution of the dispute and state that they abandon all claims, the President shall order the case to be removed from the register.

3. The President shall give a decision as to costs in accordance with the agreement or, failing that, at his discretion.

Current text	***Text of the Court's Rules of Procedure***
Article 69 Agreement of the parties *1. Where the applicant and the defendant come to an agreement before the Tribunal or the Judge-Rapporteur as to the solution putting an end to the dispute, the terms of that agreement may be recorded in minutes signed by the President or the Judge-Rapporteur and by the Registrar. The agreement as entered in the minutes shall constitute an official record.* *The case shall be removed from the register by reasoned order of the President.* *At the request of the applicant and defendant, the President shall set out the terms of the agreement in the order removing the case from the register.* *2. Where the applicant and the defendant notify the Tribunal that they have reached an agreement out of court as to the resolution of the dispute and state that they abandon all claims,*	*Article 147 Amicable settlement* *1. If, before the Court has given its decision, the parties reach a settlement of their dispute and inform the Court of the abandonment of their claims, the President shall order the case to be removed from the register and shall give a decision as to costs in accordance with Article 141, having regard to any proposals made by the parties on the matter.* *2. This provision shall not apply to proceedings under Articles 263 TFEU and 265 TFEU.*

the President shall order the case to be removed from the register. *3. The President shall give a decision as to costs in accordance with the agreement or, failing that, at his discretion.*	

The draft text reproduces mutatis mutandis *Article 69 of the Rules of Procedure.*

Article 92 Amicable settlement and contentious proceedings

No opinion expressed, suggestion made, proposal put forward, concession made or document drawn up for the purposes of the amicable settlement may be relied on as evidence by the Tribunal or the parties in the contentious proceedings.

Current text	***Text of the Court's Rules of Procedure***
Article 70 Amicable settlement and contentious proceedings *No opinion expressed, suggestion made, proposal put forward, concession made or document drawn up for the purposes of the amicable settlement may be relied on as evidence by the Tribunal or the parties in the contentious proceedings.*	*No equivalent*

The draft article corresponds to Article 70 of the Rules of Procedure.

Chapter 7
JUDGMENTS AND ORDERS

Article 93 Date of delivery of a judgment

The parties shall be informed of the date of delivery of a judgment.

Current text	***Text of the Court's Rules of Procedure***
Article 80 Delivery of judgment *1. The judgment shall be delivered in open court. Due notice shall be given to the parties of the date of delivery.* *...*	*Article 86 Date of delivery of a judgment* *The parties or interested persons referred to in Article 23 of the Statute shall be informed of the date of delivery of a judgment.*

As in the case of the Court, it is suggested that a separate article should deal with informing the parties of the date of delivery of a judgment.

Article 94 Content of a judgment

A judgment shall contain:

- a statement that it is the judgment of the Tribunal;

- an indication as to the formation of the court;

- the date of delivery;

- the names of the President and of the Judges who took part in the deliberations, with an indication as to the name of the Judge-Rapporteur;

- the name of the Registrar;

- particulars of the parties;

- the names of the parties' representatives;

- a statement of the forms of order sought by the parties;

- where applicable, the date of the hearing;

- a summary of the facts;

- the grounds for the decision;

- the operative part of the judgment, including the decision as to costs.

Current text	***Text of the Court's Rules of Procedure***
Article 79 Judgments *A judgment shall contain:* *- the statement that it is the judgment of the Tribunal,* *- the date of its delivery,* *- the names of the President and the Judges taking part in it, with an indication as to the name of the Judge-Rapporteur,* *- the name of the Registrar,* *- the description of the parties,* *- the names of the parties' representatives,* *- a statement of the forms of order sought by the parties,* *- a summary of the facts,* *- the grounds for the decision,* *- the operative part of the judgment, including the decision as to costs.*	*Article 87 Content of a judgment* *A judgment shall contain:* *(a) a statement that it is the judgment of the Court,* *(b) an indication as to the formation of the Court,* *(c) the date of delivery,* *(d) the names of the President and of the Judges who took part in the deliberations, with an indication as to the name of the Judge-Rapporteur,* *(e) the name of the Advocate General,* *(f) the name of the Registrar,* *(g) a description of the parties or of the interested persons referred to in Article 23 of the Statute who participated in the proceedings,* *(h) the names of their representatives,* *(i) in the case of direct actions and appeals, a statement of the forms of order sought by the parties,* *(j) where applicable, the date of the hearing,* *(k) a statement that the Advocate General has been heard and, where applicable, the date of his Opinion,*

	(l) a summary of the facts, *(m) the grounds for the decision,* *(n) the operative part of the judgment, including, where appropriate, the decision as to costs.*

As in the Court's Rules of Procedure, Article 79 of the Rules of Procedure is supplemented by an indication as to the formation of the court and the date of the hearing, in accordance with current practice.

Article 95 Delivery and service of the judgment

1. The judgment shall be delivered in open court.

2. The original of the judgment, signed by the President, by the Judges who took part in the deliberations and by the Registrar, shall be sealed and deposited at the Registry; the Registrar shall ensure that each of the parties is served with a copy of the judgment.

Current text	***Text of the Court's Rules of Procedure***
Article 80 Delivery of judgment *1. The judgment shall be delivered in open court. Due notice shall be given to the parties of the date of delivery.* *2. The original of the judgment, signed by the President, by the Judges who took part in the deliberations and by the Registrar, shall be sealed and deposited at the Registry; the Registrar shall ensure that each of the parties is served with a certified copy of the judgment.* *3. The Registrar shall record on the original of the judgment the date on which it was delivered.*	*Article 88 Delivery and service of the judgment* *1. The judgment shall be delivered in open court.* *2. The original of the judgment, signed by the President, by the Judges who took part in the deliberations and by the Registrar, shall be sealed and deposited at the Registry; certified copies of the judgment shall be served on the parties and, where applicable, the referring court or tribunal, the interested persons referred to in Article 23 of the Statute and the General Court.*

The second sentence of Article 80(1) of the current Rules of Procedure is covered by Article 93 of the draft. Contrary to Article 80(2) of the current Rules of Procedure, it is no longer stated that the copy of the judgment

served on the parties is to be a certified copy, since that information would duplicate Article 36(1) of the draft, which already provides that '[t]he Registrar shall prepare and certify the copies of documents to be served'.

The removal of paragraph 3 is as a result of current practice.

Article 96 Content of an order

1. Every order shall contain:

- a statement that it is the order of the Tribunal, the President of the Tribunal or the President;

- the date of its adoption;

- an indication as to the legal basis of the order;

- the names of the President and, where appropriate, the Judges taking part in its adoption, with an indication as to the name of the Judge-Rapporteur;

- the name of the Registrar;

- particulars of the parties;

- the names of the parties' representatives;

- the operative part of the order, including, where appropriate, the decision as to costs.

2. Where, in accordance with these Rules, an order must be reasoned, it shall in addition contain:

- a statement of the forms of order sought by the parties;

- a summary of the facts;

- the grounds for the decision.

Current text	***Text of the Court's Rules of Procedure***
Article 81 Orders *1. Every order shall contain:* *- the statement that it is the order of the Tribunal, the President of the Tribunal or of the formation of the court,* *- the date of its adoption,*	*Article 89 Content of an order* *1. An order shall contain:* *(a) a statement that it is the order of the Court,* *(b) an indication as to the formation of the Court,*

- the names of the President and, where appropriate, the Judges taking part in its adoption, with an indication as to the name of the Judge-Rapporteur, *- the name of the Registrar,* *- the description of the parties,* *- the names of the parties' representatives,* *- the operative part of the order, including, where appropriate, the decision as to costs.* *2. Where, in accordance with these Rules, an order must be reasoned, it shall in addition contain:* *- a statement of the forms of order sought by the parties,* *- a summary of the facts,* *- the grounds for the decision.*	*(c) the date of its adoption,* *(d) an indication as to the legal basis of the order,* *(e) the names of the President and, where applicable, the Judges who took part in the deliberations, with an indication as to the name of the Judge-Rapporteur,* *(f) the name of the Advocate General,* *(g) the name of the Registrar,* *(h) a description of the parties or of the parties to the main proceedings,* *(i) the names of their representatives,* *(j) a statement that the Advocate General has been heard,* *(k) the operative part of the order, including, where appropriate, the decision as to costs.* *2. Where, in accordance with these Rules, an order must be reasoned, it shall in addition contain:* *(a) in the case of direct actions and appeals, a statement of the forms of order sought by the parties,* *(b) a summary of the facts,* *(c) the grounds for the decision.*

The draft article corresponds to Article 81 of the Rules of Procedure.

Article 97 Signature and service of the order

The original of the order, signed by the President, shall be sealed and deposited at the Registry; the Registrar shall ensure that each of the parties is served with a copy of the order.

Current text	***Text of the Court's Rules of Procedure***
Article 82 Adoption of orders *The original of the order, signed by the President, shall be sealed and deposited at the Registry; the Registrar shall ensure that each of the parties is served with a certified copy of the order.*	*Article 90 Signature and service of the order* *The original of the order, signed by the President and by the Registrar, shall be sealed and deposited at the Registry; certified copies of the order shall be served on the parties and, where applicable, the referring court or tribunal, the interested persons referred to in Article 23 of the Statute and the General Court.*

The draft text reproduces Article 82 of the Rules of Procedure. As is the case with Article 95 of the draft, it is no longer stated that the copy of the order served is to be a certified copy, since that information would duplicate Article 36(1) of the draft.

Article 98 Binding nature of judgments and orders

1. Subject to Article 12(1) of Annex I to the Statute, judgments shall be binding from the date of their delivery.

2. Subject to Article 12(1) of Annex I to the Statute, orders shall be binding from the date of their service.

Current text	***Text of the Court's Rules of Procedure***
Article 83 Binding effect *1. Subject to the provisions of Article 12(1) of Annex I to the Statute, judgments shall be binding from the date of their delivery.* *2. Orders shall be binding from the date of their service, save as otherwise provided in these Rules and in Article 12(1) of Annex I to the Statute.*	*Article 91 Binding nature of judgments and orders* *1. A judgment shall be binding from the date of its delivery.* *2. An order shall be binding from the date of its service.*

The draft text essentially reproduces that of Article 83 of the Rules of Procedure. It must be noted that there is no provision contrary to paragraph 2 in the present draft.

Article 99 Publication in the Official Journal of the European Union

The decisions of the Tribunal closing the proceedings shall be the subject of a notice published in the *Official Journal of the European Union*.

Current text	***Text of the Court's Rules of Procedure***
No equivalent	*Article 92 Publication in the* Official Journal of the European Union *A notice containing the date and the operative part of the judgment or order of the Court which closes the proceedings shall be published in the* Official Journal of the European Union*.*

It is necessary, as the Court has done, to insert the draft article into the Rules of Procedure in order to confirm the Tribunal's practice, based on Article 17(2) of the Instructions to the Registrar, under which any case which has been closed is the subject of a notice in the Official Journal of the European Union*.*

Chapter 8
COSTS

It must be observed at the outset that it makes little sense to 'order' a party to bear his own costs, since he bears them pursuant to a contract with his lawyer, without the court's intervention being necessary. It is therefore suggested that it should be provided that the unsuccessful party is to bear his own costs and is to be ordered to pay those of the other party. The provisions of this chapter are adapted to this effect in order, moreover, to recognise the Tribunal's practice in the wording of the operative part of its judgments. Account is also taken of the fact that, under Article 67(4) and Article 91(a) of the current Rules of Procedure, the costs may include the special expenses occasioned by letters rogatory and the sums payable to experts and witnesses.

It is also necessary to draw attention to the clarification of the link between Article 87(2) of the current Rules of Procedure (mitigation by the rule of equity of the general rule that the loser pays the costs) and Article 88 thereof (unreasonable or vexatious costs). A combined reading of the two provisions shows a gradation in the allocation of the burden of costs: although equity allows a losing party to be dispensed from the burden of the costs of the winning party, only reprehensible conduct, which is a narrower concept, on the part of the winning party may result in his being ordered to pay the costs of the losing party. It is one thing to exempt the unsuccessful party from having to pay the costs incurred by the successful party, but another to provide that the

winning party must pay not only his own costs but also those of the losing party. The seriousness of the 'sanction' necessarily calls for a gradation of the reasons for it.

Lastly, attention must be drawn to the strengthening of the provisions granting the Tribunal the possibility of ordering any claimant bringing a manifestly abusive action to reimburse the costs occasioned by that action. With that in mind, a deposit scheme has also been established.

Article 100 Decision as to costs

A decision as to costs shall be given in the judgment or order which closes the proceedings.

Current text	***Text of the Court's Rules of Procedure***
Article 86 Decision as to costs *A decision as to costs shall be given in the final judgment or in the order which closes the proceedings.*	*Article 137 Decision as to costs* *A decision as to costs shall be given in the judgment or order which closes the proceedings.*

The draft text does not make any substantive amendments to the Rules of Procedure.

Article 101 General rule as to allocation of costs

Without prejudice to the other provisions of this Chapter, the unsuccessful party shall bear his own costs and shall be ordered to pay the costs incurred by the other party if they have been applied for in the other party's pleadings. The unsuccessful party shall also be ordered to pay the costs payable, if any, under Article 105(a) or (b).

Current text	***Text of the Court's Rules of Procedure***
Article 87 Allocation of costs – General rules *1. Without prejudice to the other provisions of this Chapter, the unsuccessful party shall be ordered to pay the costs if they have been*	*Article 138 General rules as to allocation of costs* *1. The unsuccessful party shall be ordered to pay the costs if they have been applied for in the successful party's pleadings.*

applied for in the successful party's pleadings. *2. If equity so requires, the Tribunal may decide that an unsuccessful party is to pay only part of the costs or even that he is not to be ordered to pay any.*	*2. Where there is more than one unsuccessful party the Court shall decide how the costs are to be shared.* *3. Where each party succeeds on some and fails on other heads, the parties shall bear their own costs. However, if it appears justified in the circumstances of the case, the Court may order that one party, in addition to bearing its own costs, pay a proportion of the costs of the other party.*

The draft text takes account of the first comment in the introduction above relating to the concept of an order to pay the costs. With regard to the second comment in the introduction, relating to the distinction to be made between the rule of equity and the matter of unreasonable or vexatious costs, the present Article 87 has been split in order to group together in a single article the provision relating to equity and that concerning the costs in question. Lastly, account is also taken of the fact that the costs may include expenses relating to the examination of witnesses or the use of expert evidence, and expenses occasioned by letters rogatory.

Article 102 Equity and unreasonable or vexatious costs

1. If equity so requires, the Tribunal may decide that an unsuccessful party is to bear his own costs, but is to pay only part of the costs incurred by the other party, or even that he is not to be ordered to pay any costs.

2. A successful party may be ordered to bear his own costs and to pay some or all of the costs incurred by the other party if this appears justified by the conduct of that party, including before the proceedings were brought, especially if he has made the other party incur costs which are held to be unreasonable or vexatious.

3. In the cases referred to in paragraphs 1 and 2, the Tribunal may also decide that the costs payable, if any, under Article 105(a) or (b) are to be shared, or even to order the successful party to pay all of those costs.

Current text	***Text of the Court's Rules of Procedure***
Article 87 Allocation of costs – General rules *...* *2. If equity so requires, the Tribunal may decide that an unsuccessful party is to pay only part of the costs or even that he is not to be ordered to*	*Article 139 Unreasonable or vexatious costs* *The Court may order a party, even if successful, to pay costs which the Court considers that party to have unreasonably or vexatiously caused the opposite party to incur.*

pay any. *Article 88 Unreasonable or vexatious costs* *A party, even if successful, may be ordered to pay some or all of the costs, if this appears justified by the conduct of that party, including before the proceedings were brought, especially if he has made the other party incur costs which are held to be unreasonable or vexatious.*	

The draft article does not call for any comments other than those already set out at the beginning of this chapter and under the preceding article.

Article 103 Special rules as to allocation of costs

1. Where there is more than one unsuccessful party the Tribunal shall decide how the costs are to be shared.

2. Where each party succeeds on some and fails on other heads, the parties shall bear their own costs. However, if it appears justified in the circumstances of the case, the Tribunal may order that one party, in addition to bearing his own costs, pay a proportion of the costs of the other party.

3. If costs are not applied for, the parties shall bear their own costs.

4. The Member States and institutions which have intervened in the proceedings shall bear their own costs. Other interveners shall bear their own costs, unless the Tribunal decides otherwise.

5. A party who discontinues or withdraws from proceedings shall bear his own costs and shall be ordered to pay the costs incurred by the other party, and the costs payable, if any, under Article 105(a) or (b), if they have been applied for in the other party's observations on the discontinuance. However, upon application by the party who discontinues or withdraws from proceedings, those costs shall be borne by the other party if this appears justified by the conduct of that party.

6. Where a case does not proceed to judgment, the costs shall be in the discretion of the Tribunal.

7. Where the parties have come to an agreement on costs, the decision as to costs shall be in accordance with that agreement.

Current text	***Text of the Court's Rules of Procedure***
Article 89 Allocation of costs – Special cases *1. Where there are several unsuccessful parties the Tribunal shall decide how the costs are to be shared.* *2. Where each party succeeds on some and fails on other heads, the Tribunal may order that the costs be shared or that each party bear its own costs.* *3. If costs are not applied for, the parties shall bear their own costs.* *4. Interveners shall bear their own costs.* *5. A party who discontinues or withdraws from proceedings shall be ordered to pay the costs if they have been applied for in the observations of the other party on the discontinuance. However, upon application by the party who discontinues or withdraws from proceedings, the costs shall be borne by the other party if this appears justified by the conduct of that party.* *6. Where a case does not proceed to judgment, the costs shall be in the discretion of the Tribunal.* *7. Where the parties have come to an agreement on costs, the decision as to costs shall be in accordance with that agreement.*	*Article 138 General rules as to allocation of costs* *...* *2. Where there is more than one unsuccessful party the Court shall decide how the costs are to be shared.* *3. Where each party succeeds on some and fails on other heads, the parties shall bear their own costs. However, if it appears justified in the circumstances of the case, the Court may order that one party, in addition to bearing its own costs, pay a proportion of the costs of the other party.* *Article 140 Costs of interveners* *1. The Member States and institutions which have intervened in the proceedings shall bear their own costs.* *2. The States, other than the Member States, which are parties to the EEA Agreement, and also the EFTA Surveillance Authority, shall similarly bear their own costs if they have intervened in the proceedings.* *3. The Court may order an intervener other than those referred to in the preceding paragraphs to bear his own costs.* *Article 141 Costs in the event of discontinuance or withdrawal* *1. A party who discontinues or withdraws from proceedings shall be ordered to pay the costs if they have been applied for in the other party's observations on the discontinuance.* *2. However, at the request of the party who discontinues or withdraws from proceedings, the*

	costs shall be borne by the other party if this appears justified by the conduct of that party. *3. Where the parties have come to an agreement on costs, the decision as to costs shall be in accordance with that agreement.* *4. If costs are not claimed, the parties shall bear their own costs.* *Article 142 Costs where a case does not proceed to judgment* *Where a case does not proceed to judgment the costs shall be in the discretion of the Court.*

The draft text draws together all the special cases of allocation of costs. It must be noted that paragraph 2 essentially follows Article 138(3) of the Court's Rules of Procedure. Likewise, paragraph 4 is based on Article 140 of those Rules and thus leaves for a certain margin of discretion in the allocation of costs with regard to interveners who are natural persons or legal persons governed by private law.

Article 104 Costs of enforcing a judgment

Costs necessarily incurred by a party in enforcing a judgment or order of the Tribunal shall be refunded by the opposite party according to the scale in force in the State where the enforcement takes place.

Current text	***Text of the Court' Rules of Procedure***
Article 90 Costs of enforcing a judgment *Costs necessarily incurred by a party in enforcing a judgment or order of the Tribunal shall be refunded by the opposite party on the scale in force in the State where the enforcement takes place.*	*No equivalent*

The draft article corresponds to Article 90 of the Rules of Procedure.

Article 105 Recoverable costs

Without prejudice to the provisions of Articles 108 and 109, the following shall be regarded as recoverable costs:

(a) sums payable to witnesses and experts under Article 78;

(b) expenses occasioned by letters rogatory ordered by the Tribunal under Article 79;

(c) expenses incurred by the parties for the purpose of the proceedings, in particular the travel and subsistence expenses and the remuneration of the agent, adviser or lawyer, if they are essential.

Current text	***Text of the Court's Rules of Procedure***
Article 91 Recoverable costs *Without prejudice to the provisions of Article 94, the following shall be regarded as recoverable costs:* *(a) sums payable to witnesses and experts under Article 66;* *(b) expenses incurred by the parties for the purpose of the proceedings, in particular the travel and subsistence expenses and the remuneration of the representative, if they are essential.*	*Article 144 Recoverable costs* *Without prejudice to the preceding Article, the following shall be regarded as recoverable costs:* *(a) sums payable to witnesses and experts under Article 73 of these Rules;* *(b) expenses necessarily incurred by the parties for the purpose of the proceedings, in particular the travel and subsistence expenses and the remuneration of agents, advisers or lawyers.*

The draft article concerns recoverable costs in the wider sense, whether recoverable by a party, as a rule the successful party, or by the Tribunal, in respect of costs which it has advanced. It corresponds, mutatis mutandis*, to Article 91 of the Rules of Procedure. As has already been stated, the expenses occasioned by letters rogatory are henceforth to be treated expressly as costs.*

Article 106 Dispute concerning the costs to be recovered

1. If there is a dispute concerning the costs to be recovered, the Tribunal shall, on application by the party concerned and after hearing the opposite party, give its decision by way of reasoned order.

In accordance with Article 11(2) of Annex I to the Statute, no appeal may lie from that order.

2. The parties may, for the purposes of enforcement, apply for a copy of the order.

Current text	***Text of the Court's Rules of Procedure***
Article 92 Dispute as to costs *1. If there is a dispute concerning the amount and nature of the costs to be recovered, the Tribunal shall, on application by the party concerned and after hearing the opposite party, give its decision by way of reasoned order.* *In accordance with Article 11(2) of Annex I to the Statute, no appeal may lie from that order.* *2. The parties may, for the purposes of enforcement, apply for a copy of the order.*	*Article 145 Dispute concerning the costs to be recovered* *1. If there is a dispute concerning the costs to be recovered, the Chamber of three Judges to which the Judge-Rapporteur who dealt with the case is assigned shall, on application by the party concerned and after hearing the opposite party and the Advocate General, make an order. In that event, the formation of the Court shall be composed of the President of that Chamber, the Judge-Rapporteur and the first Judge or, as the case may be, the first two Judges designated from the list referred to in Article 28(3) on the date on which the dispute is brought before that Chamber by the Judge-Rapporteur.* *2. If the Judge-Rapporteur is not a member of a Chamber of three Judges, the decision shall be taken, under the same conditions, by the Chamber of five Judges to which he is assigned. In addition to the Judge-Rapporteur, the formation of the Court shall be composed of four Judges designated from the list referred to in Article 28(2) on the date on which the dispute is brought before that Chamber by the Judge-Rapporteur.* *3. The parties may, for the purposes of enforcement, apply for an authenticated copy of the order.*

The draft text concerns disputes between parties as to the costs which they may recover. It essentially reproduces Article 92 of the Rules of Procedure.

Article 107 Procedure for payment

1. Sums due from the cashier of the Tribunal and from its debtors shall be paid in euros.

2. Where costs to be recovered 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, the conversion shall be effected at the European Central Bank's official rates of exchange on the day of payment.

Current text	***Text of the Court's Rules of Procedure***
Article 93 Payment *1. Sums due from the cashier of the Tribunal and from debtors of the Tribunal shall be paid in euro.* *2. Where expenses to be recovered 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.*	*Article 146 Procedure for payment* *1. Sums due from the cashier of the Court and from its debtors shall be paid in euro.* *2. Where costs to be recovered 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, the conversion shall be effected at the European Central Bank's official rates of exchange on the day of payment.*

The draft text essentially reproduces Article 93 of the Rules of Procedure.

Article 108 Court costs

Proceedings before the Tribunal shall be free of charge, except that:

(a) Where the expenditure incurred by the Tribunal in the processing of an application or of any other procedural document or as a result of the conduct of a party during the proceedings was avoidable, inter alia because that application, document or conduct was manifestly an abuse of process, the Tribunal may order the party that caused it to incur that expenditure to refund it in whole or in part, but the amount of that refund may not exceed EUR 10 000*;*

(b) where copying or translation work is carried out at the request of a party, the cost shall, in so far as the Registrar considers it excessive, be paid for by that party on the Registry's scale of charges referred to in Article 22.

Current text	***Text of the Court's Rules of Procedure***
Article 94 Court costs *Proceedings before the Tribunal shall be free of charge, except that:* *(a) where a party has caused the Tribunal to incur avoidable costs, in particular where the action is manifestly an abuse of process, the Tribunal may order that party to refund them in whole or in part, but the amount of that refund may not exceed EUR 2 000;* *(b) where copying or translation work is carried out at the request of a party, the cost shall, in so far as the Registrar considers it excessive, be paid for by that party on the scale of charges in force referred to in Article 20.*	*Article 143 Costs of proceedings* *Proceedings before the Court shall be free of charge, except that:* *(a) where a party has caused the Court to incur avoidable costs the Court may, after hearing the Advocate General, order that party to refund them;* *(b) where copying or translation work is carried out at the request of a party, the cost shall, in so far as the Registrar considers it excessive, be paid for by that party on the Registry's scale of charges referred to in Article 22.*

The draft article strengthens the scheme established by Article 94(a) of the current Rules of Procedure, in so far as it seeks to allow the recovery, up to EUR 10 000, of expenditure actually incurred by the Tribunal which could have been avoided or which relates to excessive copying or translation work. The use of the term 'expenditure' is intended to clarify, if necessary, the abovementioned Article 94. It must be construed in accordance with the meaning given to it in Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ 2012 L 298, p. 1).

Article 109 Deposit in respect of actions which are an abuse of process

1. An applicant who has already made an application or request under Article 115 which has been found to be a manifest abuse of process in the decision closing the proceedings may, if his new application or request appears to be a manifest abuse of process, be ordered by the President of the Tribunal to deposit, with the cashier of the Tribunal, a maximum sum of EUR 10 000 to cover the amount of any payment ordered under Article 108.

The decision ordering the deposit shall state the reasons on which it is based. It shall fix the amount of the deposit required.

2. The proceedings shall be stayed until the deposit has been paid.

The sum deposited shall be refunded if the decision closing the proceedings does not order the applicant to make a payment under Article 108, or in so far as it exceeds the amount of that payment.

3. Where the sum is not deposited within the time-limit prescribed by the President of the Tribunal, the proceedings shall be closed in accordance with Article 85(2).

Current text	***Text of the Court's Rules of Procedure***
No equivalent	*No equivalent*

The Tribunal is faced with an increasing number of actions from claimants who misuse that judicature, some of whom may even be described as vexatious litigants. Thus, since the Tribunal's creation, of the 1 153 registered cases before the Tribunal, 161 have been brought by 10 applicants. In other words, the applications lodged by those applicants represent 14% of the actions brought before the Tribunal to date. One of these applicants alone is responsible for 7.1% of all actions. Moreover, those figures do not take into account the applications for interim measures brought and procedural issues raised by some of those applicants. The vast majority of those actions are dismissed. Thus, of 44 cases disposed of on the application of one of the claimants in question, only 3 were held to be well founded in part.

In addition, it must be noted that the most vexatious applicants have a marked propensity to bring appeals before the General Court, most of which are destined to be dismissed.

Lastly, the cases brought by those applicants often take up a disproportionate amount of the Tribunal's time, since the somewhat extravagant nature of the applications frequently renders them difficult to dispose of.

That litigious conduct also impedes the functioning of the Tribunal and the processing of other cases, the parties to which rightly expect them to be dealt with within a reasonable time. It is important to point out in this connection that every individual is entitled to a fair share of the time available to the court to resolve disputes.

Against that background, it must be stated that the Tribunal does not have any means by which to prevent those actions, which overload both the Tribunal and its appellate court.

*Thus, in addition to the measure provided for in Article 34 above concerning lawyers, it is proposed, as provided for in the laws of a number of countries, and in the interests of the proper administration of justice, to provide for the possibility of ordering a person who brings actions which are an abuse of process to pay the avoidable expenditure incurred by the court. It should be noted in this connection, and by comparison, that a scheme of fines was held to be compatible with the right to a fair trial by the ECHR (*Grasser v. France*, nos. 32497/96 and 39060/97, Commission decision of 1 July 1998, unreported).*

In order to ensure that the measure is preventative, it is also proposed that the President of the Tribunal should be given the option of requiring vexatious claimants to deposit, before their action is processed, a sum intended to cover the amount of the costs which they might, if appropriate, be ordered to pay at the end of the proceedings.

Such a measure pursues the legitimate objective of allowing the Tribunal to prevent its cause list from becoming overburdened, so that it is able to rule within a reasonable period, and has already been accepted by the ECHR (see, to that effect, Thomas v. France *(dec.), no. 14279/05, 29 April 2008; see also, as regards security for costs:* Tolstoy Miloslavsky v. the United Kingdom*, 13 July 1995, §§ 61 to 67, Series A no. 316-B).*

Nor is it disproportionate, in so far as:

- it can only be taken with regard to an applicant who has already brought several actions and who has already been warned in the decisions closing the proceedings in relation to those actions that these are manifestly an abuse of process;

- it presupposes that the President of the Tribunal considers the new action to be prima facie an abuse of process;

- the President's decision must be duly reasoned;

- the President of the Tribunal retains a discretion, in particular as regards the amount of the deposit required, in order to prevent that deposit from constituting an interference with the very substance of the right of access to a court;

- the conduct of the proceedings is merely suspended until the sum required has been deposited; the measure suggested therefore has no effect on the admissibility ratione temporis *of the action.*

Chapter 9
LEGAL AID

[Terminological explanation not relevant to the English version.]

Article 110 Substantive conditions

1. Any person who, because of his financial situation, is wholly or partly unable to meet the costs of the proceedings shall be entitled to legal aid.

The financial situation shall be assessed, taking into account objective factors such as income, capital and the family situation.

2. Legal aid shall be refused if the action in respect of which the application is made appears to be manifestly inadmissible or manifestly unfounded or if it is clear that the Tribunal has no jurisdiction to hear and determine that action.

Where the Tribunal finds that the proceedings fall within the jurisdiction of the General Court, the application for legal aid shall be referred to the General Court.

Current text	***Text of the Court's Rules of Procedure***
Article 95 Substantive conditions *1. In order to ensure effective access to justice, legal aid shall be granted for proceedings before the Tribunal 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 Tribunal. The cashier of the Tribunal shall be responsible for those costs.* *2. Any natural person who, because of his financial situation, is wholly or partly unable to meet the costs referred to in paragraph 1 shall be entitled to legal aid.* *The financial 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 185 Legal aid* *1. A party who is wholly or in part unable to meet the costs of the proceedings may at any time apply for legal aid.* *2. The application shall be accompanied by all information and supporting documents making it possible to assess the applicant's financial situation, such as a certificate issued by a competent national authority attesting to his financial situation.* *Article 186 Prior application for legal aid* *1. If the application is made prior to the appeal which the applicant for legal aid intends to commence, it shall briefly state the subject of the appeal.* *2. The application for legal aid need not be made through a lawyer.* *3. The introduction of an application for legal aid shall, with regard to the person who made that application, suspend the time-limit prescribed for the bringing of the appeal until the date of service of the order making a decision on that application.* *4. The President shall assign the application for legal aid, as soon as it is lodged, to a Judge-Rapporteur who shall put forward, promptly, a proposal as to the action to be taken on it.*

The first subparagraph of Article 95(1) of the current Rules of Procedure has not been reproduced because it is merely declaratory. It has in fact become superfluous since the third paragraph of Article 47 of the Charter of Fundamental Rights of the European Union acquired the same legal value as a treaty.

The second subparagraph of Article 95(1) of the current Rules of Procedure does not impose any substantive conditions for the grant of legal aid but sets out the consequences of legal aid being granted. It is therefore proposed that it should be moved and inserted in a separate article relating to advances and responsibility for costs, as the Court has done in Article 188 of its Rules of Procedure.

It is also suggested that the situation where it is clear that the Tribunal has no jurisdiction to hear and determine a case should be included in paragraph 2. If it is clear that none of the Courts of the European Union has jurisdiction, the grant of legal aid is clearly pointless. That situation is covered in the first subparagraph of paragraph 2. If the action falls within the jurisdiction of the General Court, it should be for that court to assess whether the conditions for the grant of legal aid to bring proceedings before it are satisfied. That situation is dealt with in the second subparagraph of paragraph 2.

Article 111 Formal conditions

1. An application for legal aid may be made before the action has been brought or while it is pending.

The application need not be made through a lawyer.

2. The application for legal aid must be made in accordance with the standard form prescribed on the basis of Article 132 and available on the Tribunal's Internet site. It must be signed by the applicant or, where he is represented, by a lawyer.

3. The application for legal aid must be accompanied by all information and supporting documents making it possible to assess the applicant's financial situation, such as a certificate issued by the competent national authority attesting to his financial 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.

If the applicant is represented by a lawyer, the application for legal aid shall be accompanied by the document referred to in Article 31(2).

Current text	***Text of the Court's Rules of Procedure***
Article 96 Formal conditions *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.*	*See Articles 185 and 186 cited under the previous article.*

2. The application for legal aid must be accompanied by all information and supporting documents making it possible to assess the applicant's financial situation, such as a certificate issued by the competent national authority attesting to his financial 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 Tribunal may provide, in accordance with Article 120, for the compulsory use of a form in making an application for legal aid.*	

The draft text essentially reproduces Article 96 of the current Rules of Procedure. It has nevertheless been modified slightly so as to draw attention to the need to observe the practical arrangements for submitting applications for legal aid. In accordance with current practice, those applications will have to be made by means of the form published in the Official Journal of the European Union *and which is available on the Tribunal's Internet site.*

In the light of experience, it is also specified that the application cannot be brought after the proceedings have been closed.

Article 112 Procedure and decision

1. Before giving its decision on an application for legal aid, the Tribunal shall invite the other party to submit its written observations unless it is already apparent from the information produced that legal aid must be refused on the basis of the first subparagraph of Article 110(1) or on the basis of Article 110(2).

2. The decision on the application for legal aid shall be taken by way of an order by the President of the Tribunal or, if the case has already been assigned to a Chamber, by its President. The decision may be referred to the Chamber. It must be so referred where it is envisaged that the application will be rejected on the basis of the first subparagraph of Article 110(2).

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 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.

4. 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 of the proceedings, having regard to his financial situation.

5. The introduction of an application for legal aid shall suspend the period prescribed for the bringing of the action until the date of service 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.

6. No appeal shall lie from orders made under this article.

Current text	***Text of the Court's Rules of Procedure***
Article 97 Procedure *1. Before giving its decision on an application for legal aid, the Tribunal 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 95(2) have not been satisfied or that those laid down in Article 95(3) have been satisfied.* *2. The decision on the application for legal aid shall be taken by way of an order by the President of the Tribunal or, if the case has already been assigned to a Chamber, by its President. He may refer the matter to the Tribunal.* *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*	*Article 187 Decision on the application for legal aid* *1. The decision to grant legal aid, in whole or in part, or to refuse it shall be taken, on a proposal from the Judge-Rapporteur and after hearing the Advocate General, by the Chamber of three Judges to which the Judge-Rapporteur is assigned. In that event, the formation of the Court shall be composed of the President of that Chamber, the Judge-Rapporteur and the first Judge or, as the case may be, the first two Judges designated from the list referred to in Article 28(3) on the date on which the application for legal aid is brought before that Chamber by the Judge-Rapporteur. It shall consider, if appropriate, whether the appeal is manifestly unfounded.* *2. If the Judge-Rapporteur is not a member of a Chamber of three Judges, the decision shall be taken, under the same conditions, by the Chamber of five Judges to which he is assigned. In addition to the Judge-Rapporteur, the formation*

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 95(1), having regard to his financial 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 Tribunal.* *An order withdrawing legal aid shall contain a statement of reasons.* *6. No appeal shall lie from orders made under this article.*	*of the Court shall be composed of four Judges designated from the list referred to in Article 28(2) on the date on which the application for legal aid is brought before that Chamber by the Judge-Rapporteur.* *3. The formation of the Court shall give its decision by way of order. Where the application for legal aid is refused in whole or in part, the order shall state the reasons for that refusal.*

In addition to formal adjustments, Article 97 of the current Rules of Procedure is amended in two respects.

Firstly, as in the case of the Court of Justice, the withdrawal of legal aid is dealt with in a separate article. As a result, the draft article does not reproduce paragraph 5 of Article 97.

Secondly, it is provided that the rejection of an application for legal aid on the grounds that it is clear that the Tribunal has no jurisdiction or on the grounds that the action in respect of which the application for legal aid has been made appears to be manifestly inadmissible or manifestly unfounded must be taken by a Chamber of three judges. The objective, where the refusal of legal aid is based on a legal assessment of the proposed action, is to ensure that that refusal is accompanied by a safeguard comparable to that which is provided in respect of actions manifestly bound to fail (Article 76 of the current Rules of Procedure).

Article 113 Advances and responsibility for costs

1. Where legal aid is granted, the cashier of the Tribunal shall be responsible, where applicable within the limits set by the order referred to in Article 112(2) and (4), for costs incurred in the representation of the applicant before the Tribunal.

At the request of the lawyer designated in accordance with Article 112(3), the President may decide that an amount by way of advance should be paid to that 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, by way of a reasoned order from which no appeal shall lie, fix the lawyer's disbursements and fees which are to be paid by the cashier of the Tribunal. He may refer the matter to the Tribunal.

3. Where, in the decision closing the proceedings, the Tribunal 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 Tribunal 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 Tribunal.

4. Where the recipient of the legal aid is unsuccessful, the Tribunal may, in ruling as to costs in the decision 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 Tribunal by way of legal aid.

Current text	***Text of the Court's Rules of Procedure***
Article 95 Substantive conditions *...* *Legal aid shall cover, in whole or in part, the costs involved in legal assistance and representation by*	*Article 188 Sums to be advanced as legal aid* *1. Where legal aid is granted, the cashier of the Court shall be responsible, where applicable within the limits set by the formation of the*

a lawyer in proceedings before the Tribunal. The cashier of the Tribunal shall be responsible for those costs. *...* *Article 98 Advances – Responsibility for costs* *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 Tribunal by way of a reasoned order from which no appeal shall lie. He may refer the matter to the Tribunal.* *3. Where, in the decision closing the proceedings, the Tribunal 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 Tribunal 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 Tribunal.* *4. Where the recipient of the aid is unsuccessful, the Tribunal may, in ruling as to costs in the decision 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 Tribunal by way of legal aid.*	*Court, for costs involved in the assistance and representation of the applicant before the Court. At the request of the applicant or his representative, an advance on those costs may be paid.* *2. In its decision as to costs the Court may order the payment to the cashier of the Court of sums advanced as legal aid.* *3. The Registrar shall take steps to obtain the recovery of these sums from the party ordered to pay them.*

It is suggested that a provision similar to that of Article 188 of the Court's Rules of Procedure – which essentially corresponds to the second subparagraph of Article 95(1) of the Tribunal's current Rules of Procedure (which it has already been proposed should be moved) – should be inserted as paragraph 1 of the draft article.

Article 114 Withdrawal of legal aid

1. If the circumstances which led to the grant of legal aid should alter during the proceedings, the President may at any time, of his own motion or on application, withdraw legal aid, having heard the person concerned. He may refer the matter to the Tribunal.

2. An order withdrawing legal aid shall contain a statement of reasons and no appeal shall lie from it.

Current text	***Text of the Court's Rules of Procedure***
Article 97 Procedure ... 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 Tribunal. An order withdrawing legal aid shall contain a statement of reasons. 6. No appeal shall lie from orders made under this article.	*Article 189 Withdrawal of legal aid* *The formation of the Court which gave a decision on the application for legal aid may at any time, either of its own motion or on request, withdraw that legal aid if the circumstances which led to its being granted alter during the proceedings.*

As has already been stated, it is proposed that, like the Court, the Tribunal should have a specific article relating to the withdrawal of legal aid. Article 97(5) and (6) of the current Rules of Procedure of the Tribunal are to be reproduced in this article.

Chapter 10
SPECIAL FORMS OF PROCEDURE

The chapter dealing with 'special forms of procedure' groups together the provisions relating to suspension of operation or enforcement and other interim measures, and to the procedure for judgment by default.

Section 1 – Suspension of operation or enforcement and other interim measures

Article 115 Application for suspension or for interim measures

1. An application to suspend the operation of any measure adopted by an institution, made pursuant to Article 278 TFEU or Article 157 TEAEC, shall be admissible only if the applicant has challenged that measure in an action before the Tribunal.

An application for the adoption of one of the other interim measures referred to in Article 279 TFEU shall be admissible only if it is made by a party to a case before the Tribunal and relates to that case.

An application of a kind referred to in the first and second subparagraphs may be presented as soon as the complaint provided for in Article 90(2) of the Staff Regulations has been submitted, in the conditions fixed in Article 91(4) of those Regulations.

2. An application of a kind referred to in paragraph 1 shall state the subject-matter of the proceedings, the circumstances giving rise to urgency and the pleas of fact and law establishing a prima facie case for the interim measure applied for.

The application shall be made by a separate document and in accordance with the provisions of Articles 45 and 50.

Current text	***Text of the Court's Rules of Procedure***
Article 102 Application for interim measures *1. An application to suspend the operation of any measure adopted by an institution, made pursuant to Article 278 TFEU and Article 157 TEAEC, shall be admissible only if the applicant is challenging that measure in proceedings before the Tribunal.* *An application for the adoption of any other*	*Article 160 Application for suspension or for interim measures* *1. An application to suspend the operation of any measure adopted by an institution, made pursuant to Article 278 TFEU or Article 157 TEAEC, shall be admissible only if the applicant has challenged that measure in an action before the Court.*

interim measure referred to in Article 279 TFEU shall be admissible only if it is made by a party to a case before the Tribunal and relates to that case. *Those applications may be presented as soon as the complaint provided for in Article 90(2) of the Staff Regulations has been submitted, in the conditions fixed in Article 91(4) of those Regulations.* *2. An application of a kind referred to in the previous paragraph shall state the subject-matter of the proceedings, the circumstances giving rise to urgency and the pleas of fact and law establishing a prima facie case for the interim measures applied for.* *3. The application shall be made by a separate document and in accordance with the provisions of Articles 34 and 35.*	*2. An application for the adoption of one of the other interim measures referred to in Article 279 TFEU shall be admissible only if it is made by a party to a case before the Court and relates to that case.* *3. An application of a kind referred to in the preceding paragraphs shall state the subject-matter of the proceedings, the circumstances giving rise to urgency and the pleas of fact and law establishing a prima facie case for the interim measure applied for.* *4. The application shall be made by a separate document and in accordance with the provisions of Articles 120 to 122 of these Rules.* *...*

The draft article corresponds to Article 102 of the Tribunal's current Rules of Procedure.

Article 116 Procedure

1. The application shall be served on the opposite party, and the President of the Tribunal shall prescribe a short time-limit within which that party may submit written or oral observations.

2. The President of the Tribunal shall decide the applications submitted pursuant to Article 115(1).

The President of the Tribunal may grant the application even before the observations of the opposite party have been submitted. This decision may subsequently be varied or cancelled, including of the President's own motion.

The President of the Tribunal shall, where appropriate, prescribe measures of organisation of procedure and measures of inquiry.

3. The documents and observations submitted outside the procedure provided for in paragraphs 1 and 2 shall not be included in the file, unless the President of the Tribunal decides otherwise in the light of special circumstances.

Current text	***Text of the Court's Rules of Procedure***
Article 103 Powers of the President of the Tribunal *1. The President of the Tribunal shall decide the applications submitted pursuant to Article 102(1).* *2. If the President of the Tribunal is absent or prevented from dealing with any such application, he shall be replaced by another Judge in the conditions fixed by a decision adopted by the Tribunal and published in the* Official Journal of the European Union*.* *Article 104 Procedure* *1. The application shall be served on the opposite party, and the President of the Tribunal shall prescribe a short period within which that party may submit written or oral observations.* *2. The President of the Tribunal shall, where appropriate, prescribe measures of organisation of procedure and measures of inquiry.* *3. The President of the Tribunal may grant the application even before the observations of the opposite party have been submitted. This decision may subsequently be varied or cancelled, even of the President's own motion.*	*Article 160 Application for suspension or for interim measures* *...* *5. The application shall be served on the opposite party, and the President shall prescribe a short time-limit within which that party may submit written or oral observations.* *6. The President may order a preparatory inquiry.* *7. The President may grant the application even before the observations of the opposite party have been submitted. This decision may be varied or cancelled even without any application being made by any party.* *Article 161 Decision on the application* *1. The President shall either decide on the application himself or refer it immediately to the Court.* *2. If the President is prevented from acting, Articles 10 and 13 of these Rules shall apply.* *3. Where the application is referred to it, the Court shall give a decision immediately, after hearing the Advocate General.*

The draft article combines Article 103(1) and Article 104 of the Tribunal's current Rules of Procedure. Article 103(2) of the current Rules is not reproduced, which means that any replacement of the President of the Tribunal would take place in accordance with Article 9 of the draft. Paragraph 3 of the draft article is new. It draws attention to the strict nature of interim measures, a procedure to be used exceptionally, in order to

prevent applicants for interim measures from believing that they can submit new arguments or evidence to the Tribunal when they consider it appropriate. Nevertheless, paragraph 3 introduces some flexibility. That is necessary in the light of the disputes before the Tribunal, which may concern the means of subsistence of the persons concerned. That flexibility is, for example, likely to be warranted where the applicant may have been prevented for medical reasons from providing decisive evidence for the purposes of demonstrating the urgency and, specifically, the precarious nature of his situation.

Article 117 Decision on the application

1. The decision on the application shall take the form of a reasoned order. The order shall be served on the parties forthwith.

2. Enforcement of the order may be made conditional on the lodging by the applicant of security, of an amount and nature to be fixed in the light of the circumstances.

3. Unless the order fixes the date on which the interim measure is to lapse, the measure shall lapse when the judgment which closes the proceedings is delivered.

4. The order shall have only an interim effect, and shall be without prejudice to the decision of the Tribunal on the merits of the case.

Current text	***Text of the Court's Rules of Procedure***
Article 105 Decision on interim measures *1. The decision on the application shall take the form of a reasoned order.* *2. Enforcement of the order may be made conditional on the lodging by the applicant of security, of an amount and nature to be fixed in the light of the circumstances.* *3. Unless the order fixes the date on which the interim measure is to lapse, the measure shall lapse when final judgment is delivered.* *4. The order shall have only an interim effect, and shall be without prejudice to the decision on the substance of the case by the Tribunal.*	*Article 162 Order for suspension of operation or for interim measures* *1. The decision on the application shall take the form of a reasoned order, from which no appeal shall lie. The order shall be served on the parties forthwith.* *2. The execution of the order may be made conditional on the lodging by the applicant of security, of an amount and nature to be fixed in the light of the circumstances.* *3. Unless the order fixes the date on which the interim measure is to lapse, the measure shall lapse when the judgment which closes the proceedings is delivered.* *4. The order shall have only an interim effect, and*

	shall be without prejudice to the decision of the Court on the substance of the case.

The draft article largely reproduces Article 105 of the current Rules of Procedure while specifying, like the Court's Rules of Procedure, that the order must be served forthwith.

Article 118 Change in circumstances

On application by a party, the order may at any time be varied or cancelled on account of a change in circumstances.

Current text	***Text of the Court's Rules of Procedure***
Article 106 Change in circumstances *On application by a party, the order may at any time be varied or cancelled on account of a change in circumstances.*	*Article 163 Change in circumstances* *On application by a party, the order may at any time be varied or cancelled on account of a change in circumstances.*

The text of Article 106 of the Rules of Procedure has not been changed.

Article 119 Further application

Rejection of an application for an interim measure shall not bar the party who made it from making a further application on the basis of new facts.

Current text	***Text of the Court's Rules of Procedure***
Article 107 Further application *Rejection of an application for an interim measure shall not bar the party who made it from making a further application on the basis of*	*Article 164 New appliation* *Rejection of an application for an interim measure shall not bar the party who made it from making a further application on the basis of*

new facts.	*new facts.*

No change has been made to Article 107 of the Rules of Procedure.

Article 120 Suspension of enforcement

1. The provisions of this Section shall apply to applications to suspend the enforcement of a decision of a jurisdiction of the Court of Justice of the European Union or of any measure adopted by the Council, the European Commission or the European Central Bank, submitted pursuant to Articles 280 TFEU and 299 TFEU or Article 164 TEAEC.

2. The order granting the application shall fix, where appropriate, a date on which the interim measure is to lapse.

Current text	***Text of the Court's Rules of Procedure***
Article 108 Suspension of enforcement *The provisions of this Chapter shall apply to applications to suspend the enforcement of an act of an institution, submitted pursuant to Articles 280 TFEU and 299 TFEU and Article 164 TEAEC.* *The order granting the application shall fix, where appropriate, a date on which the interim measure is to lapse.*	*Article 165 Applications pursuant to Articles 280 TFEU and 299 TFEU and Article 164 TEAEC* *1. The provisions of this Chapter shall apply to applications to suspend the enforcement of a decision of the Court or of any measure adopted by the Council, the European Commission or the European Central Bank, submitted pursuant to Articles 280 TFEU and 299 TFEU or Article 164 TEAEC.* *2. The order granting the application shall fix, where appropriate, a date on which the interim measure is to lapse.*

Article 108 of the Tribunal's current Rules of Procedure has been amended so as to take account of the details added by the Court to Article 165 of its Rules of Procedure.

Section 2 – Judgments by default

As the Court has done, it is suggested that the Tribunal should detach the procedure for judgment by default (Article 116(1) to (3) of the current Rules of Procedure) from applications to set aside judgments by default (Article 116(4) to (6)), and that the latter should be dealt with in a separate article which would be placed in a chapter dealing with applications relating to judgments and orders.

Article 121 Judgments by default

1. If a defendant on whom an application initiating proceedings has been duly served fails to respond to the application in the proper form and within the time-limit prescribed, the applicant may apply to the Tribunal for judgment by default.

The application for judgment by default shall be served on the defendant. The Tribunal may decide to open the oral part of the procedure on the application.

2. Before giving judgment by default the Tribunal shall consider whether the application initiating proceedings is admissible, whether the appropriate formalities have been complied with, and whether the applicant's claims appear well founded. It may adopt measures of organisation of procedure or order measures of inquiry.

3. A judgment by default shall be enforceable.

The Tribunal may, however, grant a stay of enforcement until it has given its decision on any application under Article 41 of the Statute to set aside the judgment, or it may make enforcement subject to the provision of security of an amount and nature to be fixed in the light of the circumstances; this security shall be released if no such application is made or if the application fails.

Current text	***Text of the Court's Rules of Procedure***
Article 116 Procedure *1. If a defendant on whom an application initiating proceedings has been duly served fails to lodge a defence to the application in the proper form within the time prescribed, the applicant may apply to the Tribunal for judgment by default.* *The application shall be served on the defendant. The Tribunal may decide to open the oral procedure on the application.* *2. Before giving judgment by default the Tribunal*	*Article 152 Judgments by default* *1. If a defendant on whom an application initiating proceedings has been duly served fails to respond to the application in the proper form and within the time-limit prescribed, the applicant may apply to the Court for judgment by default.* *2. The application for judgment by default shall be served on the defendant. The Court may decide to open the oral part of the procedure on the application.*

shall consider whether the application initiating proceedings is admissible, whether the appropriate formalities have been complied with, and whether the application appears well founded. It may order a preparatory inquiry. *3. A judgment by default shall be enforceable.* *The Tribunal may, however, grant a stay of enforcement until it has given its decision on any application under paragraph 4 to set aside the judgment, or it may make enforcement subject to the provision of security of an amount and nature to be fixed in the light of the circumstances; this security shall be released if no such application is made or if the application fails.* *…*	*3. Before giving judgment by default the Court shall, after hearing the Advocate General, consider whether the application initiating proceedings is admissible, whether the appropriate formalities have been complied with, and whether the applicant's claims appear well founded. The Court may adopt measures of organisation of procedure or order measures of inquiry.* *4. A judgment by default shall be enforceable. The Court may, however, grant a stay of execution until the Court has given its decision on any application under Article 156 to set aside the judgment, or it may make execution subject to the provision of security of an amount and nature to be fixed in the light of the circumstances; this security shall be released if no such application is made or if the application fails.*

The text of Article 116(1) to (3) of the Tribunal's current Rules of Procedure is largely reproduced. As in the case of the Court (Article 152(3) of its Rules of Procedure), the possibility of ordering measures of organisation of procedure and measures of inquiry is nevertheless provided for.

Chapter 11
REQUESTS AND APPLICATIONS RELATING TO JUDGMENTS AND ORDERS

Following the example of the Rules of Procedure of the Court of Justice, Chapter 11 groups together all the provisions relating to rectification, failure to adjudicate, interpretation, applications to set aside judgments by default, revision and cases referred back to the Tribunal after a judgment or order has been set aside.

Section 1 – Rectification

Article 122 Rectification of decisions

1. The Tribunal may, by way of order, of its own motion or at the request of a party made within two weeks after the decision to be rectified has been served, rectify clerical mistakes, errors in calculation and obvious inaccuracies in it.

2. Where the rectification concerns the operative part or one of the grounds constituting the necessary support for the operative part, the parties, duly informed, may submit written observations within a time-limit prescribed by the Tribunal.

3. The original of the rectification order shall be annexed to the original of the rectified decision. A note of this order shall be made in the margin of the original of the rectified decision.

Current text	***Text of the Court's Rules of Procedure***
Article 84 Rectification of decisions *1. The Tribunal may, by way of order, of its own motion or on application by a party made within a month after the decision to be rectified has been served, after hearing the parties, rectify clerical mistakes, errors in calculation and obvious slips in it.* *2. The original of the rectification order shall be annexed to the original of the rectified decision. A note of this order shall be made in the margin of the original of the rectified decision.*	*Article 154 Rectification* *1. Without prejudice to the provisions relating to the interpretation of judgments and orders, clerical mistakes, errors in calculation and obvious inaccuracies may be rectified by the Court, of its own motion or at the request of a party made within two weeks after delivery of the judgment or service of the order.* *2. Where the request for rectification concerns the operative part or one of the grounds constituting the necessary support for the operative part, the parties, whom the Registrar shall duly inform, may submit written observations within a time-limit prescribed by the President.* *3. The Court shall take its decision after hearing the Advocate General.* *4. The original of the rectification order shall be annexed to the original of the rectified decision. A note of this order shall be made in the margin of the original of the rectified decision.*

The new Rules of Procedure of the Court make a distinction between the correction of the details of a decision, such as the omission of the name of a party's representative or an incorrect number or date, and rectification concerning the operative part or one of the grounds constituting the necessary support for it. Since it seemed to

the Court to be excessive automatically to ask the parties for their observations before making a correction of the first kind, it is only in the second case that the Court invites the parties to submit their observations. The draft article reproduces this distinction.

Section 2 – Failure to adjudicate

Article 123 Failure to adjudicate on costs

1. If the Tribunal has failed to adjudicate on costs, any party wishing to rely on that may, within a month after service of the decision, apply to the Tribunal to supplement its decision.

2. The application shall be served on the opposite party and the President shall prescribe a time-limit within which that party may submit written observations.

3. After these observations have been submitted, the Tribunal shall decide both on the admissibility and on the merits of the application.

Current text	***Text of the Court's Rules of Procedure***
Article 85 Omission of any decision as to costs *1. If the Tribunal should omit to give a decision on costs, any party may within a month after service of the decision apply to the Tribunal to supplement its decision.* *2. The application shall be served on the opposite party and the President shall prescribe a period within which that party may present written observations.* *3. After these observations have been presented, the Tribunal shall decide at the same time on the admissibility and on the substance of the application.*	*Article 155 Failure to adjudicate* *1. If the Court has failed to adjudicate on a specific head of claim or on costs, any party wishing to rely on that may, within a month after service of the decision, apply to the Court to supplement its decision.* *2. The application shall be served on the opposite party and the President shall prescribe a time-limit within which that party may submit written observations.* *3. After these observations have been submitted, the Court shall, after hearing the Advocate General, decide both on the admissibility and on the substance of the application.*

The text of Article 85 of the Rules of Procedure is, in essence, unchanged.

Section 3 – Application to set aside

Article 124 Application to set aside

1. Application may be made pursuant to Article 41 of the Statute to set aside a judgment by default.

2. The application to set aside the judgment must be made within one month from the date of service of the judgment. It must be submitted in the form prescribed by Articles 45 and 50 of these Rules.

3. The application to set aside the judgment shall be assigned to the formation of the court which gave the contested decision.

4. After the application has been served, the President shall prescribe a time-limit within which the other party may submit his written observations.

5. The proceedings shall be conducted in accordance with Articles 36 to 48, 56 to 85 and 90 to 114.

If the application to set aside the judgment does not comply with the requirements set out in the second, third and fourth subparagraphs of Article 45(1), in the second subparagraph of Article 45(2), or in Article 46, the Registrar shall prescribe a time-limit within which the party concerned is to put that application in order. If the party concerned fails to put the application in order within the time-limit prescribed, the Tribunal shall decide whether the non-compliance with these conditions renders the application to set aside formally inadmissible. The same rules shall apply to the written observations provided for in this Article.

6. The Tribunal shall decide by way of a judgment which may not be set aside. The original of this judgment shall be annexed to the original of the judgment by default. A note of the judgment on the application to set aside shall be made in the margin of the original of the judgment by default.

Current text	***Text of the Court's Rules of Procedure***
Article 116 Procedure *...* *4. Application may be made to set aside a judgment by default.* *The application to set aside the judgment must be made within one month from the date of service of the judgment.* *It must be lodged in the form prescribed by Articles 34 and 35.* *5. After the application has been served, the*	*Article 156 Application to set aside* *1. Application may be made pursuant to Article 41 of the Statute to set aside a judgment delivered by default.* *2. The application to set aside the judgment must be made within one month from the date of service of the judgment and must be submitted in the form prescribed by Articles 120 to 122 of these Rules.* *3. After the application has been served, the President shall prescribe a time-limit within which the other party may submit his written*

President of the formation of the court shall prescribe a period within which the other party may submit his written observations. *The proceedings shall be conducted in accordance with the provisions of Title 2 of these Rules.* *6. The Tribunal shall decide by way of a judgment which may not be set aside. The original of this judgment shall be annexed to the original of the judgment by default. A note of the judgment on the application to set aside shall be made in the margin of the original of the judgment by default.*	*observations.* *4. The proceedings shall be conducted in accordance with Articles 59 to 92 of these Rules.* *5. The Court shall decide by way of a judgment which may not be set aside.* *6. The original of this judgment shall be annexed to the original of the judgment by default. A note of the judgment on the application to set aside shall be made in the margin of the original of the judgment by default.*

As has already been stated, Article 116 of the Tribunal's current Rules of Procedure has been divided into two. The first part (paragraphs 1 to 3) is covered in an article dealing with the procedure for judgment by default. The second part (paragraphs 4 to 6) here constitutes a new article dealing with applications to set aside judgments by default.

In view of the approach taken in the Court's Rules of Procedure, reference is made to the provisions governing the ordinary procedure, so that only the relevant provisions are covered. It follows from the draft provisions that the written part of the procedure will be replaced by the lodging of observations, the procedure for the setting aside of a judgment by default otherwise proceeding in accordance with the ordinary procedure.

As in the Court's Rules of Procedure (Article 153), it is, lastly, provided that the application to set aside the judgment is to be assigned to the formation of the court which gave the contested decision.

Section 4 – Third-party proceedings

Article 125 Third-party proceedings

1. In accordance with Article 42 of the Statute, third-party proceedings may be brought against a decision rendered without the third party's having been heard, where the decision is prejudicial to his rights.

The application must be submitted within two months of publication of the decision in the *Official Journal of the European Union*.

2. Articles 45 and 50 of these Rules shall apply to an application initiating third-party proceedings. In addition such an application shall:

(a) specify the decision contested;

(b) state how the contested decision is prejudicial to the rights of the third party;

(c) indicate the reasons for which the third party was unable to take part in the original case before the Tribunal.

3. The application initiating third-party proceedings must be made against all the parties to the original case. It shall be assigned to the formation of the court which delivered the contested decision.

After the application initiating third-party proceedings has been served, the President shall prescribe a time-limit within which the other parties may submit their written observations.

The proceedings shall be conducted in accordance with Articles 36 to 48, 56 to 85 and 90 to 114.

If the application initiating third-party proceedings does not comply with the requirements set out in the second, third and fourth subparagraphs of Article 45(1), in the second subparagraph of Article 45(2), or in Article 46, the Registrar shall prescribe a time-limit within which the party concerned is to put that application in order. If the party concerned fails to put the application in order within the time-limit prescribed, the Tribunal shall decide whether the non-compliance with these conditions renders the application initiating third-party proceedings formally inadmissible. The same rules shall apply to the written observations provided for in this Article.

4. The contested decision shall be varied on the points on which the submissions of the third party are upheld.

The original of the judgment in the third-party proceedings shall be annexed to the original of the contested decision. A note of the judgment in the third-party proceedings shall be made in the margin of the original of the contested decision.

5. Where an appeal before the General Court and an application initiating third-party proceedings before the Tribunal contest the same decision of the Tribunal, the Tribunal may, after hearing the parties, stay the proceedings.

6. The Tribunal may, on application by the third party, order a stay of execution of the contested decision. The provisions of Chapter 10, Section 1, of this Title shall apply.

Current text	***Text of the Court's Rules of Procedure***
Article 117 Third-party proceedings *1. In accordance with Article 42 of the Statute, third-party proceedings may be brought against a decision rendered without the third party's having been heard, where the decision is prejudicial to his rights.* *If the contested decision has been published in*	*Article 157 Third-party proceedings* *1. Articles 120 to 122 of these Rules shall apply to an application initiating third-party proceedings made pursuant to Article 42 of the Statute. In addition such an application shall:* *(a) specify the judgment or order contested;*

the Official Journal of the European Union*, the application must be lodged within two months of the publication.* *2. Articles 34 and 35 shall apply to an application initiating third-party proceedings. In addition such an application shall:* *(a) specify the decision contested;* *(b) state how that decision is prejudicial to the rights of the third party;* *(c) indicate the reasons for which the third party was unable to take part in the original case before the Tribunal.* *The application must be made against all the parties to the original case.* *The application initiating third-party proceedings shall be assigned to the formation of the court which delivered the contested decision.* *3. The contested decision shall be varied on the points on which the submissions of the third party are upheld.* *The original of the judgment in the third-party proceedings shall be annexed to the original of the contested decision. A note of the judgment in the third-party proceedings shall be made in the margin of the original of the contested decision.* *4. Where an appeal before the General Court and an application initiating third-party proceedings before the Tribunal contest the same decision of the Tribunal, the Tribunal may, after hearing the parties, stay the proceedings until the General Court has delivered its judgment.* *5. The Tribunal may, on application by the third party, order a stay of enforcement of the contested decision. The provisions of Title 3, Chapter 1, shall apply.*	*(b) state how the contested decision is prejudicial to the rights of the third party;* *(c) indicate the reasons for which the third party was unable to take part in the original case.* *2. The application must be made against all the parties to the original case.* *3. The application must be submitted within two months of publication of the decision in the* Official Journal of the European Union*.* *4. The Court may, on application by the third party, order a stay of execution of the contested decision. The provisions of Chapter 10 of this Title shall apply.* *5. The contested decision shall be varied on the points on which the submissions of the third party are upheld.* *6. The original of the judgment in the third-party proceedings shall be annexed to the original of the contested decision. A note of the judgment in the third-party proceedings shall be made in the margin of the original of the contested decision.*

Article 117 of the current Rules of Procedure has been retained except in two respects. First, the applicable procedure is specified, based on that provided in respect of applications to set aside judgments by default. Secondly, as in Article 42 of the draft, relating to conditions for staying of proceedings, the words 'until the General Court has delivered its judgment' have been omitted in order to leave the Tribunal some flexibility, so as to take account of a possible review by the Court of Justice.

Section 5 – Interpretation of decisions of the Tribunal

Article 126 Interpretation of decisions of the Tribunal

1. In accordance with Article 43 of the Statute, if the meaning or scope of a decision is in doubt, the Tribunal shall construe it on application by any party or any institution establishing an interest therein.

An application for interpretation must be made within two years after the date of delivery of the judgment or service of the order.

2. Articles 45 and 50 shall apply to an application for interpretation. In addition such an application shall:

(a) specify the decision in question;

(b) indicate the passages of which interpretation is sought.

The application for interpretation must be made against all the parties to the case in which the decision of which interpretation is sought was given. It shall be assigned to the formation of the court which gave the decision which is the subject of the application.

3. The Tribunal shall give its decision by way of judgment after having given the parties an opportunity to submit their observations.

The original of the interpreting judgment shall be annexed to the original of the decision interpreted. A note of the interpreting judgment shall be made in the margin of the original of the decision interpreted.

4. Where an appeal before the General Court and an application for interpretation before the Tribunal concern the same decision of the Tribunal, the Tribunal may, after hearing the parties, stay the proceedings.

Current text	***Text of the Court's Rules of Procedure***
Article 118 Interpretation of decisions of the Tribunal *1. In accordance with Article 43 of the Statute, if*	*Article 158 Interpretation* *1. In accordance with Article 43 of the Statute, if the meaning or scope of a judgment or order is in*

the meaning or scope of a decision is in doubt, the Tribunal may construe it on application by any party or any institution establishing an interest therein. *Applications for interpretation shall not be subject to any condition as to time-limits.* *2. Articles 34 and 35 shall apply to an application for interpretation. In addition such an application shall:* *(a) specify the decision in question;* *(b) indicate the passages of which interpretation is sought.* *The application must be made against all the parties to the case in which the decision of which interpretation is sought was given.* *The application for interpretation shall be assigned to the formation of the court which gave the decision which is the subject of the application.* *3. The Tribunal shall give its decision by way of judgment after having given the parties an opportunity to submit their observations.* *The original of the interpreting judgment shall be annexed to the original of the decision interpreted. A note of the interpreting judgment shall be made in the margin of the original of the decision interpreted.* *4. Where an appeal before the General Court and an application for interpretation before the Tribunal concern the same decision of the Tribunal, the Tribunal may, after hearing the parties, stay the proceedings until the General Court has delivered its judgment.*	*doubt, the Court shall construe it on application by any party or any institution of the European Union establishing an interest therein.* *2. An application for interpretation must be made within two years after the date of delivery of the judgment or service of the order.* *3. An application for interpretation shall be made in accordance with Articles 120 to 122 of these Rules. In addition it shall specify:* *(a) the decision in question;* *(b) the passages of which interpretation is sought.* *4. The application must be made against all the parties to the case in which the decision of which interpretation is sought was given.* *5. The Court shall give its decision after having given the parties an opportunity to submit their observations and after hearing the Advocate General.* *6. The original of the interpreting decision shall be annexed to the original of the decision interpreted. A note of the interpreting decision shall be made in the margin of the original of the decision interpreted.*

The Tribunal considers it would be appropriate to set a temporal limit on the possibility for a party or a European Union insitution to make an application for interpretation. In the light of the nature of the disputes

before it, a time-limit of two years appears to be sufficient. Moreover, it is suggested that the words 'until the General Court has delivered its judgment' in Article 118(4) of the current Rules of Procedure should be omitted, as in the previous article.

Section 6 – Revision

Article 127 Revision

1. In accordance with Article 44 of the Statute, an application for revision of a decision of the Tribunal may be made only on discovery of a fact which is of such a nature as to be a decisive factor and which, before the decision was delivered or adopted, was unknown to the Tribunal and to the party claiming the revision.

Without prejudice to the time-limit of 10 years prescribed in the third paragraph of Article 44 of the Statute, an application for revision shall be made within three months of the date on which the facts on which the application is founded came to the applicant's knowledge.

2. Articles 45 and 50 shall apply to an application for revision. In addition such an application shall:

(a) specify the decision contested;

(b) indicate the points on which the decision is contested;

(c) set out the facts on which the application is based;

(d) indicate the nature of the evidence to show that there are facts justifying revision, and that the time-limits laid down in paragraph 1 of this Article have been observed.

The application for revision must be made against all the parties to the case in which the contested decision was given.

It shall be assigned to the formation of the court which gave the contested decision.

3. Without prejudice to its decision on the merits, the Tribunal shall give its decision on the admissibility of the application in the form of an order, having regard to the parties' written observations.

4. If the Tribunal declares the application admissible, the remainder of the procedure shall be oral, unless the Tribunal otherwise decides.

Where the Tribunal decides that pleadings are to be lodged, the proceedings shall be conducted in accordance with Articles 36 to 48, 56 to 85 and 90 to 114.

If the application for revision does not comply with the requirements set out in the second, third and fourth subparagraphs of Article 45(1), in the second subparagraph of Article 45(2), or in Article 46, the Registrar shall prescribe a time-limit within which the party concerned is to put that application in order. If the party

concerned fails to put the application in order within the time-limit prescribed, the Tribunal shall decide whether the non-compliance with these conditions renders the application for revision formally inadmissible. The same rules shall apply to the written observations and the pleadings provided for in this Article.

5. The Tribunal shall give its decision by way of judgment.

The original of the revising judgment shall be annexed to the original of the decision revised. A note of the revising judgment shall be made in the margin of the original of the decision revised.

6. Where an appeal before the General Court and an application for revision before the Tribunal concern the same decision of the Tribunal, the Tribunal may, after hearing the parties, stay the proceedings.

Current text	***Text of the Court's Rules of Procedure***
Article 119 Revision *1. In accordance with Article 44 of the Statute, an application for revision of a decision of the Tribunal may be made only on discovery of a fact which is of such a nature as to be a decisive factor and which, before the decision was delivered or adopted, was unknown to the Tribunal and to the party claiming the revision.* *Without prejudice to the period of 10 years prescribed in the third paragraph of Article 44 of the Statute, an application for revision shall be made within three months of the date on which the facts on which the application is based came to the applicant's knowledge.* *2. Articles 34 and 35 shall apply to an application for revision. In addition such an application shall:* *(a) specify the decision contested;* *(b) indicate the points on which the decision is contested;* *(c) set out the facts on which the application is based;* *(d) indicate the nature of the evidence to show that there are facts justifying revision, and that the time-limits laid down in paragraph 1 of this*	*Article 159 Revision* *1. In accordance with Article 44 of the Statute, an application for revision of a decision of the Court may be made only on discovery of a fact which is of such a nature as to be a decisive factor and which, when the judgment was delivered or the order served, was unknown to the Court and to the party claiming the revision.* *2. Without prejudice to the time-limit of 10 years prescribed in the third paragraph of Article 44 of the Statute, an application for revision shall be made within three months of the date on which the facts on which the application is founded came to the applicant's knowledge.* *3. Articles 120 to 122 of these Rules shall apply to an application for revision. In addition such an application shall:* *(a) specify the judgment or order contested;* *(b) indicate the points on which the decision is contested;* *(c) set out the facts on which the application is founded;* *(d) indicate the nature of the evidence to show that there are facts justifying revision, and that the time-limits laid down in paragraph 2*

article have been observed. *The application must be made against all the parties to the case in which the contested decision was given.* *The application for revision shall be assigned to the formation of the court which gave the contested decision.* *3. The Tribunal shall give its decision by way of judgment on the admissibility of the application in the light of the parties' written observations.* *If the Tribunal finds the application admissible, the remainder of the procedure shall be oral, unless the Tribunal otherwise decides. It shall give its decision by way of judgment.* *The original of the revising judgment shall be annexed to the original of the decision revised. A note of the revising judgment shall be made in the margin of the original of the decision revised.* *4. Where an appeal before the General Court and an application for revision before the Tribunal concern the same decision of the Tribunal, the Tribunal may, after hearing the parties, stay the proceedings until the General Court has delivered its judgment.*	*have been observed.* *4. The application for revision must be made against all parties to the case in which the contested decision was given.* *5. Without prejudice to its decision on the substance, the Court shall, after hearing the Advocate General, give in the form of an order its decision on the admissibility of the application, having regard to the written observations of the parties.* *6. If the Court declares the application admissible, it shall proceed to consider the substance of the application and shall give its decision in the form of a judgment in accordance with these Rules.* *7. The original of the revising judgment shall be annexed to the original of the decision revised. A note of the revising judgment shall be made in the margin of the original of the decision revised.*

Article 119 of the current Rules of Procedure has essentially been reproduced subject to some amendments. Thus, it is proposed that the Tribunal will give its decision on the admissibility of the application for revision in the form of an order rather than by way of judgment. That approach is explained by the fact that the decision on the issue is made following a summary procedure without a hearing. This option has also been chosen by the Court of Justice. Article 119 is, furthermore, supplemented so as to identify the provisions applicable to the proceedings on the merits of the case where the Tribunal decides that pleadings are to be lodged. Lastly, as has already been proposed in respect of applications to set aside judgments by default and applications initiating third-party proceedings, it is suggested that the words 'until the General Court has delivered its judgment' should be omitted.

Section 7 – Cases referred back to the Tribunal after the decision has been set aside

First of all, it is proposed that Article 112 of the current Rules of Procedure should be omitted. That article provides that '[o]n the conditions laid down in Articles 9 to 12 of Annex I to the Statute, an appeal may be brought before the General Court against judgments or orders of the Tribunal'. It adds nothing to those articles and the repetition of norms which are superior in terms of their binding force is not, as a rule, desirable from the point of view of legal drafting. In addition, it is proposed, as in the Rules of Procedure of the General Court, that the issue of referral back after setting aside (Article 113(1) of the current Rules of Procedure) should be separated from that of the assignment of the case referred back (Article 113(2) of the current Rules).

Article 128 Referral back after setting aside

Where the General Court sets aside a judgment or an order of the Tribunal and refers the case back to the Tribunal by virtue of Article 13 of Annex I to the Statute, the latter shall be seised of the case by the judgment so referring it.

Current text	***Text of the Rules of Procedure of the General Court***
Article 113 Referral back after setting aside – Assignment of the case referred back *1. Where, after setting aside a judgment or order of the Tribunal, the General Court refers the case back to the Tribunal by virtue of Article 13 of Annex I to the Statute, the Tribunal shall be seised of the case by the judgment so referring it.* *2. The President of the Tribunal shall assign the case either to the formation of the court which gave the decision which has been set aside or to another formation of the court.* *However, where the decision set aside was given by a single Judge, the President of the Tribunal shall assign the case to a Chamber sitting with three Judges of which that Judge is not a member.*	*Article 117* *Where the Court of Justice sets aside a judgment or an order of the General Court and refers the case back to that Court, the latter shall be seised of the case by the judgment so referring it.*

The draft article in effect reproduces Article 113(1) of the current Rules of Procedure while, however, using the wording of the Rules of Procedure of the General Court.

Article 129 Assignment of the case referred back

1. The President of the Tribunal shall assign the case either to the formation of the court which gave the decision which has been set aside or to another formation of the court and shall designate as Judge-Rapporteur a Judge other than the Judge who fulfilled that function in the case which gave rise to the appeal.

2. Where the decision set aside was given by a single Judge, the President of the Tribunal shall assign the case to a Chamber of three Judges of which that Judge is not a member.

Current text	***Text of the Rules of Procedure of the General Court***
Article 113 Referral back after setting aside – Assignment of the case referred back *...* *2. The President of the Tribunal shall assign the case either to the formation of the court which gave the decision which has been set aside or to another formation of the court.* *However, where the decision set aside was given by a single Judge, the President of the Tribunal shall assign the case to a Chamber sitting with three Judges of which that Judge is not a member.*	*Article 118* *1. Where the Court of Justice sets aside a judgment or an order of a Chamber, the President of the General Court may assign the case to another Chamber composed of the same number of Judges.* *2. Where the Court of Justice sets aside a judgment delivered or an order made by the General Court sitting in plenary session or by the Grand Chamber, the case shall be assigned to that Court or that Chamber as the case may be.* *2a. Where the Court of Justice sets aside a judgment delivered or an order made by a single Judge, the President of the General Court shall assign the case to a Chamber composed of three Judges of which that Judge is not a member.* *3. In the cases provided for in paragraphs 1, 2 and 2a of this Article, Articles 13(2), 14(1) and 51 shall apply.*

In order to make the Tribunal's practice more transparent, it is stipulated that the President of the Tribunal will designate as Judge-Rapporteur a Judge other than the Judge who fulfilled that role in the case which gave rise to the judgment referring the case back. It must be pointed out that the size of the Tribunal prevents, as a rule, the case referred back from being assigned to another Chamber. Moreover, it would not in any event be

possible for cases in which the decision set aside was made by the full court or by the Chamber of five Judges to be dealt with by other Judges.

Article 130 Procedure for examining cases referred back

1. Within two months from the service upon him of the judgment of the General Court the applicant may lodge written observations on the points of law which justified the setting aside of the judgment and the referral back.

2. The applicant's written observations or a letter from the Tribunal informing the defendant that such observations have not been lodged within the time-limit prescribed shall be served on the defendant. In the month following such service, the defendant may lodge written observations. The time-limit allowed to the defendant for lodging those observations may in no case be less than two months from the service upon it of the judgment of the General Court.

3. The written observations of the applicant and the defendant or a letter from the Tribunal indicating that one or both of the parties has failed to lodge written observations shall be served on the intervener at the same time. In the month following such service, the intervener may lodge written observations.

4. By way of derogation from Article 130(1) to (3), where the written part of the procedure before the Tribunal had not been completed when the judgment referring the case back to the Tribunal was delivered, it shall be resumed, at the stage which it had reached, by means of measures of organisation of procedure adopted by the Tribunal.

5. The Tribunal may, if the circumstances so justify, allow supplementary written observations to be lodged.

6. The proceedings shall be conducted in accordance with Articles 36 to 48, 56 to 85 and 90 to 114.

7. If the written observations provided for in this Article do not comply with the requirements set out in the second, third and fourth subparagraphs of Article 45(1), in the second subparagraph of Article 45(2), or in Article 46, the Registrar shall prescribe a time-limit within which the party concerned is to put the written observations in order. If the party concerned fails to put the written observations in order within the time-limit prescribed, the Tribunal shall decide whether the non-compliance with these conditions renders the written observations formally inadmissible.

8. By way of derogation from Article 130(6), the Tribunal may, with the agreement of the parties, decide to rule on the case without a hearing.

Current text	***Text of the Rules of Procedure of the General Court***
Article 114 Procedure for examining cases	*Article 119*

referred back *1. Within two months from the service upon him of the judgment of the General Court the applicant may lodge a statement of written observations.* *2. In the month following the communication to it of that statement, the defendant may lodge a statement of written observations. The time allowed to the defendant for lodging that statement may in no case be less than two months from the service upon it of the judgment of the General Court.* *3. In the month following the simultaneous communication to the intervener of the observations of the applicant and the defendant, the intervener may lodge a statement of written observations. The time allowed to the intervener for lodging it may in no case be less than two months from the service upon him or it of the judgment of the General Court.* *4. By way of derogation from Article 114(1) to (3), where the written procedure before the Tribunal had not been completed when the judgment referring the case back to the Tribunal was delivered, it shall be resumed, at the stage which it had reached, by means of measures of organisation of procedure adopted by the Tribunal.* *5. The Tribunal may, if the circumstances so justify, allow supplementary statements of written observations to be lodged.* *6. The procedure shall be conducted in accordance with the provisions of Title 2 of these Rules.*	*1. Where the written procedure before the General Court has been completed when the judgment referring the case back to it is delivered, the course of the procedure shall be as follows:* *(a) Within two months from the service upon him of the judgment of the Court of Justice the applicant may lodge a statement of written observations;* *(b) In the month following the communication to him of that statement, the defendant may lodge a statement of written observations. The time allowed to the defendant for lodging it may in no case be less than two months from the service upon him of the judgment of the Court of Justice;* *(c) In the month following the simultaneous communication to the intervener of the observations of the applicant and the defendant, the intervener may lodge a statement of written observations. The time allowed to the intervener for lodging it may in no case be less than two months from the service upon him of the judgment of the Court of Justice.* *2. Where the written procedure before the General Court had not been completed when the judgment referring the case back to the General Court was delivered, it shall be resumed, at the stage which it had reached, by means of measures of organisation of procedure adopted by the General Court.* *3. The General Court may, if the circumstances so justify, allow supplementary statements of written observations to be lodged.* *Article 120* *The procedure shall be conducted in accordance with the provisions of Title 2 of these Rules.*

Article 114 of the current Rules of Procedure has been amended so as to specify that the applicant's written observations after the referral back must contain only the points of law which justified the setting aside of the judgment and the referral back. The situation in which the applicant does not lodge written observations, which occurs in practice, is also taken into account. In addition, Article 130(6) governs, by reference to the relevant provisions, the procedure which follows the written procedure after the referral back, which is described in paragraphs 1 to 4 of the draft. By way of derogation from the ordinary procedure, it is nevertheless stated that, with the parties' agreement, the Tribunal may dispense with a new hearing. Lastly, paragraph 7 contains a provision relating to the putting in order of procedural documents which has been added to previous articles.

Article 131 Costs after referral back

The Tribunal shall decide on the costs relating to the proceedings instituted before it and to the proceedings on the appeal before the General Court.

Current text	***Text of the Rules of Procedure of the General Court***
Article 115 Costs *The Tribunal shall decide on the costs relating to the proceedings instituted before it and to the proceedings on the appeal before the General Court.*	*Article 121* *The General Court shall decide on the costs relating to the proceedings instituted before it and to the proceedings on the appeal before the Court of Justice.*

The draft article does not alter the current Article 115 and no observations need be made on it.

TITLE 3
FINAL PROVISIONS

Article 132 Implementing rules

The Tribunal may, by a separate act, adopt rules for the implementation of these Rules.

Current text	***Text of the Court's Rules of Procedure***
Article 120 The Tribunal's Practice Directions *The Tribunal may issue practice directions relating, in particular, to the preparations for and conduct of hearings before it, to the amicable settlement of disputes and to the presentation and lodging of pleadings and written observations.*	*Article 208 Implementing rules* *The Court may, by a separate act, adopt practice rules for the implementation of these Rules.*

The draft text largely matches the article governing the adoption of implementing rules in the Court's Rules of Procedure.

Article 133 Repeal

These Rules replace the Rules of Procedure of the Tribunal adopted on 25 July 2007, as last amended on 18 May 2011 (*Official Journal of the European Union*, L 162 of 22 June 2011, p. 19).

Current text	***Text of the Court's Rules of Procedure***
No equivalent	*Article 209 Repeal* *These Rules replace the Rules of Procedure of the Court of Justice of the European Communities adopted on 19 June 1991, as last amended on 24 May 2011 (*Official Journal of the European Union*, L 162 of 22 June 2011, p. 17).*

The draft text does not require any comment.

Article 134 Publication and entry into force of the Rules of Procedure

These Rules, which are authentic in the languages of the case referred to in the Rules of Procedure of the General Court, shall be published in the *Official Journal of the European Union*. They shall enter into force on the first day of the third month following the date of their publication.

Current text	***Text of the Court's Rules of Procedure***
Article 121 Publication of the Rules of Procedure *These Rules, which are authentic in the languages of the case mentioned in the Rules of Procedure of the General Court, shall be published in the* Official Journal of the European Union*. They shall enter into force on the first day of the third month following the date of their publication.*	*Article 210 Publication and entry into force of these Rules* *These Rules, which are authentic in the languages referred to in Article 36 of these Rules, shall be published in the* Official Journal of the European Union *and shall enter into force on the first day of the second month following their publication.*

The draft text does not require any comment.

Done at Luxembourg, …

W. Hakenberg — *Registrar*

S. Van Raepenbusch — *President*