PRACTICE DIRECTIONS TO PARTIES ON JUDICIAL PROCEEDINGS BEFORE THE EUROPEAN UNION CIVIL SERVICE TRIBUNAL

of 11 July 2012

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THE EUROPEAN UNION CIVIL SERVICE TRIBUNAL,

having regard to Article 120 of its Rules of Procedure;

Whereas:

it is in the interests of the proper administration of justice that practice directions be issued to the parties' representatives, dealing with the manner in which procedural documents are to be submitted so as to ensure the efficient conduct of the hearing;

compliance with these directions reduces the number of requests for regularisation and the risk of inadmissibility as a result of failure to comply with the rules as to form;

proceedings before the Civil Service Tribunal are subject to language arrangements appropriate to a multilingual Union;

it is in the interests of the parties to proceedings before the Civil Service Tribunal that the Tribunal provide concise responses to matters on which the parties' representatives wish to be better informed, and provide guidance to enable them to draft their procedural documents appropriately;

it is in the interests of the efficient conduct of proceedings before the Civil Service Tribunal that practice directions be given to persons concerned regarding the submission of applications for legal aid and the conduct of the oral procedure;

HEREBY DECIDES TO ADOPT THE FOLLOWING PRACTICE DIRECTIONS:

I. INTERPRETATION

1. The definitions adopted in Article 1 of the Rules of Procedure shall apply equally for the purposes of these Practice Directions.

II. GENERAL PROVISIONS RELATING TO THE LODGING AND SERVICE OF PROCEDURAL DOCUMENTS

2. The lodging and service (transmission) of procedural documents between the parties and the Tribunal may be effected:

— by exclusively electronic means using the e-Curia application, or

— by dispatch in paper format.

A. **Electronic transmission by means of e-Curia**

3. Electronic transmission by means of e-Curia is characterised by:

(a) the creation of a personal access account to which a party's representative may have access using a username and secure password;

(b) the fact that no procedural documents or annexes thereto are sent by the parties in paper format; a document shall be deemed to be the original if it is received at the Tribunal by means of e-Curia, and there is no need for it to bear the representative's handwritten signature or for certified copies to be sent;

(c) service of the procedural documents of the other parties as well as of the decisions of the Tribunal and of all other correspondence by means of e-Curia; service shall be effected upon access to the document being obtained via the e-Curia application, failing which, it shall be deemed to have been effected on the expiry of the seventh day following the day on which the notification email was sent;

(d) the fact that the applicable legislation is defined in: the decision of the Civil Service Tribunal, adopted in accordance with Article 34(7) of the Rules of Procedure, of 20 September 2011 (OJ 2011 C 289, p. 11) on the lodging and service of procedural documents by means of e-Curia; the Conditions of Use of e-Curia; and the e-Curia User Manual, which also explains how to proceed in the case of an assistant (all those documents are available on the website www.curia.europa.eu).

B. **Transmission in paper format**

4. Transmission in paper format entails:

(a) the need for all procedural documents and annexes thereto to be lodged in paper format, duly signed by the representative; each procedural document and any annexes thereto must be accompanied by seven sets of certified copies; for the purposes of compliance with time-limits, copies sent by fax before the paper version is sent shall be taken into account if the original paper document is received at the Tribunal within 10 days of dispatch of the fax (see point 36 et seq. of these Practice Directions);

(b) service of the procedural documents of the other parties as well as of the decisions of the Tribunal and of all correspondence between the Registry and the parties by the preferred method of service: by registered post with a form for acknowledgement of receipt (in which case service shall be deemed to have been effected by the lodging of the registered letter at the post office in Luxembourg), by fax or by e-Curia.

III. WRITTEN PROCEDURE

A. **Application**

1. *Lodging the application*

5. Every application shall be addressed to the **Registry** of the Tribunal. It must comply with the provisions of Article 34 of the Rules of Procedure.

6. The **information** to be included in the application and the documents required to be annexed to it are listed in Article 35(1), (2), (3) and (5) of the Rules of Procedure.

7. Article 35(5) and the third subparagraph of Article 39(1) of the Rules of Procedure concern the certificate required to be lodged at the Registry by the applicant's **lawyer** and by any lawyer who may be assisting the defendant's agent. It should be noted that the principle of compulsory representation before the Tribunal is laid down by Article 19 of the Statute. With the exception of the Member States, other States which are parties to the EEA Agreement (Norway, Iceland and Liechtenstein) and the institutions of the European Union, which are represented by their agents, the parties must therefore be represented by a lawyer authorised to practise before a court of a Member State or of another State party to the EEA Agreement. However, the obligation to be represented by a lawyer does not apply to the procedure for obtaining legal aid (see, in that regard, Chapter E of Title III of these Practice Directions).

8. In addition, although no written instructions from the applicant to the lawyer representing him are required on lodging the application, any **change** in the number or identity of lawyer(s) (e.g. replacement of one lawyer by another, presence of an additional lawyer, withdrawal of instructions from one of the lawyers who made the application) must be notified to the Registry in writing without delay. In the event of one lawyer being replaced by another, written authorisation is required in respect of the new lawyer.

9. The applicant's **lawyer** should state clearly on the first page of the application his **address**, the **name of his chambers or practice**, where appropriate, his telephone and fax numbers and email address. Any subsequent changes in that information must be notified to the Tribunal without delay. Under no circumstances can the applicant's own address be accepted as an address for service.

10. An application lodged by means of e-Curia need not necessarily bear a handwritten **signature**. However, in the case of an application lodged in paper format, the handwritten signature of the lawyer must be legible and appear at the end of the application. The absence of a signature cannot be rectified. A copy, such as a stamp, facsimile signature, photocopy, etc. will not be accepted. In the case of more than one representative, the signature of one of them will be sufficient. The signature by proxy of a person other than the applicant's representative(s) will not be accepted, even where that signatory is a member of the same chambers or practice as the representative(s).

2. *Mandatory information and rules on presentation of the application*

11. The **language of the case** shall be the language chosen for the drafting of the application, in accordance with Article 29 of the Rules of Procedure, which, in relation to language arrangements, refers to Article 35 of the Rules of Procedure of the General Court of the European Union.

12. In the interests both of the parties themselves and of the proper administration of justice, procedural documents should be as concise as possible having regard to the nature of the facts and complexity of the issues raised. Accordingly, an application should not, in principle, exceed **30 pages** (A4 format, font size 12 in a font equivalent to 'Times New Roman', 1.5 line spacing and margins of at least 2.5 cm), depending on the circumstances of the case. Authorisation to exceed those maxima will be given only in cases involving particularly complex legal or factual issues.

13. The **form of order sought** must be precisely worded and set out at the beginning or end of the application, and its heads of claim must be numbered.

14. The **paragraphs** of the text must be numbered consecutively.

15. In order to facilitate subsequent use of the application by the Tribunal, it is necessary, where there are **10 or more applicants**, to append to the application a list of all their names and addresses, produced using word-processing software, which must be sent to the Registry by email to tfp.greffe@curia.europa.eu at the same time as the application, the case to which the list relates being clearly indicated.

16. An application must be accompanied by a **summary** of the dispute, designed to facilitate the drafting of the notice prescribed by Article 37(2) of the Rules of Procedure, which will be prepared by the Registry. It must be produced separately from the annexes mentioned in the text of the application. That summary, to be contained in a document produced using word-processing software, should not be more than two pages long and must also be sent by email to tfp.greffe@curia.europa.eu, indicating clearly the case to which it relates. In principle, the summary will be available in its entirety on a special page on the website www.curia.europa.eu, to enable any person concerned to make enquiries. Accordingly, the summary of the case must satisfy certain requirements as to style which will be indicated on the relevant page of that website.

17. An application made pursuant to Article 44(4) of the Rules of Procedure for the name of the applicant or of other persons, or certain information, to be omitted from the publications relating to a case (**anonymity**), must be made by separate document and must state adequate reasons.

18. If the application is lodged after the submission of an application for **legal aid** (see Chapter E of Title III of these Practice Directions), the effect of which, under Article 97(4) of the Rules of Procedure, is to suspend the period prescribed for the bringing of an action, this must be pointed out at the beginning of the application. If the application is lodged after notification of the order making a decision on an application for legal aid, reference must equally be made in the application to the date on which the order was served on the applicant.

19. An application lodged by means of e-Curia shall be submitted in the form of files. To assist the Registry in handling the application, it is recommended that the practical guidance given in the e-Curia User Manual (see point 3(d) of these Practice Directions) be followed, viz:

    (a) files must include names identifying the document (Application, Annexes Part 1, Annexes Part 2, Covering letter, etc.);

    (b) the text of the application can be saved in PDF (image and text) direct from the word-processing software, without the need for digitisation.

20. An application lodged in paper format must be submitted in such a way as to enable it to be processed electronically by the Tribunal, in particular by means of **digitisation** of documents and character recognition. Accordingly, in addition to the requirements set out in point 12 of these Practice Directions, the following requirements must be complied with:

    (a) the text must be easily legible and appear on one side of the page only ('recto', not 'recto verso');

    (b) documents must not be bound together or fixed to each other by any other means (e.g. glued or stapled).

21. The pages of the application and annexes must in addition be **numbered consecutively** in the top right-hand corner, including any annexes and page dividers.

22. In accordance with the second subparagraph of Article 34(1) of the Rules of Procedure, the application and any annexes lodged in paper format must, in the same way as other procedural documents, be submitted together with five paper **copies** for the Tribunal and a copy for every other party to the proceedings (thus normally **seven** paper copies). The first page of each set of copies must be endorsed by the lawyer to the effect that the **copies are certified true copies** of the original, and must bear his signature or initials.

23. As regards the **annexes**, the parties should be rigorous in their selection of documents relevant for the purposes of the proceedings, in view of the material and linguistic constraints on the Tribunal and the parties. In particular, information to which the Tribunal has access (e.g. case-law of the Courts of the European Union cited in procedural documents) is not to be produced. The following formal requirements must be complied with:

(a) annexes must be numbered and contain a reference to the pleading to which they are attached (e.g. Annex A.1, A.2 etc. in an application; Annex B.1, B.2 etc. in a defence; Annex C.1, C.2 etc. in a reply; Annex D.1, D.2 etc. in a rejoinder). In the case of more than three annexes, they should preferably be lodged with page dividers;

(b) annexes must be readily legible. An annex will not be accepted if the print quality is inadequate;

(c) annexes must be drawn up in the language of the case or be accompanied by a translation. Annexes which do not satisfy those requirements cannot in principle be accepted (see Article 29 of the Rules of Procedure which, in relation to language arrangements, refers to Article 35(3) of the Rules of Procedure of the General Court of the European Union). Under Article 8(5) of the Instructions to the Registrar, a derogation from that rule is possible only where it is duly justified;

(d) annexes must be preceded by a schedule of annexes containing, in respect of each document annexed, the number (e.g. A.1), an indication of the nature of the document (e.g. 'letter of … from X to Z'), the page reference and paragraph number in the application where the document is mentioned (e.g. 'p. 7, para. 17'), the number of pages of the document, and the page reference (within the consecutively numbered set of documents) for the first page of the particular document annexed. An example of a schedule of annexes is included in the model application available on the website www.curia.europa.eu;

(e) annexes to an application lodged by means of e-Curia must be contained in one or more files separate from the file containing the application. One file may in principle contain all the annexes. It is not desirable for there to be one file per annex;

(f) annexes to an application lodged by means of e-Curia, mentioned in the body of that application, which by their nature cannot be lodged by e-Curia, may be sent separately in paper format in accordance with Article 34(1) of the Rules of Procedure, provided that they are mentioned in the schedule of annexes to the application lodged by e-Curia. The schedule of annexes must identify which annexes are to be lodged separately. Those annexes must reach the Registry no later than 10 days after the lodging of the application by e-Curia.

3. *Putting the application in order*

24. In order to give parties the opportunity to make good any formal irregularities in an application, it is necessary, in certain circumstances, to **put the application in order**. In accordance with Article 36 of the Rules of Procedure and Article 8(1) of the Instructions to the Registrar, the Registrar **will always require** an application to be put in order where any of the following has not been provided, which could lead to the rejection of the application as being inadmissible:

— the name and address of the applicant (Article 35(1)(a) of the Rules of Procedure);

— the description and address of the lawyer representing the applicant (Article 35(1)(b) of the Rules of Procedure);

— designation of the party against whom the application is made (Article 35(1)(c) of the Rules of Procedure);

— production of the **act of which annulment is sought**, the **complaint** for the purposes of Article 90(2) of the Staff Regulations of Officials of the European Union ('the Staff Regulations') and the decision **responding to the complaint**, together with the dates on which the complaint was submitted and the decision notified (Article 35(2) of the Rules of Procedure). The applicant is required to provide a clear explanation of the reasons for any failure to produce those documents (e.g. the fact that the administration did not reply to the complaint within the period prescribed by the Staff Regulations);

— production of a certificate of the lawyer's authority to practise (Article 35(5) of the Rules of Procedure).

25. Under Article 8(1) of the Instructions to the Registrar, a **request** for an application to be put in order **may also be made**, depending on the circumstances of the case, where an application is not in conformity with these Practice Directions.

26. The Registrar shall prescribe a period within which the applicant is to put the application in order, in accordance with Article 36 of the Rules of Procedure.

27. In the cases referred to in point 24 above, the application **will not be served** on the defendant **in its unaltered state**. Where the application is put in order within the prescribed period, the procedure will take its normal course. If the applicant fails to put the application in order, the Tribunal shall decide whether the application is admissible.

28. In the cases referred to in point 25 above, the Registrar shall decide **whether or not service should be suspended**. If the applicant fails to put the application in order or challenges the request for regularisation, the Registrar shall refer the matter to the President for a decision, in accordance with Article 8(7) of the Instructions to the Registrar.

4. *Interim measures*

29. An application to suspend the operation of the contested measure and for other **interim measures** must be made in accordance with the provisions of Article 102 of the Rules of Procedure.

B. **Defence and other procedural documents relating to the written procedure**

30. The guidance notes provided in Chapter A of this title in relation to applications shall **apply *mutatis mutandis*** to other procedural documents sent to the Tribunal.

31. The information required to be included in the **defence** is set out in Article 39(1) of the Rules of Procedure. The authority given by the defendant institution to its agent(s) and/or to a lawyer in accordance with the first paragraph of Article 19 of the Statute must be produced together with the defence, but separately from any annexes.

32. The number of pages of a **defence** is subject to the same limit as an application, namely, in principle, **30 pages. Other** procedural documents must be less than **15 pages**. The requirements set out in point 12 of these Practice Directions shall apply.

33. The institutions shall attach systematically to the defence copies of any **measures of general application** referred to in their observations which are not published in the *Official Journal of the European Union*, unless copies of those measures have already been placed in the case-file.

34. In addition, the following **information** must appear on the first page of any procedural document:

(a) the category of document (defence, reply, rejoinder, application for leave to intervene, statement in intervention, plea of inadmissibility, observations on …, replies to questions, etc.);

(b) the case number in the list (F-…/…) where this has already been communicated by the Registry.

35. The rules, referred to in Chapter A of this title, governing the circumstances in which a request is or may be made to **put** an application **in order** shall apply *mutatis mutandis* to the defence and to other procedural documents.

C. **Sending an original paper document preceded by a fax**

36. The **originals** of all procedural documents and, more generally, any correspondence sent to the Tribunal, including applications for extensions of time, which are not transmitted to the Tribunal by means of e-Curia, must be lodged at the Registry in paper format.

In order to comply with procedural time-limits, a copy of a document may be sent to the Registry of the Tribunal by fax (fax number: + 352 4303 4453) before the original document is lodged (as allowed under Article 34(6) of the Rules of Procedure).

In that case, the first page of the original document must be marked 'Previously sent by fax on …', so that corresponding documents can be readily identified.

37. Under Article 34(6) of the Rules of Procedure, where a procedural document includes **annexes**, the copy sent to the Tribunal by fax may comprise only the document itself and the schedule of annexes.

38. The lodging of a pleading or a procedural document by fax will be treated as **complying with the relevant procedural time-limit** only if the signed original of that document reaches the Registry no more than 10 days after such lodging, as specified in Article 34(6) of the Rules of Procedure. It should be borne in mind that the extension on account of distance of 10 days provided for under Article 100(3) of the Rules of Procedure does not apply to that time-limit.

39. The signed **original** of any procedural document shall be sent without delay, immediately after the dispatch by fax, without any corrections or amendments. In the event of any discrepancy between the signed original and the copy previously lodged, only the date on which the signed original was lodged will be taken into consideration for the purposes of compliance with procedural time-limits.

D. **Applications for confidential treatment**

40. Without prejudice to the provisions of Article 44(2) and (3) of the Rules of Procedure, 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 (Article 44(1) of the Rules of Procedure).

41. Nevertheless, a party may apply for any part of the contents of the case-file which are **secret or confidential**:

— not to be made available to a party in a joined case (Article 46(3) of the Rules of Procedure);

— to be omitted from the documents served on an intervener (Article 110(2) of the Rules of Procedure).

42. Any application for confidential treatment made pursuant to Article 46(3) or Article 110(2) of the Rules of Procedure must be made **by separate document**.

43. Such an application must be specific and the confidential treatment sought must be **limited** to what is strictly necessary. It may not in any event cover the entirety of a procedural document and may only exceptionally extend to the entirety of an annexed document.

44. An application for confidential treatment must **accurately** identify the particulars or passages concerned and briefly state the reasons for which each of those particulars or passages is regarded as secret or confidential.

45. The application must be accompanied by a **non-confidential version** of each pleading or procedural document concerned, with the confidential material deleted. If the application concerns only an annex to a procedural document, the whole of that document must be annexed to the application for confidentiality. If lodged by means of e-Curia, the annex to which an application for confidential treatment relates must be sent in a separate file.

E. **Applications for legal aid**

46. Under Article 95 et seq. of the Rules of Procedure, legal aid may be granted in order to ensure effective access to justice. Without prejudice to Article 19 of the Statute, such an application need not, in accordance with the second subparagraph of Article 96(1) of the Rules of Procedure, be made through a lawyer.

47. The use of the form annexed to these Practice Directions is compulsory in making an application for legal aid. Any request for legal aid submitted otherwise than by using the application form will not be taken into consideration and will give rise to a reply from the Registrar reiterating that the use of the form is compulsory and attaching a copy of the form. The form can be downloaded from the website www.curia.europa.eu.

48. The form, together with supporting documents, must be duly completed and signed by the applicant for legal aid or by his lawyer. However, where the application for legal aid is lodged by means of e-Curia by the applicant's lawyer, the lawyer's signature shall not be required.

49. Only the lawyer representing the party seeking legal aid shall be authorised to lodge the application for legal aid by means of e-Curia.

IV. ORAL PROCEDURE

A. **Location**

50. The **notice to attend** the public hearing always states the date, time, place and courtroom in which the hearing is to be held. If, for specific reasons (for example, if the Tribunal has summoned, to give evidence, a person who cannot express himself in the language of the case), one of the parties considers it essential that **interpreters** be present, for the whole hearing or for specific purposes, a reasoned request to that effect must be sent to the Tribunal as soon as the notice to attend the hearing is received, so that any change of courtroom or the presence of interpreters can be organised as quickly as possible.

51. A **map of the buildings** of the Court of Justice and of available car parks may be found on the website www.curia.europa.eu.

52. As a **security** measure, access to the buildings is controlled. Parties and their representatives are requested to produce their identity card, passport, professional card or some other form of photo identification. It is prudent, therefore, to arrive in good time.

B. **Preparation for the hearing**

53. The representatives of the parties are given notice to attend the hearing by the Registry a few weeks before it takes place. Requests to postpone the date of a hearing are granted only in very exceptional circumstances. Such requests must state adequate reasons, valid for all the party's representatives, accompanied by appropriate supporting documents, and submitted to the Tribunal without delay.

54. In good time before the hearing, the parties receive the **preparatory report for the hearing** drawn up by the judge-rapporteur. That report normally describes the subject-matter of the proceedings, the forms of order sought, the aspects on which the parties are requested to concentrate in their oral arguments, the issues of fact and of law which need to be explored in greater depth etc., and indicates the time allowed for the opening arguments of the parties' representatives. The Tribunal may also indicate its intention to examine the possibilities of an amicable settlement of the dispute at the hearing.

55. If the representative of a party intends not to be present at the hearing, he is requested to notify the Tribunal of this without delay. In those circumstances, the hearing will take place in his **absence**. This will also apply should the Tribunal find that a party is absent from the hearing without due notification.

56. If the representative of a party wishes to be **replaced** by a qualified person not initially instructed by his client, he shall notify the Tribunal of this without delay and ensure that written **authorisation** for that person, signed by the client, and, where appropriate, certification of the rights of audience held by the lawyer or adviser standing in for him have been submitted prior to the hearing.

C. **Conduct of the hearing**

57. The parties' representatives are required to appear before the Tribunal in their **robes**. The Tribunal always has some plain robes available should they be needed; the court usher at the hearing should be asked about this.

58. A few minutes **before** the start of the hearing, the parties' representatives are escorted by the court usher to the area to the rear of the courtroom to meet the judges hearing the case in order to settle arrangements for the conduct of the hearing.

59. Everyone present must stand when the members of the Tribunal enter the courtroom. The hearing then **begins** with the Registrar calling the case.

60. As the judges have perused the written observations, the parties' representatives are requested not to repeat in their oral arguments the content of the procedural documents exchanged, but to **concentrate** on the issues referred to in the preparatory report for the hearing and to answer the judges' questions. The same applies, where appropriate, to the parties themselves, if they have been asked to address the Tribunal. As the aim of the hearing is to clarify the issues of fact and of law required in order for judgment to

be given on the case, the conduct of the hearing must facilitate a dialogue between the judges and the parties and their representatives.

61. In any event, the parties' representatives have the opportunity to put forward an **opening argument**, for which the preparatory report for the hearing gives guidance as to the time allowed (normally **20 minutes**). That period does not include the time used to answer the questions put by the judges or to reply to the other party's oral submissions.

62. As the courtrooms are equipped with an automatic amplification system, each person addressing the Tribunal is requested to press the button on the **microphone** before starting to speak. The parties' representatives are likewise requested, when **citing** a court judgment, to give the number of the case cited, the names of the parties and the date of the judgment or order.

63. It must be borne in mind that **documents** must be lodged before the Tribunal during the written procedure. The Tribunal can accept documents submitted at the hearing only in very exceptional circumstances. The same rule applies to any evidence offered in support at the hearing. If applicable, it is prudent to bring sufficient copies.

D. **Specific features of simultaneous interpretation**

64. In cases in which simultaneous interpretation is required, parties' representatives are reminded that it is generally preferable to **speak freely** on the basis of notes rather than to read out a text. Likewise, a series of short sentences is preferable to a long, complicated construction.

65. If, however, oral submissions are prepared **in writing**, it is advisable when drafting the text to take account of the fact that it must be presented orally and should therefore resemble an oral address as closely as possible.

66. In order to facilitate **interpretation**, the parties' representatives are requested to send any written text or reference documents for their oral submissions, their notes or any other reference documents, to the interpreting department in advance, so that the interpreters may include it in their preparatory study of the file (Interpreting Directorate, fax number: (+352) 4303 3697; email address: interpret@curia.europa.eu). That text will not, of course, be forwarded to the other parties or to members of the bench.

E. **Amicable settlement**

67. At the request of the parties' representatives or on its own initiative, the Tribunal may decide to **suspend** the hearing for a short time where the parties' representatives wish to discuss a proposal for amicable settlement with their clients or with the other party's representative, if necessary before one or more judges. Should a discussion in camera be desired, a separate room can be made available. Any requests to this effect should be addressed to the Registrar or to the court usher.

F. **End of the hearing**

68. The presiding member of the bench announces the end of the hearing. The parties subsequently receive brief **minutes** of the hearing and are subsequently notified in writing of the next steps to be taken in the proceedings, in particular of the date of delivery of the judgment.

V. ENTRY INTO FORCE OF THESE DIRECTIONS

69. These Practice Directions shall be published in the *Official Journal of the European Union* and shall enter into force on the day following their publication.

70. The Practice Directions to Parties of 25 January 2008 (OJ 2008 L 69, p. 13) are hereby revoked and replaced by these Practice Directions.

71. For the assistance of the parties, the Registry of the Tribunal also makes various checklists and models available on the website www.curia.europa.eu.

Done at Luxembourg, 11 July 2012.

W. HAKENBERG
Registrar

S. VAN RAEPENBUSCH
President

ANNEX

GUIDE FOR LEGAL AID APPLICANTS AND COMPULSORY FORM

EUROPEAN UNION
CIVIL SERVICE TRIBUNAL

APPLICATION FOR LEGAL AID

GUIDE FOR APPLICANTS AND COMPULSORY FORM

I. GUIDE FOR LEGAL AID APPLICANTS [1]

A. **Legal background**

1. *Jurisdiction of the Tribunal*

Admissibility of actions before the Tribunal

Legal aid applicants should note the following provisions:

— Article 270 TFEU, applicable to the EAEC Treaty pursuant to Article 106a thereof, and Article 1 of Annex I to the Statute of the Court of Justice of the European Union, concerning the jurisdiction of the Tribunal;

— Articles 90 and 91 of the Staff Regulations, which specify a number of requirements as to the admissibility of actions before the Tribunal.

2. *Legal background in relation to legal aid*

The rules concerning legal aid are contained in the Rules of Procedure.

In particular, they provide as follows:

a. Requirements for the grant of legal aid

— Any natural person who, because of his financial situation, is wholly or partly unable to meet the costs involved in legal assistance and representation by a lawyer in proceedings before the Tribunal is to be entitled to legal aid (first subparagraph of Article 95(2) of the Rules of Procedure).

— The financial situation is to be assessed, taking into account objective factors such as income, capital and the family situation (second subparagraph of Article 95(2) of the Rules of Procedure).

— 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 (first subparagraph of Article 96(2) of the Rules of Procedure).

— 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 (Article 96(1) of the Rules of Procedure).

— 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 (second subparagraph of Article 96(2) of the Rules of Procedure).

— Legal aid is to be refused if the action in respect of which the application is made appears to be manifestly inadmissible or manifestly unfounded (Article 95(3) of the Rules of Procedure).

[1] This guide is an integral part of the legal aid application form. The information which it contains is taken from the Rules of Procedure of the Civil Service Tribunal and the Practice Directions to Parties.

— 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 (Article 97(5) of the Rules of Procedure).

— The Tribunal may provide, in accordance with Article 120 of the Rules of Procedure, for the compulsory use of a form in making an application for legal aid (Article 96(3) of the Rules of Procedure). The Tribunal has taken the opportunity to do so in the Practice Directions to Parties.

b. Procedure

— If the person concerned has not indicated his choice of lawyer or if his choice is unacceptable, the Registrar is to 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 is to be designated having regard to the suggestions made by that authority (second subparagraph of Article 97(3) of the Rules of Procedure).

— The introduction of an application for legal aid is to 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, where that order does not designate a lawyer to represent the person concerned, until the date of notification of the order designating a lawyer to represent the applicant (Article 97(4) of the Rules of Procedure).

c. Partial legal aid

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) of the Rules of Procedure, having regard to his financial situation (third subparagraph of Article 97(3) of the Rules of Procedure).

d. Responsibility for costs

— 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 (Article 98(2) of the Rules of Procedure).

— 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 (Article 98(3) of the Rules of Procedure).

— 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 (Article 98(4) of the Rules of Procedure).

B. **Procedure for submission of an application for legal aid**

In accordance with point 47 of the Practice Directions to Parties, every application for legal aid must be submitted using the form below. Any request for legal aid submitted otherwise than by using the application form will not be taken into consideration.

As stated in point 49 of the Practice Directions to Parties, an application for legal aid lodged by means of e-Curia may be lodged only by the lawyer representing the party seeking legal aid.

In the case of transmission in paper format, dispatch of the original application may be preceded by dispatch by fax. The date on which the fax is sent will then be taken into account for the purposes of the suspension of the time-limit for bringing proceedings, provided that the original is received at the Tribunal within 10 days of dispatch of the fax.

The original of the application for legal aid must be signed by the applicant himself or by his lawyer, failing which the application will not be taken into consideration and the document will be returned. However, where the applicant's lawyer lodges the application for legal aid by means of e-Curia, the lawyer's signature is not required.

If the application for legal aid is submitted by the applicant's lawyer before the application initiating proceedings is lodged, the legal aid application must be accompanied by documents certifying that the lawyer is authorised to practise before a court of a Member State or of another State party to the EEA Agreement.

C. **Effect of proper lodging of an application for legal aid before the action has been brought**

Where an application for legal aid is properly lodged before the action has been brought, the period prescribed for the bringing of the action will be suspended until the date of notification of the order making a decision on that application or of the order designating a lawyer to represent the applicant for legal aid. Time for the purposes of bringing an action will not run, therefore, while the application for legal aid is being considered by the Tribunal. It is prudent to submit such an application in good time in order to ensure that the remaining period within which an action may be brought is not too short.

D. **Contents of the application for legal aid and supporting documents**

1. *Applicant's financial situation*

The application 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.

Documents may include, for example:

— certificates issued by social security or unemployment benefit authorities;

— declarations of income or tax notices;

— salary slips;

— bank statements.

Sworn statements made and signed by the applicant himself are not sufficient proof that he is wholly or partly unable to meet the costs of the proceedings.

The information given on the form concerning the applicant's financial situation and the documents lodged in support of the information provided should give a complete picture of his financial situation.

Applicants should note that they should not confine themselves to providing the Tribunal with details of their resources; they should also provide the Tribunal with information which will enable the Tribunal to assess the capital held.

An application which does not establish to the requisite legal standard the applicant's inability to meet the costs of the proceedings will be rejected.

The applicant is required to notify the Tribunal at the earliest possible opportunity of any change in his financial situation which might justify the application of Article 97(5) of the Rules of Procedure, according to which, 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.

2. *Subject-matter of the proposed action, facts of the case and arguments in support of the action*

If the application for legal aid 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 which he intends to put forward in support of his action. The form includes a section for that purpose.

A copy of any supporting document that is relevant for the purposes of assessing whether the proposed action is admissible and well founded must be annexed to the form; for example:

— if applicable, the measure which the applicant seeks to have annulled;

— if applicable, 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;

— if applicable, the request within the meaning of Article 90(1) of the Staff Regulations and the decision responding to the request, together with the dates on which the request was submitted and the decision notified;

— correspondence with the prospective defendant.

3. *Other useful information*

No original documents will be returned. The applicant is therefore advised to supply photocopies of supporting documents.

An application may not be supplemented by the subsequent lodging of addenda. Such addenda will be returned, unless they have been lodged at the request of the Tribunal. It is essential, therefore, to supply all necessary information on the form and to attach copies of any documentary proof of the information supplied. In exceptional cases, documents intended to establish that the legal aid applicant is wholly or partly unable to meet the costs of the proceedings may nevertheless be accepted subsequently, subject to the delay in their production being justified.

If the space available in any section of the form is insufficient, that section may be completed on a separate page attached to the application.

II. LEGAL AID APPLICATION FORM

APPLICATION FOR LEGAL AID

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

APPLICANT

Ms ☐	Mr ☐	
Surname (at birth):		
Married name, if applicable:		
Forename(s):		
Date of birth (dd / mm / yyyy): ...../...../.....		
Place of birth:		
Address:		
Postcode:	Town/City:	
Country:		
Telephone (optional):		
Fax (optional):		
Email (optional):		
Occupation or current position:		

PROPOSED ACTION

If this application for legal aid is made before an action has been brought, state the name of the party against whom you propose to bring the action:

Describe the subject-matter of the action which you wish to bring, the facts of the case and the arguments in support of the action:

APPLICANT'S FINANCIAL SITUATION

A. FINANCIAL RESOURCES

— The resources which will be taken into account are those which you have declared to the national authorities in respect of the period from 1 January to 31 December of last year (or the period in respect of which you are legally obliged to declare your resources) (Table 1).

— If there has been a significant change in your financial situation since last year, you are also required to specify your resources for the period from 1 January of this year (or from the beginning of the current financial period) until the date of your application (Table 2).

1. **Table 1: Resources in the reference period**

		Your resources	Resources of your spouse or cohabitee	Resources of any other person who normally lives with you (child or other dependant). Specify: .....
a.	**No income**	☐ ***	☐	☐
b.	**Taxable net salary/wage** (as shown on your pay slips)			
c.	**Non-salaried income** (agricultural, industrial, commercial or non-commercial income)			
d.	**Family allowances**			
e.	**Unemployment benefits**			
f.	**Daily allowances** (sickness benefit, maternity benefit, occupational sickness benefits, industrial accident)			
g.	**Pensions, retirement allowances, annuities and early retirement pensions**			
h.	**Maintenance allowances** (amount actually paid to you)			
i.	**Other resources** (e.g.: rent received, income from capital, income from securities, stocks and shares, etc.)			

***: If this box is ticked, please provide details of means of support below:

2. **Table 2: Resources in the current financial period**

		Your resources	Resources of your spouse or cohabitee	Resources of any other person who normally lives with you (child or other dependant). Specify: .....
a.	**No income**	☐ ***	☐	☐
b.	**Taxable net salary/wage** (as shown on your pay slips)			
c.	**Non-salaried income** (agricultural, industrial, commercial or non-commercial income)			
d.	**Family allowances**			
e.	**Unemployment benefits**			
f.	**Daily allowances** (sickness benefit, maternity benefit, occupational sickness benefits, industrial accident)			
g.	**Pensions, retirement allowances, annuities and early retirement pensions**			
h.	**Maintenance allowances** (amount actually paid to you)			
i.	**Other resources** (e.g.: rent received, income from capital, income from securities, stocks and shares, etc.)			

***: If this box is ticked, please provide details of means of support below:

B. CAPITAL

State the nature and value of any movable property (shares, liabilities, capital, etc.) and the address and value of any immovable property (buildings, land, etc.), including non-income-producing property, which you own:

C. OUTGOINGS

Complete the following table with details of persons who are dependent on you or who normally live with you (e.g. children):

Surname(s) and forename(s)	Relationship to you (e.g.: son, nephew, mother)	Date of birth (dd / mm / yyyy)
.....	.....	...../...../.....
.....	.....	...../...../.....
.....	.....	...../...../.....
.....	.....	...../...../.....
.....	.....	...../...../.....
.....	.....	...../...../.....
.....	.....	...../...../.....
.....	.....	...../...../.....

State the amount(s) of any maintenance payments which you make to third parties:

State the amount of rent payable on your main residence or the amount of any repayments which you make to banks or other banking institutions under the terms of any loan incurred for the purpose of acquiring your main residence:

D. MISCELLANEOUS

In the following section you may include any additional information about your circumstances – resources or outgoings (e.g.: repayments of loans other than those incurred for the purpose of acquiring your main residence, etc.):

PROPOSED LEGAL REPRESENTATION

You may indicate to the Tribunal the name of a lawyer who will represent you, by completing the following section.

If you do not complete the following section, the Tribunal will invoke the second subparagraph of Article 97(3) of its Rules of Procedure, which provides that the lawyer instructed to represent the applicant is to be designated having regard to the suggestions made by 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.

Title (e.g. Maître) and name:	
Address:	
Postcode:	Town/City: .....
Country:	
Telephone:	
Fax (optional):	
Email (optional):	

SOLEMN DECLARATION

I, the undersigned, hereby declare that the information given in this application for legal aid is correct and complete:

Date: ...../...../.....	Signature of the applicant/applicant's lawyer:

LIST OF SUPPORTING DOCUMENTS

Supporting documents to enable your financial situation to be assessed:

— .....
— .....
— .....

If the action has not yet been brought, supporting documents relevant for the purposes of assessing whether the proposed action is admissible and well founded:

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