

15 September 2025

**Statute
of the Administrative Tribunal
of the European Stability Mechanism
(ESMAT)**

September 2025

Article 1
Establishment

In accordance with Article 28(1) of the Staff Rules of the European Stability Mechanism (the “Staff Rules”), a tribunal of the European Stability Mechanism (the “ESM”) is hereby established, to be known as the Administrative Tribunal of the European Stability Mechanism (the “Tribunal”).

Article 2
Jurisdiction

1. The Tribunal shall have jurisdiction in disputes between the ESM, on the one hand, and members or former members of staff, or their respective successors in interest (each an “Appellant”), on the other hand, regarding the legality of a decision of the ESM adversely affecting the Appellant.
2. An appeal to the Tribunal shall only be admissible if it is directed against
 - (a) a disciplinary measure taken pursuant to Article 23(1)(c) to (e) of the Staff Rules;
 - (b) an express or implied decision pursuant to Article 26(3) of the Staff Rules rejecting, wholly or in part, a complaint; or
 - (c) a decision referred to in Article 28(2) of the Staff Rules, under the conditions referred therein.
3. The Tribunal shall not have any powers beyond those conferred upon it by this Statute. Nothing in this Statute shall limit or modify the powers of the organs of the ESM under the Treaty establishing the ESM (the “Treaty”), including the lawful exercise of their discretionary authority in the adoption of general or individual decisions, such as the establishment or amendment of conditions of employment of the staff of the ESM.
4. The Tribunal shall, if necessary, settle any issue concerning its own jurisdiction.

Article 3
Composition and Appointment

1. The Tribunal shall be composed of five members (each a “Judge”) who shall be appointed by a unanimous decision of a committee (the “Committee”) following an open and transparent call for candidates.

The Committee shall be composed of three members. The chairman of the Committee shall be the President of the General Court of the European Union. The other members of the Committee shall be the General Counsel and a staff representative chosen among and by the ESM’s staff representatives (the “Staff Representative”). The President of the General Court of the European Union may be replaced by the Vice-President of the General Court of the European Union. When prevented from acting, the General Counsel may be replaced by the Head of Legal and Procurement or, if necessary, the most senior available ESM Management Board member based on length of service except the Managing Director. In case there are no staff representatives elected, the staff representative shall be the most senior available member of staff based on length of service from the staff members referred to in Article 24(3)(c) of the Staff Rules.

2. The Judges shall be of high moral character and integrity. They shall be experienced legal professionals, possessing the qualification for appointment to judicial office and having expertise in matters relevant to the determination of cases under international administrative law.

The Judges shall be fully independent and shall not receive any instructions in the exercise of their duties. They shall have no other prior or present office, employment, or substantial service relationship with the ESM, and shall not be eligible for any office or employment with, or representation of, the ESM following the end of their service with the Tribunal.

The Judges shall be considered as ‘other staff members’ for purposes of Article 35(1) of the Treaty. The immunity of any Judge may be waived by the Managing Director upon unanimous recommendation of the Judges, voting by secret ballot.

Any Judge who has a conflict of interest in a particular case shall promptly recuse himself or herself and be replaced by another Judge, in accordance with the rules laid down in the rules of procedure of the Tribunal (the “Rules of Procedure”).

Before taking up his or her duties, each Judge shall take an oath or make an affirmation to perform his or her duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Tribunal.

3. The Judges shall be appointed for a term of office of five years. They may be reappointed once. A Judge whose term of office expired without being reappointed shall continue to hold the office until succeeded and, if involved in deciding an appeal pending at the time of the expiry of his or her term of office, through to decision of such appeal.

Should a vacancy occur, an open and transparent call for candidates shall be immediately lodged enabling the Committee to appoint a new Judge without undue delay, unless the Committee decides unanimously to reappoint a Judge whose term of office is coming to an end and who is eligible for reappointment.

The Committee may, by a unanimous decision, terminate the appointment of a Judge who, in the unanimous opinion of the other Judges, no longer fulfils the requisite conditions or meets the obligations arising from his or her office, in particular due to serious illness or other circumstances affecting severely his or her working capacity or which would render the Judge for other reasons unsuited for further service on the Tribunal, such as the following non- exhaustive circumstances: a criminal conviction for an offence of dishonesty, professional disqualification as a result of disciplinary proceedings or deprivation of civil rights.

4. The Tribunal shall hold sessions, covering the hearings and deliberations, either in plenary or as a panel of three Judges. The sessions and other meetings of the Tribunal shall take place in Luxembourg or via electronic means.
5. The Judges are entitled to emoluments as fixed in the non-public Annex to this Statute.

Article 4 *Organisation*

1. The Tribunal shall elect a president of the Tribunal (the “President”) and a vice-president of the Tribunal (the “Vice-President”) from among its members for a renewable term of four years.

2. The Vice-President or his or her replacement determined in accordance with the Rules of Procedure shall be the alternate of the President (the “Alternate”).
3. The Tribunal shall have a registrar (the “Registrar”) and a deputy registrar (the “Deputy Registrar”). The Committee shall appoint the Registrar and the Deputy Registrar for a term of office of six years in agreement with the President. The Registrar and the Deputy Registrar may be reappointed. Article 3(2) applies *mutatis mutandis* to the Registrar and the Deputy Registrar, apart from the requirements of the qualification for appointment to judicial office. Where the Registrar is prevented from acting or the post is vacant, the Deputy Registrar shall take his or her place. Where both the Registrar and the Deputy Registrar are prevented from acting or their posts are vacant, the President shall act as registrar. Article 3(3) applies *mutatis mutandis* to the termination of the appointment of the Registrar or the Deputy Registrar.
4. The President shall represent the Tribunal. The Vice-President, the other Judges, the Registrar, or the Deputy Registrar may take the place of the President.
5. The Tribunal shall take decisions by majority vote.

Article 5

Rules of Procedure

1. The Rules of Procedure shall be established by the Tribunal in consultation with the Managing Director, the General Counsel, and the Secretary General of the ESM.
2. The Rules of Procedure shall contain any provisions necessary for applying and, where required, supplementing this Statute.
3. Subject to the terms of this Statute, the Rules of Procedure shall include provisions concerning:
 - (a) the institution of proceedings;
 - (b) the composition of panels;
 - (c) disqualification of Judges or their inability to act for any other reason;
 - (d) representation of the parties;
 - (e) evidence;
 - (f) the conduct of the hearings;
 - (g) the nomination and duties of the Registrar and the Deputy Registrar;
 - (h) the review of judgments; and
 - (i) all other matters relating to the functioning of the Tribunal.

Article 6

Proceedings

1. Proceedings before the Tribunal shall be instituted by the filing of a written appeal by the Appellant or his or her counsel, in the manner set forth in the Rules of Procedure. The Registrar shall inform the ESM of any appeal filed with the Tribunal within seven days from the filing.

2. Each party may be assisted in the proceedings by counsel of his or her choice, and shall bear all costs thereof, subject to Article 14(3) and (4).
3. The proceedings before the Tribunal shall be in English. English shall also be the internal working language of the Tribunal.

Article 7

Time Limit for Appeal

1. The appeal shall be filed with the Tribunal within two months of the receipt of the appealed decision by the Appellant or the expiry of the period referred to in Article 26(3) of the Staff Rules.
2. The Tribunal shall reject as inadmissible the appeals not filed within the time limit set forth in paragraph 1.
3. By way of derogation from paragraph 2, the Tribunal may admit an appeal that would otherwise be inadmissible for being out of time, if
 - (a) the Appellant proves the existence of exceptional and unforeseeable circumstances and
 - (b) the inadmissibility may result in substantial injustice to the Appellant.

Article 8

Deciding Appeals and Amicable Settlement

1. Without prejudice to the second paragraph, appeals shall be decided by the Tribunal in a panel composed of the President and two other Judges.
2. As soon as an appeal has been filed, the President shall designate, in accordance with the Rules of Procedure, the other two Judges who shall form the panel which is to decide the appeal. The panel may, in cases of exceptional complexity, decide at any time that an Appeal shall be decided by the Tribunal in plenary.
3. The procedure before the Tribunal shall comprise a written part and may, subject to the conditions laid down in the Rules of Procedure, also comprise an oral part. The written procedure shall comprise the appeal and the reply, and, if allowed for by the President, a second exchange of written observations. The oral part shall comprise a hearing, which may be held in different sessions.
4. The written proceedings of the Tribunal shall not be public. The deliberations of the Tribunal shall be and remain confidential.
5. The Tribunal may, at any stage of the procedure, examine the possibility of an amicable settlement of the dispute between the Appellant and the ESM, and propose one or more solutions (including financial compensation) capable of bringing the dispute to an end and adopt appropriate measures with a view to facilitating such settlement.
6. The Tribunal shall conclude any case within a period of twelve months from receiving the appeal or, as the case may be, its regularised version. Exceptional circumstances may justify extending that period up to fifteen months. The Tribunal shall inform the parties of the extension ahead of the expiry of the initial period.

Article 9

Applicable Principles

1. The Tribunal shall apply the internal law of the ESM which reflects the exceptional nature of the ESM as a crisis resolution mechanism which needs to act rapidly and with limited human resources adapted to swift and time-critical intervention and decision making in accordance with its strict mandate under the ESM Treaty. The internal law of the ESM is designed to facilitate the proper functioning of the ESM which includes, amongst other things, the rapid and effective adoption and implementation of decisions related to staff matters.
2. The internal law of the ESM is to be interpreted *bona fide* and while taking into account the customs and practices of the ESM, its architecture as a small and efficient organisation, the particular environment in which the ESM is operating, and the particularities of its internal law as specified in the previous paragraph.

Article 10

Powers of the Tribunal

1. If an appeal is well-founded, the Tribunal shall find the appealed decision illegal and, as a consequence and within the heads of claim put forward in the appeal, may
 - (a) annul, wholly or in part, the appealed decision and/or
 - (b) prescribe any justified pecuniary and/or non-pecuniary measures the ESM shall take.
2. The ESM may decide, within two months of delivery of the judgment, that it is in the interest of the organisation not to take the non-pecuniary measures prescribed under paragraph 1(b) and, if the appealed decision was annulled, to determine instead that the effects of the annulled decision need to be considered as definitive. The decision of the ESM is final and without appeal. The Tribunal then shall, upon request by the ESM, fix an amount of an appropriate *in lieu* compensation.
3. The aggregate amount of the *in lieu* compensation fixed under paragraph 2 together with any pecuniary measures prescribed under paragraph 1(b) shall not exceed 300 per cent of the last annual gross salary of the member of staff concerned (the “cap”). The Tribunal may exceed the cap only in exceptional circumstances of particular hardship considering the harm suffered by the Appellant.
4. The filing of an appeal shall not have the effect of suspending the implementation of the appealed decision. The President may, however, upon reasoned request by the Appellant, suspend the implementation of the appealed decision by a reasoned order.

Article 11

Judgments

1. The judgment shall be rendered as soon as reasonably practicable after the end of any hearing or, if no hearing took place, after the end of the written part. Each judgment of the Tribunal shall be in writing and state the reasons on which it is based.
2. Judgments of the Tribunal shall be final and without appeal.

Article 12*Revision, Interpretation and Rectification*

1. If, after a judgment has been delivered by the Tribunal, new facts come to the knowledge of a party to the case which, had they been known at the time of the deliberations, might have had a decisive influence on said judgment, the party concerned may request revision of the judgment within three months of the new facts coming to his or her knowledge. The Tribunal shall decide on the request for revision by reasoned order and, if possible, in the same formation which delivered the judgment concerned.
2. The Tribunal may, upon request, interpret by reasoned order any judgment whose terms appear obscure or incomplete.
3. The Tribunal may, upon request or out of its own motion, by order rectify any judgment containing a typographical, clerical, or arithmetical error.

Article 13*Archiving*

The original of each judgment shall be filed in the archives of the Tribunal by the Registrar, where it shall be available for consultation by any person concerned. A copy attested by the President of the Tribunal shall be delivered to the parties and, upon reasoned request, provided to any person concerned.

Article 13b*Orders*

The provisions of this Statute and of the Rules of Procedure, applicable to judgments, also apply *mutatis mutandis* to reasoned orders rendered by the President and to orders by which the Tribunal decides, in whole or in part, on the appeal, by which it revises, interprets, or rectifies a judgment or an order, or by which it fixes the *in lieu* compensation.

Article 14*Costs*

1. The costs of the Tribunal shall be borne by the ESM, including costs for witnesses and experts who have been summoned by the Tribunal and the amounts due pursuant to Article 3(5). The Registrar shall determine reasonable amounts payable to witnesses and experts.
2. The Tribunal does not charge a fee to the Appellant. If the Appellant has caused the Tribunal to incur avoidable costs, in particular where the appeal is manifestly an abuse of process, the Tribunal may order the Appellant to refund these costs in whole or in part up to a maximum amount of 9,000 EUR.
3. If the Tribunal concludes that an appeal is founded in whole or in part, it may order that the reasonable costs incurred in the proceedings by the Appellant, including reasonable fees of the Appellant's counsel, be totally or partially borne by the ESM.
4. If the Tribunal concludes that an appeal is manifestly without foundation or has been submitted principally for the purpose of delaying some legitimate decision of the ESM or of harassing the ESM or any of its officers or members of staff, the Tribunal may

order that the Appellant indemnify the ESM for part or all of the costs reasonably incurred by it in defending the case.

Article 15

(repealed)

Article 16

Amendments

This Statute may be amended by the Board of Directors after consultation of the Tribunal and the Managing Director.

Article 17

(repealed)

Article 18

Transitional provision

The Judges serving as of 15 September 2025 who would not be eligible for reappointment pursuant to Article 3(3) may be reappointed one more time regardless of number of terms already served. By way of derogation from Article 4(3), the first Deputy Registrar shall be appointed for four years.