

# STATUTE OF THE ADMINISTRATIVE TRIBUNAL

## Article IX

### Damages, Indemnities and Liabilities

1. If the Tribunal finds that the complaint is well founded, either in whole or in part, it shall so state in its judgment and shall provide that the challenged decision shall be rescinded, that the obligation for which claim is made shall be complied with, or that the right of the complainant shall be restored in such manner as the Tribunal may deem appropriate.
2. In all cases in which the Tribunal rules that the complainant shall be reinstated in service, in its judgment it shall fix the amount that is to be paid to him for the injury suffered in the event that the Secretary General does not, within thirty days following the date on which he is notified of the judgment, order his reinstatement in service; however, this indemnity shall not exceed the equivalent of two years' basic salary of the complainant. In exceptional cases, the Tribunal may order payment of a higher indemnity up to one more year, and shall state the reasons justifying such payment.

If the Secretary General does not make use of the power provided for in the preceding paragraph, the complainant may, nevertheless, choose to accept the indemnity agreed upon instead of being reinstated to service.

3. In all cases involving an indemnity, the indemnity shall be fixed by the Tribunal and paid by the Organization of American States or, as appropriate, by the specialized organization participating under the terms of paragraph 4 of Article II.
4. Should the Tribunal find that the procedure prescribed in the General Standards or other applicable provisions has not been observed, it may, on its own initiative or at the request of either of the parties, order that the case be remanded to the Secretary General so that the error in the procedure may be corrected. When a case is remanded under these circumstances, the Tribunal may order payment to the complainant of an indemnity, which shall not exceed the equivalent of his basic salary for three months, for such injury as may have been caused by the delay.
5. The Tribunal may order the losing party to pay the prevailing party an indemnity for attorney's fees and costs incurred by the prevailing party when the losing party has brought a clearly frivolous claim or objection, did not have solid grounds for litigating, has been totally defeated, or has been proven to have acted with actual malice. The maximum amount that can be awarded for the total of attorney's fees and costs so incurred by the prevailing parties or party shall not exceed the equivalent of one month's remuneration (salary and post adjustment) at the P-4, step 6 level on the "with dependent" salary scale for headquarters in a judgment

involving up to ten complainants, and twice that amount in a judgment involving more than ten complainants. The Tribunal may require a party seeking attorneys' fees and costs to prove actual costs and fees incurred up to the above-corresponding maximum amount established under this Article.