

16 September 2025

**Rules of Procedure  
of the Administrative Tribunal  
of the European Stability Mechanism  
(ESMAT)**

**September 2025**

## CHAPTER I

### Organisation and functioning

#### **Rule 1**

##### *General*

1. These Rules of Procedure are established pursuant to Article 5(1) of the Statute.
2. In these Rules of Procedure, unless otherwise specified herein, capitalised terms and acronyms shall have the same meanings as ascribed to them in the Statute.
3. In the event of a conflict between any provision of these Rules of Procedure and any provision of the Statute, the latter shall prevail.
4. The Tribunal may adopt Practice Directions to the parties with a view to implementing the Statute and these Rules of Procedure.

#### **Rule 2**

##### *Oath, Affirmation and Declaration*

1. Pursuant to Article 3(2), fifth subparagraph, of the Statute, before taking up his or her duties, a Judge shall take the following oath or make the following affirmation before the serving Judges or, in the event of absence of serving Judges, before the Committee provided for in Article 3(1) of the Statute (hereafter “the Committee”):  
“I swear/affirm that I will perform my duties impartially and conscientiously.  
I swear/affirm that I will preserve the secrecy of the deliberations of the Tribunal.”
2. Immediately after taking the oath or making the affirmation, the Judge shall sign a declaration by which he or she solemnly undertakes that, both during and after his or her term of office, he or she will respect the obligations arising therefrom and in particular the duty to behave with integrity and discretion.

#### **Rule 3**

##### *Divestment of Office*

1. Where the Tribunal considers that one of its Judges may no longer fulfil the requisite conditions or meet the obligations arising from his or her office in accordance with Article 3(3), third subparagraph, of the Statute, the President shall invite the Judge concerned to make representations to the Tribunal in closed session and in the absence of the Registrar.

Where the Judge concerned is the President, the Vice-President shall invite the President to make representations to the Tribunal as provided in the preceding subparagraph.

The Judge concerned shall not take part in the deliberations or the vote. Voting shall be by secret ballot. A decision to recommend the termination of the term of office of a Judge may be adopted only by the unanimous vote of the remaining Judges of the Tribunal.

2. Paragraph 1 shall apply *mutatis mutandis* for the divestment of office of the Registrar or the Deputy Registrar.

#### **Rule 4**

##### *President and Vice-President*

1. The President of the Tribunal shall direct the proceedings of the Tribunal and represent the Tribunal in all administrative matters.
2. The election of the President and of the Vice-President shall be by secret ballot. The Judge obtaining the votes of more than half of the Judges shall be elected. If no Judge obtains that majority, further ballots shall be held until that majority is attained.
3. If the President is unable to act, the Vice-President, or if neither the President nor the Vice-President is able to act, the most senior of the remaining Judges shall exercise the functions of President. Where there is equal seniority in office among the remaining members of the Tribunal, the eldest shall exercise those functions.

#### **Rule 5**

##### *Appointment and Duties of the Registrar and the Deputy Registrar*

1. The Registrar and the Deputy Registrar shall be appointed by the Committee in agreement with the President.
2. The Registrar shall be of high moral character and integrity and shall be an experienced legal professional.
3. Before taking up his or her duties, the Registrar shall take the same oath or make the same affirmation before the Tribunal as the Judges pursuant to Rule 2(1) and shall sign the same declaration as the Judges pursuant to Rule 2(2).
4. The Registrar shall assist the Tribunal, the President and the Judges of the Tribunal in the performance of their functions. He or she shall be responsible, under the authority of the President, for:
  - (a) accepting, transmitting, and keeping custody of all documents of the Tribunal;
  - (b) sending notices and other communications on behalf of the Tribunal in accordance with the Statute and these Rules of Procedure;
  - (c) preparing a written record of the sessions of the Tribunal;
  - (d) ensuring the administration and keeping the accounts of the Tribunal;
  - (e) arranging for the publication of judgments of the Tribunal; and

- (f) unless otherwise specified, communicating to the parties the written instructions of the President or the Tribunal.
5. Without prejudice to Rule 3 and to Rule 8(3), the Registrar shall attend the sessions of the Tribunal but shall not take part in the deliberations.
  6. The provisions of the Statute and of these Rules of Procedure concerning the Registrar also apply in respect of the Deputy Registrar when he or she is acting on behalf of the Registrar, except where they lay down a specific provision or provisions in respect of the Deputy Registrar.

### **Rule 6**

#### *Sessions of the Tribunal*

1. The Tribunal shall hold sessions whenever the caseload so requires.
2. The President, in consultation with the other Judges, shall set and may amend the dates of the sessions of the Tribunal.

### **Rule 7**

#### *Composition of Panels*

1. In accordance with Article 8(1) and (2) of the Statute, appeals shall be decided by the Tribunal either in plenary or in a panel composed of the President and two other Judges. Decisions of a panel are decisions of the Tribunal.
2. Not more than 15 days after the Registrar decides that the appeal meets the formal requirements for instituting proceedings pursuant to Rule 13 (4) or (5), the President shall designate the other two Judges who, together with the President, shall constitute the panel that is to decide the appeal. Such designation shall give due consideration to the principle of rotation, the equitable distribution of workload and any other circumstances which, in the President's view, would make a Judge's participation seem appropriate or inappropriate, including circumstances set forth in Rule 8.

The Registrar shall inform the parties of the composition of the panel without delay.

3. Where, in accordance with Rule 8, a Judge recuses himself or herself for reasons of conflict of interest or is disqualified or for any other reason is unable to sit in a case in which he or she has been appointed to the panel, he or she shall be replaced by another Judge designated by the President.

### **Rule 8**

#### *Recusal and Disqualification*

1. In accordance with Article 3(2), fourth subparagraph, of the Statute, a Judge shall recuse himself or herself from participation in a case:
  - (a) when the Judge has a personal, family, or professional relationship with the

Appellant or a personal, family or current professional relationship with the representative or counsel of one of the parties;

- (b) when the Judge has previously been involved in the dispute in any other capacity; or
  - (c) when other circumstances exist that may raise in the mind of a reasonable observer an actual, potential, or perceived conflict of interest on the part of the Judge concerned.
2. A Judge who recuses himself or herself shall immediately inform the President of the Tribunal. When the President recuses himself or herself, the President shall immediately inform the Vice-President who shall act as President for that case.
  3. If the President considers that a Judge should not participate in a case, he or she shall notify the Judge accordingly. Where the Judge disagrees with the President's assessment, the matter will be settled by a decision of the Tribunal after hearing the Judge concerned, who shall not take part in the deliberations or the vote, and in the absence of the Registrar.
  4. A former Judge of the Tribunal shall not appear as a representative or counsel for a party before the Tribunal for a period of three years from the expiry of his or her term of office on the Tribunal.

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## CHAPTER II

### Proceedings

#### **Rule 9**

##### *Representation of Parties*

1. The ESM shall designate a representative and may designate one or more co-representatives, including external counsel. The ESM representatives may be assisted by advisors from relevant ESM divisions with the right to attend hearings of the Tribunal.
2. In accordance with Article 6(2) of the Statute, the Appellant may be represented or assisted in the proceedings by counsel of his or her choice. All communications from the Registrar shall be addressed exclusively to counsel so appointed.
3. When appointing counsel, or revoking their mandate, a party shall advise the Registrar thereof in writing. Unless otherwise specified in such writing, the appointed counsel shall be authorised to sign pleadings, to receive any notification, to appear before the Tribunal and to take all other necessary action in connection with the pursuance of the case on behalf of the relevant party unless and until such party shall have revoked its designation of counsel by notice in writing to the Registrar.
4. Each party shall bear all fees and costs of its counsel, unless the Tribunal decides otherwise pursuant to Article 14(3) and (4) of the Statute.

#### **Rule 10**

##### *Procedure before the Tribunal*

1. In accordance with Article 8(3) of the Statute and without prejudice to Rule 20, the procedure before the Tribunal shall consist of a written and an oral part. The Tribunal, may, after consulting the parties, decide not to hold a hearing, if it considers that the written submissions provide sufficient information to adjudicate the appeal.
2. The hearing shall include oral arguments by the parties or their counsel and may, with leave from the President, include oral testimony by witnesses and experts.

#### **Rule 11**

##### *Amicable Settlement*

1. In accordance with Article 8(5) of the Statute, and without prejudice to the obligation of the Judges to act with full independence and impartiality in accordance with Article 3(2) of the Statute, the President may designate a Judge of the panel hearing a case, including himself or herself, to propose an amicable settlement to the parties, either in writing or by organising a meeting between them.

2. Where an amicable settlement has been proposed, no opinion expressed, suggestion made, proposal put forward, concession made, or document drawn up for the purposes of the amicable settlement by either party may be relied on as evidence by the Tribunal or the parties in the contentious proceedings.

### **Rule 12**

#### *Language of Proceedings*

1. In accordance with Article 6(3) of the Statute, proceedings before the Tribunal shall be conducted in English. All documents must be submitted in English or, where an English version is not available, with an English translation certified to the Tribunal's satisfaction. Where an English translation is provided in the latter circumstances, the English translation of the document shall prevail.
2. The Tribunal may, of its own motion or at the request of a party, decide that a translation is not necessary for the purposes of the efficient conduct of the proceedings.

### **Rule 13**

#### *Institution of Proceedings*

1. Proceedings before the Tribunal shall be instituted by the filing of a written appeal in accordance with Article 2(2) of the Statute by the Appellant or by his or her counsel. Such appeal must be signed by or on behalf of the Appellant and shall include the following information:
  - (a) the name of the Appellant;
  - (b) the capacity in which the Appellant is filing the appeal, for the purposes of Article 2(1) of the Statute;
  - (c) the name of any counsel assisting or of other person or persons legally representing the Appellant;
  - (d) the act or decision being challenged or, in absence of notification of a decision by the Managing Director pursuant to Article 26(3) of the Staff Rules, the date the complaint was filed;
  - (e) a statement of the relevant facts;
  - (f) the grounds on which the Appellant challenges the legality of the contested act or decision and the arguments relied upon in support of those grounds;
  - (g) any request for interim relief and the grounds for such request;
  - (h) the remedy or remedies being sought by the Appellant;
  - (i) any request for measures of investigation or instruction within the meaning of Rule 16, without prejudice to the right to make such request at a later stage

of the proceedings;

- (j) any request related to confidentiality and protection of privacy of individuals made pursuant to Rule 19(1); and
- (k) the postal and e-mail address on which, in accordance with Rule 24, the Appellant or his or her counsel accept to receive notices and communications in relation to the appeal, as well as a telephone number on which they can be reached.

2. The written appeal shall be accompanied by all documentary evidence adduced in support of the Appellant's case in original or unaltered copy.

The evidence shall include the text of the decision, as well as evidence that it falls within the scope of Article 2(2) of the Statute and that the appeal is being submitted to the Tribunal within the time limits prescribed by Article 7 of the Statute.

In appeals challenging disciplinary measures taken pursuant to Article 23(1)(c) to (e) of the Staff Rules, the evidence before the Tribunal shall also include any opinion of the disciplinary committee.

In appeals arising through the dispute settlement procedure provided by Article 24 of the Staff Rules, the evidence before the Tribunal shall also include the text of the complaint and, in case of application of Article 28(2) of Staff Rules, the request for review referred to in this latter provision.

Where the evidence relied on in support of an appeal is not in documentary form, the appeal shall indicate its nature and source, with full name and contact details of any witness whose evidence is offered. While allowing for all types of evidence, including text, still image, audio, video, and animation, the Tribunal may issue guidelines determining and limiting admissible formats for various types of evidence.

3. When informing the ESM pursuant to Article 6(1) of the Statute of any appeal filed with the Tribunal, the Registrar may request that the case file and evidence established by the committee involved pursuant to the Staff Rules be made part of the record before the Tribunal. In case of such request, the ESM shall promptly inform the committee concerned, which shall submit the case file and evidence to the Tribunal without delay.
4. The Registrar shall promptly ascertain whether the written appeal satisfies the formal requirements of the preceding paragraphs and, if so, he or she shall notify it to the ESM.
5. If the Registrar identifies any deficiencies, he or she shall advise the Appellant of such deficiencies and indicate a period of time, not exceeding 15 days, within which the appeal may be regularised, including by submission of documents in accordance with paragraph 2 above. If the appeal is regularised within such period, the appeal shall be considered filed on the original date for the purpose of the time limit set forth in Article 7 of the Statute and shall be notified to the ESM.
6. If such changes are not made within that period, the President shall, by reasoned order, decide that the appeal has not been validly filed. The Registrar shall strike the appeal from the Register and shall notify the Appellant accordingly.

**Rule 14**  
*Reply to the Appeal*

1. The ESM shall submit a written reply within two months of notification of the appeal pursuant to Rule 13(4) and (5).
2. Rule 13(1) shall apply *mutatis mutandis* to the reply. The reply shall include the ESM's answer to the matters referred to in Rule 13(1) as well as any requests by the ESM and shall ensure compliance with any request pursuant to Rule 13(3).

**Rule 15**  
*Further Written Pleadings*

1. The President, after consultation with the members of the panel, may allow a rebuttal either of his or her own motion or in response to a reasoned request by the Appellant. Any such request by the Appellant shall be presented within seven days of notification of the reply. The President may direct that the rebuttal be limited to certain matters.
2. If a rebuttal is authorised, it shall be submitted within one month of notification of the authorisation. The rebuttal shall be notified to the ESM.
3. The ESM may submit a rejoinder within one month of notification of the rebuttal. The rejoinder shall be notified to the Appellant.

**Rule 16**  
*Measures of Investigation and Instruction*

1. At any time in the course of the proceedings, the Tribunal may, of its own motion or in response to a reasoned request of a party, adopt such measures of investigation or instruction as it deems appropriate, including:
  - (a) requiring the parties to produce any document or answer any question that the Tribunal considers necessary to deciding the appeal;
  - (b) the personal appearance of the parties before it;
  - (c) the taking of evidence, in writing or orally, of experts, witnesses and any competent authority, subject to the conditions specified in paragraphs 2 and 3; and
  - (d) inspection of places or things.
2. If the ESM considers that certain information is secret or confidential, or its disclosure might harm the operations of the ESM or its relations with a Member State or an Institution of the European Union or an international organisation, or would infringe the reputation or right of privacy of individuals, the ESM may, subject to the agreement of the Tribunal, delete such information from the document to be produced or produce a summary or redacted version of that document. Such production shall be accompanied by a written explanation of the reasons justifying

the non-disclosure in whole or in part of the document.

The Tribunal shall promptly ascertain whether it accepts the version of the document produced. If the Tribunal does not accept such version, it may order the production of the original document in camera, whereby the original document shall be disclosed in a room only to the Tribunal, the parties, and their counsel, who may only take notes, but may not make copies of, or otherwise reproduce the document. The Tribunal may take other measures so ensure the secrecy or confidentiality of such information.

3. Without prejudice to paragraph 2, the ESM may withhold information or documents if it determines that the production of that information or document might harm the operations of the ESM because of the secret or confidential nature of that information. Such a determination shall be binding on the Tribunal. The Appellant's allegations concerning the contents of any information or document so withheld shall constitute *prima facie* evidence as to that information or document and shall create a presumption as to the accuracy of the allegations, so long as there is no other evidence presented to contradict the allegations.
4. The parties shall be under no obligation to disclose any legal advice provided by or through their internal or external legal advisors or counsel.

### **Rule 17**

#### *Conduct of Hearings*

1. The President shall determine the conduct of the hearing, which may be held in one or more sessions.
2. The hearing shall be public unless the Tribunal determines otherwise, upon reasoned request of either party or of its own motion, on grounds of confidentiality or privacy. If the Tribunal decides to hold the hearing in private, attendance shall be limited to the Judges and the Registrar or the Deputy Registrar, as well as the parties and their counsel, representatives, and advisors, and such experts and other witnesses as the Tribunal has authorised to attend.
3. The Registrar shall draw up minutes of the hearing. The minutes shall be signed by the President and by the Registrar and shall be notified to the parties.

### **Rule 18**

#### *Participation in Hearings and Deliberations by Electronic Means*

1. Pursuant to Article 3(4) of the Statute, hearings and deliberations may be conducted by electronic means, if justified.
2. The Tribunal may, in response to a reasoned request and after hearing the other party, allow either party or its counsel, representatives or advisors to participate in the hearing by electronic means.

**Rule 19***Confidentiality of Proceedings and Protection of Privacy of Participants*

1. Upon reasoned request, the Tribunal may decide not to disclose in its judgments and orders the name, position, or any other information permitting the identification of the Appellant or of other individuals, excluding the representatives of the parties.
2. The parties may request that any information, in addition to the information referred to in paragraph 1, for which they claim confidentiality, shall not be made public by the Tribunal.
3. The Tribunal shall adopt appropriate measures, including, if necessary, the redaction of the information to which paragraphs 1 or 2 refer.
4. The parties may not make requests pursuant to paragraphs 1 or 2 after the judgment in the case has been notified to the parties.

**Rule 20***Dismissal of an Appeal by Reasoned Order*

By reasoned order, the Tribunal may dismiss at any time an appeal that is manifestly inadmissible, outside the jurisdiction of the Tribunal or manifestly lacking any basis in fact or in law.

**Rule 21***Judgments*

1. In accordance with Article 11(1) of the Statute, the judgment shall be in writing and shall state the reasons on which it is based.
2. The judgment shall be signed by the President and the Registrar and shall include the names of the Judges who sat in the case and the date of the judgment.
3. The judgment shall be transmitted to the parties by a means which ensures proof of notification. A judgment shall bind a party from the date of such notification.
4. The Registrar shall arrange for the prompt publication of the judgment in the Tribunal's section of the ESM website.

**Rule 22***Rectification of Judgments*

The Tribunal may, of its own motion at any time, or in response to a reasoned request by a party made within 15 days of the notification of the judgment to that party, rectify any judgment which contains a typographical, clerical or arithmetical error, in accordance with Article 12(3) of the Statute.

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## CHAPTER III

### Other matters

#### **Rule 23** *Time Limits*

1. Time limits laid down in or pursuant to the Statute and these Rules of Procedure
  - (a) in days refer to calendar days, unless otherwise specified;
  - (b) in months shall end on the same day of the last month of the time limit as the day of the relevant event. If such day does not occur in the respective month, the time limit shall end on the last day of that month.
2. The day on which the relevant event occurs shall not be counted as falling within the time limit in question. If the time limit includes the month of August, it shall be automatically extended by one month. If the time limit includes the ESM year-end holiday, it shall be automatically extended by the respective number of days. If the last day of the time limit is a Saturday, a Sunday, or a public holiday observed by the ESM, the relevant time limit shall expire at the end of the next working day of the ESM. For the purposes of this provision, the ESM shall share with the Tribunal the list of the public holidays observed by the ESM. The Tribunal shall share such list with any Appellant or prospective Appellant upon request.
3. Time limits laid down in or pursuant to the Statute and these Rules of Procedure may be extended by the Tribunal in response to a reasoned request, with the exception of the time limit to file the appeal as set out in Article 7 of the Statute.

#### **Rule 24** *Filing, Notices and Communications*

1. Except as provided in paragraph 2 below, the written pleadings and all other written communications that the parties address to the Tribunal shall be submitted by e-mail in PDF format, to the e-mail address indicated in the Tribunal's section of the ESM website.

In response to a reasoned request made within seven days of the event specified in Article 7(1) of the Statute, the Registrar may allow the Appellant to submit the abovementioned documents by registered mail or courier service to the postal address indicated by the Registrar. The Registrar shall adopt a decision in that respect within seven days of receipt of such request and, in the event of a favourable decision, shall fix the time limit for filing the documents.
2. The Registrar shall acknowledge any written communication from a party within seven days of its receipt and promptly notify it to the other party. If such a communication includes a request, the Registrar shall notify the decision of the Tribunal on such request to both parties.

3. For the purpose of determining compliance with the applicable time limit, the date of receipt (whether by e-mail, registered mail or courier service) shall be considered as the date of filing.
4. Any written notices and communications from the Tribunal to the parties in relation to the procedure shall be made by e-mail, registered mail, or courier service:
  - (a) if addressed to the Appellant, to the e-mail or postal address specified in accordance with Rule 13(1)(k); or
  - (b) if addressed to the ESM, to the e-mail address notified to the Tribunal by the ESM.

### **Rule 25**

#### *Exclusion from Proceedings*

1. If the Tribunal considers that the conduct of a party or of their counsel, representative or advisor, towards the Tribunal, the President, a Judge or the Registrar is incompatible with the dignity of the Tribunal or with the requirements of the proper administration of justice, or that such person has used or is using his or her rights for purposes other than those for which they were granted, it shall so inform the said person.
2. If applicable, the Tribunal may inform the competent authorities to whom the person concerned is answerable, and a copy of the letter sent to those authorities shall be forwarded to the said person.
3. The Tribunal may at any time, having heard the person concerned, exclude that person from the proceedings by reasoned order. Such order will have immediate effect. Where the person excluded is the party's counsel or representative, the proceedings shall be suspended for a period fixed by the President in order to allow the party concerned to appoint another counsel or representative. The Tribunal may also suspend the proceedings in other cases in which the person concerned is participating.
4. Decisions under this Rule may be rescinded by a reasoned order of the Tribunal.

### **Rule 26**

#### *Joinder and Separation of Cases*

1. Two or more cases may be joined, on account of the connection between them, for the purposes of the written or oral part of the procedure or of the decision which closes the proceedings.

A decision on whether cases should be joined may be taken at any time by the President, after hearing the parties. In the event of an objection, the President shall refer that matter to the panel.

Where two or more cases have been joined, the period referred to in Article 8(6) of

the Statute shall start to run from the date the latter of the appeals was lodged.

2. The President may disjoin previously joined cases.
3. The counsel, advisors or representatives of the parties to the joined cases may examine at the Registry the procedural documents served on the parties in the other cases concerned. The President may, however, on application by a party, exclude secret or confidential documents from that examination.

### **Rule 27**

#### *Notification and Intervention*

1. Unless the President decides otherwise after consulting the other Judges of the panel, the Registrar shall, within 15 days of notification of the appeal to the ESM in accordance with Rule 13(4) or (5), promptly publish in an anonymised form on the ESM's intranet site a notice summarising the issues raised in an appeal. An additional notification by email shall be sent to those former staff members who have opted to receive such notifications upon departure from the ESM.
2. Any person to whom the Tribunal is open under Article 2 of the Statute may, within 30 days of the issuance of this notice apply to intervene in a case on the ground that he or she has a right which may be affected by the decision to be adopted by the Tribunal. Such person shall for that purpose draw up and file an application to intervene in accordance with the conditions laid down in Rule 13 *mutatis mutandis*.
3. Where the Registrar determines that the application to intervene complies with paragraph 2, the Registrar shall transmit a copy of the application to the Appellant and to the ESM, who may each present their views on admissibility of the application to intervene within 15 days. Upon expiration of the 15-day period, the panel shall decide whether to grant the application to intervene. If the intervention is admitted, the intervener shall thereafter participate in the proceedings as a party and a time limit will be prescribed by the President for the filing of the statement in intervention.
4. Where an application to intervene has been accepted, the period referred to in Article 8(6) of the Statute shall start to run from the date the decision to admit such application has been adopted.

### **Rule 28**

#### *Other Forms of Proceedings*

1. The panel shall deal with any matter which is not within the powers of the President to direct the proceedings before the Tribunal under Rule 4(1) or is not specifically provided for in these Rules of Procedure, including judgment by default, third-party opposition, or discontinuance of procedure without adjudication.
2. The President of the Tribunal may upon reasoned request grant legal aid to the Appellant by reasoned order, if the conditions determined by the Managing Director for all Appellants are fulfilled.

**Rule 29***Amendment of Rules of Procedure*

1. The Tribunal may amend any provision of these Rules of Procedure in consultation with the Managing Director, the General Counsel, and the Secretary General of the ESM.
2. Such amendments shall come into force on the date specified by the President, who shall inform the Managing Director, the General Counsel and the Secretary General of the ESM accordingly.
3. Any amendment of these Rules of Procedure shall not be retroactive.