

EUROPEAN UNIVERSITY INSTITUTE

DECISION NO. 8/06 OF THE HIGH COUNCIL
of 8 December 2006

establishing an Organ of First Instance within
the Appeals Board of the European
University Institute

THE HIGH COUNCIL,

Having regard to the Convention Setting up a European University Institute, and in particular Article 6(5)(c) thereof,

Having regard to the Common Provisions for Teaching and Administrative Staff (hereinafter referred to as "the Common Provisions"), and in particular Articles 1 and 2 (numbered Articles 74 and 75 prior to 1 January 2005) thereof,

Having regard to Decision no. 8/81 of 18 June 1981 on the regulations for members of the Appeals Board (hereinafter referred to as "the Board"),

Having regard to Decision no. 12/89 of 7 December 1989 adopting the rules of procedure of the Appeals Board,

Whereas the recent establishment of the European Civil Service Tribunal within the framework of the Court of Justice of the European Communities reaffirms the value of the principle of having a two-tier system for cases between an international organization and members of its staff, as generally exists in Member States,

Recalling its agreement in principle to transfer to the European Court of Justice, upon agreement with the latter, jurisdiction over disputes falling under Article 6(5)(c) of the Convention Setting up a European University Institute,

Whereas prior to this transfer, the realization of which does not depend solely on the Institute, it is important to implement at the Institute the principle of a two-tier system to rule on disputes between the Institute and its staff,

Whereas, to this end, it is necessary to add to the Appeals Board an Organ of First instance charged with examining actions brought by Institute staff members, the decisions of this Organ being subject to appeal before the Board,

Whereas, with the exception of the rules based upon the collegial composition of the Board, the rules of procedure established by the Appeals Board, and approved by the High Council by its Decision no. 12/89 of 7 December 1989, should govern, *mutatis mutandis*, the procedure before the Organ of First Instance,

HAS DECIDED AS FOLLOWS:

Article 1

Establishment of an Organ of First Instance

1. An Organ of First Instance is hereby created to rule on claims brought under Article 2 of the Common Provisions.
2. The present Decision modifies where necessary Decision no. 8/81 of 18 June 1981 on the regulations for members of the Appeals Board and Decision no. 12/89 of 7 December 1989 adopting the rules of procedure of the Appeals Board. Article 35, first subparagraph of Decision no. 12/89 will be repealed and replaced by the provisions of the present Decision.

Article 2

Composition of the Organ of First Instance

1. The Organ of First Instance shall be composed of one sole full member and two alternate members, appointed by the High Council on the basis of the list drawn up by the international juridical body provided for in Article 2(2), second subparagraph, of the Common Provisions.

The same person shall not serve on both the Organ of First Instance and the Appeals Board *stricto sensu* at the same time.

2. High Council Decision no. 8/81 on the regulations for members of the Appeals Board is applicable by analogy to members of the Organ of First Instance, with the exception of Article 3 and the third subparagraph of Article 6 thereof

Article 3

Rules of Procedure for the Organ of First Instance

1. Without prejudice to the second and third subparagraphs immediately below, the rules of procedure of the Appeals Board shall apply *mutatis mutandis* before the Organ of First Instance, with the term "Board" thus referring to the Organ of First Instance, and (apart from Rule 2(1) of the said rules) the term "the Chairman" (of the Board) referring to the member of the Organ exercising judicial functions at the level of first instance in the case concerned.

As it conflicts with the purpose of the Organ, the first subparagraph of Rule 35 of the rules of procedure is inapplicable.

As the judicial function is exercised by one sole member, Rules 17(2), 18(2) and 31 of the rules of procedure are inapplicable.

2. The Secretary of the Board of Appeals shall provide the secretarial services for the Organ of First Instance. He or she shall inform the Chairman of the Board of all claims brought before the Organ of First Instance.

Article 4
Appeals to the Appeals Board

1. An appeal may be brought before the Appeals Board, within the period prescribed by Rule 14(4) of the rules of procedure from the date of notification of the decision challenged, against final decisions of the Organ of First Instance, against decisions of that Organ disposing of the substantive issues in part or disposing of a procedural issue concerning a plea of inadmissibility, and against interim measures adopted in application of Rule 19 of the rules of procedure.

Such an appeal may be brought by any party which has been unsuccessful, in whole or in part, in its submissions. However, interveners may bring such an appeal only where the decision of the Organ of First Instance directly affects them.

In the application of the rules of procedure by the Board *strictu sensu* the term "appeal" shall refer to these appeals from the Organ of First Instance.

2. Any person whose application to intervene has been dismissed by the Organ of First Instance may appeal to the Appeals Board within two weeks of notification of the decision dismissing the application.

Article 5
The Subject-Matter of the Appeal

1. An appeal to the Appeals Board shall be limited to points of law. It shall lie on the grounds of a breach of procedure before the Organ which adversely affects the interests of the party concerned, as well as the infringement of the applicable legal instruments.

No appeal shall lie regarding only the amount of the costs or the party ordered to pay them.

2. An appeal before the Appeals Board shall not have suspensory effect.

Article 6
Decisions by the Board on the Appeal

1. If the appeal is well-founded, the Appeals Board shall quash the decision of the Organ of First Instance, and itself give judgment in the matter.

However, where the state of the proceedings does not permit the appeal to be judged, the Board shall refer the case back to the Organ of First Instance for judgment. Where a case is referred back to the Organ of First Instance, that Organ shall be bound by the decision of the Appeals Board on points of law.

2. The Appeals Board may equally apply to manifestly ungrounded appeals the procedure established in Rule 17 of the Rules of procedure for manifestly inadmissible appeals.

Article 7
Transitional measures

1. The first appointments of members to the Organ of First Instance shall be made by the High Council on the basis of the list drawn up on 8 January 2002 by the Court of Justice of the European Communities, from among the nine people on the said list who were not appointed as members (full or alternate) of the Appeals Board by the High Council in June 2002.

The High Council, upon the recommendation of the President of the Institute, shall set the order in which these persons shall be requested to accept the position of member of the Organ of First Instance.

If the case arises in which an insufficient number of these persons make known their acceptance, the President of the Institute shall inform the High Council of this and notify it of his recommendations for going beyond the list referred to in the first paragraph above.

2. The mandate of those members of the Organ of First Instance chosen in these first appointments shall expire on the same date as that of the members of the Appeals Board appointed by the High Council in June 2002.

Article 8
Final Provisions

1. The present Decision shall be communicated to members of the Appeals Board, with an invitation to consider the benefits of modifying its rules of procedure and to propose modifications to Articles 3 to 6 of the present Decision, with a view to ensuring the highest level of coherence possible between the two tiers of judicial authority.

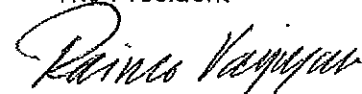
2. The Appeals Board shall moreover be invited to modify Rule 14(4) of its rules of procedure (which sets a time-limit of thirty days), in the light of Community instruments that fix a limit of three months for the introduction of a claim at first instance and a limit of two months in which an appeal against a decision of the European Civil Service Tribunal can be brought.

3. Unless the Appeals Board, upon the request of the applicant, decides otherwise, the present decision shall not apply to claims already brought before the Board and for which the written proceedings have been terminated.

Done at Florence, on 8 December 2006

For the High Council

The President



Raimo VÄYRYNEN