

EUROPEAN UNIVERSITY INSTITUTE

HIGH COUNCIL DECISION NO. 12/89

of 7 December 1989

adopting the rules of procedure of the Appeals Board

THE HIGH COUNCIL,

Having regard to Article 6 of the Convention setting up a
European University Institute;

having regard to Article 75 of the Common Provisions for the
teaching and administrative staff of the European University
Institute;

having regard to the draft rules of procedure adopted by the
Appeals Board;

whereas it is appropriate for the High Council to adopt the rules
of procedure of the Appeals Board;

HAS DECIDED AS FOLLOWS:

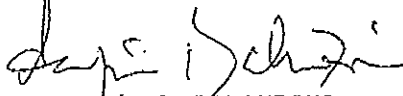
Sole Article

The High Council hereby adopts the rules of procedure of the
Appeals Board as they appear in the Annex.

Done at Florence, 1st February 1990

For the High Council

The President


Sergio S. BALANZINO

RULES OF PROCEDURE
OF THE APPEALS BOARD
OF THE
EUROPEAN UNIVERSITY INSTITUTE

Section I
Organization of the Board

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Chapter II : Secretariat of the Board
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The Appeals Board (hereinafter called the Board) of the European University Institute (hereinafter called the Institute),

Having regard to Article 75 of the Common Provisions for the teaching staff and administrative staff of the European University Institute (hereinafter called the Common Provisions);

Having regard to Decision No. 8/81 of the Institute's High Council of 18 June 1981 adopting the Statute of members of the Appeals Board;

Pursuant to Article 75(4) of the Common Provisions;

Adopts the present rules:

Section I

ORGANIZATION OF THE BOARD

Chapter I

The Chairmanship of the Board

Rule 1

The Chairman shall carry out the duties assigned to him in the Statute of the Appeals Board and these Rules. He shall in particular:

- a. direct the work of the Board and of its Secretariat;
- b. preside at its hearings;
- c. represent the Board in administrative matters.

Chapter II

Secretariat of the Board

Rule 2

1. The Secretariat of the Board shall consist of a Secretary appointed by the Principal after having consulted the Chairman of the Board. In the discharge of his duties he shall be responsible only to the Board.

2. The Principal shall provide the Board with any other necessary staff for its operation, particularly translation and interpretation services.

Rule 3

The Secretary of the Board shall, under the direction of the Chairman, be responsible for the work of the Secretariat. In particular he shall:

- a. assist the Board and its members in the discharge of their duties,
- b. be the channel for all communications made by or addressed to the Board,
- c. have custody of the archives of the Board.

Rule 4.

A register shall be kept at the Secretariat in which shall be entered the date of registration of each appeal.

Rule 5

The Secretary of the Board shall send the Board's judgments to the Principal.

Chapter III

The functioning of the Board

Rule 6

The seat of the Board shall be in Florence. The Board may, however, if it considers it expedient, exercise its functions elsewhere in the territories of the Contracting States of the Institute.

Rule 7

The Board shall be convened by the Chairman, who shall fix its order of business.

Rule 8

1. The Board shall deliberate in private. Its deliberations shall be confidential.

2. Only the members of the Board shall take part in the deliberations. The Secretary shall be present.

SECTION II

ROLE OF THE APPEALS BOARD

Rule 9

1. In disputes within the meaning of Article 75(1) and (3) of the Common Provisions the Board shall, having established the facts, decide in law.
2. In disputes of a pecuniary nature the Board shall have unlimited jurisdiction.
3. In other disputes the Board may declare the act challenged void. It may also sentence the Institute to pay an indemnity in compensation for damage resulting from the act challenged.

SECTION III

PROCEDURE

Chapter I

General Rules

Rule 10

The official languages of the Board shall be the official languages of the Institute as stated in the Convention setting it up.

Rule 11

The appellant must bring his appeal in person and conduct his own case. He may be assisted, and with the Principal's authorization represented, by an adviser of his choice.

Rule 12

The Board, or when it is not in session, the Chairman, may, order the joinder of two or more cases.

Rule 13

The Board's hearings shall be public. However, on its own initiative or at the request of one of the parties, the Board may, giving reasons, decide that the hearing will be held wholly or partly in camera.

Chapter II
Written proceedings

Rule 14

1. Appeals brought before the Board under Article 75(3) of the Common Provisions shall be addressed to the Secretary of the Board.
2. Appeals shall be lodged in writing in one of the official languages of the Board and signed by the appellant. Two copies thereof shall either be sent by registered post or handed to the secretary who shall acknowledge receipt.
3. The following details must be supplied:
 - a. surname, first names and address of appellant,
 - b. originator, date and object of the explicit or implicit decision challenged,
 - c. statement of facts, evidence and arguments,
 - d. statement of main and alternative submissions of appeal,
 - e. date and signature.
4. Appeals must be submitted in writing within thirty days of the date of notification of the Principal's decision on the complaint or of expiry of the period prescribed in Articles 74(2) of the Common Provisions.

Rule 15

The Secretary shall without delay transmit one copy of the appeal to the Chairman, one copy to the Principal and, where

the Board sees fit, one to persons who may be concerned in the Board's forthcoming decision.

Rule 16

1. The Chairman shall set a time-limit for the submission by the Principal of his observations in writing, to which all supporting documents not already submitted by the appellant shall be attached. A copy of these observations and documents shall be communicated to the appellant; the Chairman shall set a time-limit for any written observations which the appellant may wish to submit in reply.

2. The Chairman may call upon the parties to submit any additional information which he considers necessary to the procedure.

Rule 17

1. The appellant must substantiate the grounds of admissibility of his appeal, as mentioned in Article 74 of the Common Provisions.

2. If, in a reasoned report sent to members of the Board, the Chairman considers the appeal to be manifestly inadmissible and they do not raise any objections within two months, the appellant shall be informed without delay that his appeal has been declared inadmissible for the reasons set out in the report, of which he shall be sent a copy.

Rule 18

1. The Board may strike an appeal out of its list of cases:
- a. where the appellant states that he wishes to withdraw his appeal;
 - or
 - b. where the circumstances, in particular the appellant's failure to provide information requested or to observe time-limits set, lead to the conclusion that he does not intend to pursue his appeal.

2. In this case, the Board shall also rule in accordance with the procedure set out in the foregoing article. It shall inform the appellant of its decision, of which a copy shall be sent to the Principal.

3. The Board may decide to restore an appeal to its list of appeals if it considers that the circumstances justify such a course.

Rule 19

1. Pursuant to Article 75(3)(b) of the Common Provisions, the complainant may apply in writing to the Board, through the Secretariat, for a stay of execution of the act complained of or for interim measures to be taken.

2. The Board shall rule within 30 days on the application; the decision shall be communicated in writing to the person concerned within 3 days.

Rule 20

1. If the complainant has been granted the stay of execution of the act complained of or the interim measures but does not bring an appeal before the Board within the time-limit prescribed in Rule 14(4) of these Rules, the stay of execution or interim measures shall expire on expiry of that time-limit.

2. If the complainant brings an appeal before the Board, the stay of execution or interim measures shall be maintained throughout the appeal proceedings, unless the Board, on a reasoned request from the complainant or the Principal, decides otherwise.

Chapter III

Oral proceedings

Rule 21

Oral proceedings shall be held unless the Board decides otherwise after written agreement by the parties.

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Rule 22

1. When the case is ready for hearing, the Chairman shall fix the date thereof. The Secretary shall give at least 30 days notice of this date to the members and alternates on the Board who are called to sit and to the parties. The Secretary shall send to the members and alternate members who are called to sit the documents relating to the hearing.
2. Each meeting of the Board shall include adversary proceedings and a private sitting. The Board may decide to meet despite the absence of one of the parties, provided that the latter has been duly notified of the date of the meeting.
3. The Board shall determine the order of oral proceedings.

Rule 23

1. The Board may, on its own initiative or at the request of a party, decide to hear any witness or expert as well as any person whose evidence or statements seem likely to be of assistance.
2. A party desiring to have witnesses, experts or other persons heard at the hearing shall give notice thereof to the Secretary at least 21 days before the date fixed for the opening of the hearing at which the person is to be heard. Such notice shall contain the names and description of the persons whom the party desires to be heard and shall indicate the subject to be dealt with by their evidence or statements and the language which will be used.

Rule 24

1. The persons whom the Board decides to hear shall be summoned by the Secretary at least seven days before the date fixed for the opening of the hearing. During the oral proceedings, the Board may decide to hear a person who has not been summoned if it considers this will be of assistance.
2. The Board shall take a decision concerning any objection to a witness or expert.

Rule 25

1. Each witness shall make the following declaration before being heard:

"I swear" or "I solemnly declare upon my honour and conscience" - "that I will speak the truth, the whole truth and nothing but the truth".

2. Each expert shall make the following declaration before being heard:

"I swear" or "I solemnly declare" - "that I will discharge my duty as an expert honourably and conscientiously".

Rule 26

The Board may put questions to the persons whom it has decided to hear. These persons may be questioned, with the permission of the Chairman, by the parties or their advisers.

Rule 27

The Board may refuse to admit evidence which it considers irrelevant or without probative value. It may also limit oral evidence if it considers sufficient evidence has been adduced.

Rule 28

Any witness, expert or other person whom the Board decides to hear may, if he has not sufficient knowledge of the official languages, be authorized by the Chairman to speak another language. In such event, any necessary interpretation shall be supplied by the Institute.

Rule 29

The Board may decide that the Institute shall reimburse the travel and subsistence expenses of persons heard.

Rule 30

1. The Board may, at any stage of the proceedings, call for the production of documents or of such other evidence as it finds necessary.
2. The Board may arrange for any other measures of inquiry which it finds necessary.

Rule 31

If, during the oral proceedings, a member is replaced by another member, the Board shall determine whether that part of the proceedings preceding the replacement should be recommenced. If more than one member is replaced during the oral proceedings, such proceedings must be recommenced.

Rule 32

The Board, or when it is not in session the Chairman, shall rule on any application for the adjournment of a hearing, which may also be adjourned on its own initiative.

Chapter IV

Judgments of the Board

Rule 33

1. Judgments of the Board shall be taken by majority of votes cast; they shall be delivered in public unless the Board decides to deliver a written judgment.
2. Judgments of the Board shall be signed by the Chairman and the Secretary. They shall include a summary of the facts and the proceedings, the reasons in point of law, and the operative provisions of the judgment. They shall not indicate whether they have been taken by a unanimous or by a majority decision.
3. Judgments of the Board shall also include an order for costs in accordance with Article 75(6) of the Common Provisions.

Rule 34

The original of each judgment shall be filed in the archives of the Secretariat. The Secretary shall deliver a copy to each of the parties.

Rule 35

1. Judgments shall not be appealable.
2. The Board may at any time, either on its own initiative or at the request of one of the parties, rectify any substantive error, error of calculation or other error in its judgments resulting from inadvertence or omission.

Section IV

FINAL PROVISIONS

Chapter I

Intervention

Rule 36

Any natural person to whom the Board is open for the purposes of lodging an appeal may, before the commencement of the hearing, apply to intervene in an appeal by showing that he has a sufficient interest in the result of a case submitted to the Board. Submissions made in an intervention shall be limited to supporting the submissions of one of the parties.

Rule 37

1. An application to intervene shall be lodged with the Secretary of the Board who shall send a copy to the parties.
2. The Board shall rule on the admissibility of any application to intervene. It shall determine in each case the form which such an intervention must take.
3. The Chairman shall decide what documents the Secretary shall send to the person intervening.

Chapter II

Miscellaneous Provisions

Rule 39

The Board or, when it is not in session, the Chairman may extend the time-limits applicable to the parties in the proceedings provided for in these Rules.

Rule 40

Matters not provided for in the present Rules shall be dealt with by decision of the Board or, when it is not in session, by decision of the Chairman which shall be binding only in respect of the particular case.

Rule 41

1. These Rules shall apply to appeals included in the list of cases of the Board from the date of their approval by the High Council.

2. The Board reserves the right to propose to the High Council, as and when it sees fit, the amendment or supplementation of these Rules.