

# STATUTE OF THE ADMINISTRATIVE TRIBUNAL

## Article XII

### Review of Judgments

1. Judgments of the Tribunal may be reviewed by an ad hoc Administrative Tribunal Review Panel (Review Panel) only in instances where the Tribunal's judgment is alleged to be ultra vires because it exceeds the Tribunal's authority in relation to its jurisdiction, competence, or procedures under this Statute. The Review Panel shall not have competence to reexamine the merits of the underlying dispute.
2. A petition for review may be perfected by presenting it to the Chair of the Permanent Council. Each such petition shall set forth the legal and factual bases supporting the allegation that the Tribunal's decision in the first instance was ultra vires. That petition must be presented to the Chair of the Permanent Council within forty-five days of the appellant's receipt of the Tribunal's judgment.
3. Upon receipt of the petition, the Chair of the Permanent Council shall constitute a Review Panel. The Review Panel shall be composed of three members. One of the members of the Review Panel shall be chosen by lot from amongst those Tribunal members who did not in the first instance hear the case being reviewed. Two members shall be chosen ad hoc from amongst the members of other administrative tribunals of other international organizations whose tribunal secretariats have their headquarters in Washington, D.C. The two ad hoc members shall be selected by the Chair of the Permanent Council, in consultation with the duly appointed representatives of the Secretary General and of the opposing parties. The Chair of the Permanent Council shall designate one of the ad hoc members to serve as President of the Review Panel, and shall determine the compensation paid to members, in consultation with the Secretary General and subject to the availability of resources.
4. Simultaneous with petitioning for review, the appellant must notify the appellees directly or through their duly authorized representatives of the petition by sending them a copy of the petition. The appellees shall have forty-five days from the date of receipt of the petition to submit in writing any observations they may have on the petition. Those observations shall be submitted directly to the Review Panel, with a copy to the appellant. Upon receipt of these observations, the appellant shall have twenty days to file a written response with the Review Panel and the appellee. The Review Panel may, at its discretion, request additional submissions of the parties. Appeals shall be decided based upon the written submissions, and without oral argument before the Review Panel, except in extraordinary circumstances as the President of the Review Panel deems appropriate.

5. The Review Panel shall follow the principles of law and procedures set out in this Statute. With prior notice to the parties, and in order to facilitate an orderly review process, the President of the Review Panel may adopt additional ad hoc procedures based on generally accepted principles of due process and consistent with the rules of procedure adopted by the Inter-American Commercial Arbitration Commission.
6. For good cause shown, the President of the Review Panel may extend the time limits for filing the pleadings provided for under this Article.
7. The decision of the Review Panel on the questions presented in the petition for review shall be binding on the Organization and all other parties, provided it is supported by a majority of the Review Panel's members. Otherwise, the Tribunal's original decision shall control.
8. Pending the conclusion of the review process, the obligation to make payment under the Tribunal's judgment shall be suspended; however, if the decision of the majority of the members of the Review Panel conclusively reaffirms the Tribunal's judgment, the appellant shall owe interest on the judgment amount beginning sixty days after the date of the original judgment at the average money-market rate for commercial banks in Washington, D.C., for the period running from the date interest begins to accrue until the date of payment.
9. The Review Panel may order the appellant to pay the appellee an indemnity for attorney's fees, the costs incurred by the appellee in defending the Tribunal's judgment, and the costs of constituting the Review Panel, when the appellant has brought a clearly frivolous appeal, 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 appellee shall not exceed the equivalent of six months' remuneration (salary and post adjustment) at the P-4, step 6 level on the "with dependent" salary scale for headquarters.
10. Before admitting the petition for review of a person who is not a staff member, the Chair of the Permanent Council shall require that person to submit a filing fee, a bond, or other legally enforceable security in the amount equivalent to six months' remuneration (salary and post adjustment) at the P-4, step 6 level on the "with dependent" salary scale for headquarters. This fee shall be held by the Secretary General in escrow pending the outcome of the review and the award by the Review Panel of any costs or attorney's fees against the appellant.
11. The General Secretariat shall provide secretariat services to the Review Panel through the Secretariat of the Administrative Tribunal. The estimated costs of those services shall be included in the proposed program-budget of the Administrative Tribunal, and monies paid by an appellant for the cost of those services pursuant to a Review Panel order shall be available to cover or reimburse the cost of those secretariat services.