

ⁱANNEX 2

to the Treaty on the Eurasian Economic Union

Statute of the Court of the Eurasian Economic Union

Disclaimer:

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Chapter I. General provisions. Legal status of the Court

1. The Court of the Eurasian Economic Union (hereinafter “the Court”) shall be the judicial body of the Eurasian Economic Union (hereinafter “the Union”) and shall be formed and operate on a permanent basis in accordance with the Treaty on the Eurasian Economic Union (hereinafter “the Treaty”) and this Statute.

2. The objective of the Court’s activities shall be to ensure, in accordance with the provisions of this Statute, uniform application by the Member States and bodies of the Union of the Treaty, international treaties within the Union, international treaties of the Union with a third party and decisions of the bodies of the Union.

For the purpose of this Statute, bodies of the Union shall include all bodies of the Union, except for the Court.

3. The Court shall have the rights of a legal person.

4. The Court shall maintain its documentation, have a seal and letterheads, establish its official website and publish an official bulletin.

5. The Court shall develop proposals for the funding of the Court activities and shall administer the funds allocated to ensure its activities in accordance with the Regulation on the Budget of the Union.

6. The terms of remuneration for judges, officials and employees of the Court shall be determined by the Supreme Eurasian Economic Council.

Chapter II. Composition of the Court

7. The Court shall consist of two judges from each Member State.

8. The term of office of a judge shall be nine years.

9. All judges shall be persons of high moral character, highly qualified in the field of international and domestic law, and shall as a rule meet the requirements applicable to judges of the highest judicial authorities of the Member States.

10. Judges shall be appointed by the Supreme Eurasian Economic Council on the proposal of the Member States. When taking up his duties, each judge shall take an oath.

11. Judges shall be dismissed by the Supreme Eurasian Economic Council.

12. Powers of a judge may be terminated on the following grounds:

- 1) termination of functioning of the Court;
- 2) expiration of the term of office of the judge;
- 3) a letter of resignation filed by the judge due to his transfer to another job or for other reasons;
- 4) inability to exercise the powers of a judge for health reasons or other valid reasons;
- 5) participation in activities incompatible with the office of a judge;
- 6) termination of membership in the Union of the State that nominated the judge;
- 7) loss by the judge of the citizenship of the Member State that nominated him;
- 8) committing serious misconduct incompatible with the high status of a judge;
- 9) entry into force of a judgment of conviction against the judge or a court decision on the application of compulsory measures of medical nature to the judge;
- 10) entry into force of a court decision on the limited legal capacity or incapacity of the judge;
- 11) death of the judge or entry into force of a court decision declaring him dead or missing.

13. The initiative to terminate the powers of a judge on the grounds provided for in paragraph 12 of this Statute may be put forward by the Member State that nominated the judge, the Court or the judge concerned.

The procedure for the initiative to terminate the powers of a judge shall be determined by the Rules of Procedure of the Court of the Eurasian Economic Union approved by the Supreme Eurasian Economic Council (hereinafter “the Rules of Procedure”).

14. All activities of the Court shall be managed by the President of the Court. The President of the Court shall have a deputy – the Vice-President.

In case of temporary inability of the President of the Court to participate in the activities of the Court, his duties shall be performed by the Vice-President of the Court.

15. The President of the Court and the Vice-President shall be elected from among the judges of the Court by the judges of the Court in accordance with the Rules of Procedure and be subject to approval by the Supreme Eurasian Economic Council.

The President of the Court and the Vice-President may not be nationals of the same Member State.

Upon the termination of office, the new President of the Court or the Vice-President shall be elected from among the judges that have been nominated by other Member States, different from those that nominated the former President of the Court and the Vice-President respectively.

16. The term of office for the President of the Court and the Vice-President shall be three years.

17. The President of the Court shall:

- 1) approve the structure and activities of the Court and judges;
- 2) organise activities of the Court;
- 3) within his powers, ensure cooperation between the Court and authorised state bodies of the Member States, foreign and international courts;
- 4) appoint and dismiss employees and officials of the Court in the manner laid down in this Statute;
- 5) arrange the provision of information on the activities of the Court to the media;
- 6) exercise other competence in accordance with this Statute.

18. Judges may not represent the interests of any state or interstate bodies and organisations, business corporations, political parties and movements, as well as territories, nations, nationalities, social and religious groups and individuals.

Judges may not be engaged in any income-generating activities, except for scientific, creative and teaching work.

19. A judge may not participate in the resolution of any case where he has participated as a representative, attorney or lawyer of one of the parties to the dispute, a member of a national or international court or an inquiry commission, or in any other capacity.

20. In the administration of justice, all judges shall be equal and have equal status. The President of the Court and the Vice-President shall not be entitled to take any actions aimed at obtaining any undue advantage over other judges.

21. Both in the exercise of their powers and in off-duty relationships, the judges shall avoid conflicts of interest, as well as anything that may diminish the authority of the judiciary power and the dignity of the judges or call into question their objectivity, fairness and impartiality.

Chapter III. Administration of the Court. Status of officials and employees

22. Activities of the Court shall be ensured by the Administration of the Court.

23. The Administration of the Court shall consist of the secretariats of judges and the Secretariat of the Court.

24. The secretariat of a judge shall consist of an advisor and an assistant of the judge.

25. Legal, organisational, logistical and other support for Court activities shall be provided by the Secretariat of the Court.

26. The structure and size of the Secretariat of the Court shall be approved by the Supreme Eurasian Economic Council.

27. The Secretariat of the Court shall be managed by the Head of the Secretariat. The Head of the Secretariat of the Court shall have two deputies. The Head of the Secretariat of the Court and his deputies shall be officials of the Court appointed and dismissed in accordance with this Statute and the Treaty. The Head of the Secretariat of the Court and his deputies may not be nationals of the same Member State.

28. All labour relations shall be governed by the Treaty, applicable international treaties within the Union and the legislation of the host state of the Court.

29. An advisor to the judge shall be an official of the Court appointed and dismissed by the President of the Court on the proposal of the respective judge.

30. An advisor to the judge shall provide information and analytical support to the judge.

31. An advisor to the judge shall be of high moral character and an experienced specialist in the field of international law and/or foreign economic activity.

32. An assistant of a judge shall be an employee of the Court appointed and dismissed by the President of the Court on the proposal of the respective judge.

33. An assistant of a judge shall provide organisational support to the judge.

34. Candidates for the positions of the Head of the Secretariat of the Court and his deputies shall be selected on a competitive basis by the selection board of the Court with regard to the principle of equal representation of the Member States.

Candidates to participate in the competition for these positions shall be nominated by the Member States.

35. The Secretariat of the Court shall be composed on a competitive basis, with regard to share participation of the Member States in the budget of the Union, from among nationals of the Member States.

Employees of the Secretariat of the Court shall be employed on the basis of employment agreements (contracts).

36. The selection board of the Court for the selection of candidates for positions in the Secretariat of the Court shall include all judges of the Court, except for the President of the Court.

Members of the selection board shall elect the chairman of the selection board.

The selection board shall adopt its decisions in the form of recommendations by a majority vote and submit them to the President of the Court for appointment.

37. The competition procedure for vacant positions in the Secretariat of the Court shall be determined by the Court and approved by the President of the Court in accordance with the basic rules of competition determined by the Supreme Eurasian Economic Council.

38. Technical staff of the Secretariat of the Court shall be employed by the Head of the Secretariat on the basis of employment agreements (contracts).

Chapter IV. Jurisdiction of the Court

39. The Court shall consider disputes arising in connection with the implementation of the Treaty, international treaties within the Union and/or decisions of the bodies of the Union:

1) on the application of a Member State:

concerning the compliance of an international treaty within the Union or its particular provisions with the Treaty;

concerning the observance by another Member State (other Member States) of the Treaty, international treaties within the Union and/or decisions of the bodies of the Union, as well as particular provisions of the said international treaties and/or decisions;

concerning the compliance of a decision of the Commission or its particular provisions with the Treaty, international treaties within the Union and/or decisions of the bodies of the Union;

concerning challenging of actions (failure to act) of the Commission;

2) on the application of an economic entity:

concerning the compliance of a decision of the Commission or its particular provisions directly affecting the rights and legitimate interests of the economic entity in the area of business and other economic activities with the Treaty and/or international treaties within the Union, if such a decision or its certain provisions entailed a violation of any rights and legitimate interests of the economic entity granted by the Treaty and/or international treaties within the Union;

concerning challenging of actions (failure to act) of the Commission directly affecting the rights and legitimate interests of the economic entity in the area of business and other economic activities, if such actions (failure to act) entailed a violation of any rights and legitimate interests of the economic entity granted by the Treaty and/or international treaties within the Union.

For the purpose of this Statute, an economic entity shall refer to a legal person registered in accordance with the legislation of a Member State or a third State or a natural person registered as an individual entrepreneur in accordance with the legislation of a Member State or a third State.

40. The Member States may include in the jurisdiction of the Court any other disputes, the resolution of which by the Court is expressly provided for by the Treaty, international treaties within the Union, international treaties of the Union with a third party or other international treaties between the Member States.

41. All matters regarding the Court's jurisdiction to resolve a dispute shall be resolved by the Court. In determining whether the Court has jurisdiction to consider a dispute, the Court shall be governed by the Treaty, international treaties within the Union and/or international treaties of the Union with a third party.

42. The jurisdiction of the Court shall not include extension of the competence of bodies of the Union in excess of that expressly provided for by the Treaty and/or international treaties within the Union.

43. Any dispute may be accepted for consideration by the Court only following a prior recourse of an applicant to a Member State or the Commission to settle the matter within the pretrial procedure through consultation, negotiation or other means provided for by the Treaty and international treaties within the Union, except for cases expressly provided for by the Treaty.

44. If, within 3 months from the date of receipt of an applicant's request, a Member State or the Commission have not taken any measures to settle the matter within the pretrial procedure, the application on consideration of the dispute may be lodged with the Court.

45. By mutual consent of the parties to the dispute, it may be referred to the Court within the time-limit specified in paragraph 44 of this Statute.

46. At the request of a Member State or a body of the Union, the Court shall provide clarification to provisions of the Treaty, international treaties within the Union and decisions of the bodies of the Union and, at the request of employees and officials of the bodies of the Union and the Court, to provisions of the Treaty, international treaties within the Union and decisions of the bodies of the Union related to labour relations (hereinafter "clarification").

47. Providing a clarification by the Court shall mean providing an advisory opinion and shall not deprive the Member States of the right for joint interpretation of international treaties.

48. The Court shall provide a clarification to provisions of an international treaty of the Union with a third party, if it is provided for in the international treaty.

49. Recourse to the Court on behalf of a Member State with an application to resolve a dispute or a request for clarification shall be performed by the authorised bodies and organisations of the Member State, the list of which shall be compiled by each Member State and sent to the Court via diplomatic channels.

50. In the administration of justice, the Court shall apply:

- 1) the generally recognised principles and rules of international law;
- 2) the Treaty, international treaties within the Union and other international treaties to which the states that are parties to the dispute are participants;
- 3) decisions and directions of the bodies of the Union;
- 4) international custom as evidence of the general practice accepted as law.

51. Provisions of the Treaty, international treaties within the Union and international treaties of the Union with a third party relating to the resolution of disputes, clarification and interpretation shall be applied to the extent not inconsistent with this Statute.

Chapter V. Judicial proceedings

Section 1. Dispute resolution proceedings

52. The procedure for dispute resolution by the Court shall be determined in the Rules of Procedure.

53. The Court shall carry out the judicial proceedings on the basis of the following principles:

- independence of judges;
- transparency of proceedings;
- publicity;
- equality of the parties to the dispute;
- adversarial nature of the judicial proceedings;
- collegiality.

The manner of implementing of these principles shall be determined in the Rules of Procedure.

54. The receipt of an application by the Court regarding any international treaty within the Union and/or decision of the Commission shall not be considered as grounds for suspension of such international treaty and/or decision and/or any particular provisions thereof, except for cases expressly provided for by the Treaty.

55. The Court may request any materials necessary for the consideration of cases from the economic entities, authorised bodies and organisations of the Member States and bodies of the Union having applied to the Court.

56. Restricted information may be obtained by the Court or submitted by a person participating in the case in accordance with the Treaty, international treaties within the Union, the Rules of Procedure and the legislation of the Member States. The Court shall take appropriate measures to ensure protection of such information.

57. Proceedings before the Court shall be carried out with the participation of the parties to the dispute, the applicant, their representatives, and experts, including experts from specialised groups, specialists, witnesses and interpreters.

58. All persons participating in the case shall enjoy the procedural rights and discharge procedural duties in accordance with the Rules of Procedure.

59. Experts from specialised groups shall have immunity from administrative, civil and criminal jurisdiction in respect of all words spoken or written in connection with their participation in consideration of cases by the Court. These persons shall lose their immunity in case of violation of the procedure for the use and protection of restricted information laid down in the Rules of Procedure.

60. If a Member State or the Commission considers that a decision on the dispute may affect their interests, the Member State or the Commission may file a petition for permission to intervene.

61. The Court shall dismiss all claims regarding compensation for damages or other material claims.

62. A recourse of an economic entity to the Court shall be subject to fee.

63. The fee shall be paid by the economic entity prior to submitting an application to the Court.

64. If the Court grants the claims of the economic entity stated in the application, the fee shall be refunded.

65. The amount, the currency, the manner of payment, the use and refund of the fee shall be established by the Supreme Eurasian Economic Council.

66. In course of the proceedings on a case, each party to the dispute shall bear its own court costs.

67. At any stage of the proceedings, the dispute may be settled by the parties through conclusion of a settlement agreement, renunciation of the claims by the applicant or withdrawal of the application.

Section 2. Clarification proceedings

68. Clarification proceedings shall be carried out in the manner laid down in the Rules of Procedure.

69. The Court shall carry out the clarification proceedings on the basis of the principles of independence of judges and collegiality.

Section 3. Formations of the Court

70. The Court shall consider cases in the Grand Chamber of the Court, the Chamber of the Court and the Appeals Chamber of the Court.

71. The Court shall carry out dispute resolution proceedings in sessions of the Grand Chamber of the Court in the cases envisaged in paragraph 39 (1) of this Statute.

72. The Grand Chamber shall consider procedural matters provided for in the Rules of Procedure.

73. The Court shall carry out clarification proceedings in sessions of the Grand Chamber of the Court.

74. The Grand Chamber of the Court shall include all judges of the Court.

75. A session of the Grand Chamber of the Court shall be regarded as competent in the presence of all judges of the Court.

76. The Court shall sit in the Chamber of the Court in the cases provided for in paragraph 39 (2) of this Statute.

77. The Chamber of the Court shall be composed of one judge from each Member State alternately by the family names of the judges, beginning with the first letter of the Russian alphabet.

78. A session of the Chamber of the Court shall be regarded as competent in the presence of one judge from each Member State.

79. The Court shall sit in the Appeals Chamber of the Court when considering appeals against judgments of the Chamber of the Court.

80. The Appeals Chamber of the Court shall be composed of judges of the Court from Member States who did not participate in the proceedings that resulted in the challenged judgment of the Chamber of the Court.

81. A session of the Appeals Chamber of the Court shall be regarded as competent in the presence of one judge from each Member State.

Chapter VI. Specialised groups

82. Specialised groups shall be composed in case of consideration of particular disputes concerning matters of granting of industrial subsidies, agricultural state support measures, the application of safeguard, anti-dumping and countervailing measures.

83. A specialised group shall be composed of three experts, one from each list submitted by each Member State for the corresponding type of disputes.

84. The composition of a specialised group shall be approved by the Court.

85. The specialised group shall be dissolved after the consideration of the case.

86. The Member States shall, not later than 60 calendar days after the entry of the Treaty into force, submit to the Court a list containing at least three experts willing and able to act as members of specialised groups for each type of disputes referred to in paragraph 82 of this Statute.

The Member States shall regularly update their lists of experts, not less than once a year.

87. Individuals who are highly qualified specialists with expertise and experience in matters that are subject-matters of disputes referred to in paragraph 82 of this Statute may act as experts.

88. All experts shall act in their personal capacity and operate independently, shall not be related to either party to the dispute and may not obtain any instructions from them.

89. An expert may not be a member of a specialised group in the case of a conflict of interest.

90. A specialised group shall prepare a report containing an unbiased evaluation of the factual circumstances of the case and submit the report to the Court within the time-limits specified in the Rules of Procedure.

91. The report of a specialised group shall be recommendatory in nature, except for cases referred to in the subparagraph 3 of paragraph 92 of this Statute, and shall be evaluated by the Court when delivering one of the judgments referred to in paragraphs 104–110 of this Statute.

92. A report of a specialised group in respect of a dispute concerning matters of granting of industrial subsidies or agricultural state support measures shall contain a conclusion on the presence or absence of violations and on the application of appropriate compensatory measures in case of violations.

The part of the report of a specialised group regarding the presence or absence of a violation shall be recommendatory in nature and shall be evaluated by the Court when delivering one of the judgments referred to in paragraphs 104–110 of this Statute.

The part of the report of a specialised group regarding the appropriate compensatory measures shall be binding for the Court in delivering a judgment.

93. The manner of the composition and functioning of specialised groups shall be determined in the Rules of Procedure.

94. The manner of payment for services of experts from specialised groups shall be determined by the Supreme Eurasian Economic Council.

Chapter VII. Acts of the Court

95. The Court shall, within the time-limits determined in the Rules of Procedure, adopt orders on procedural matters of functioning of the Court, including orders on:

- 1) acceptance or dismissal of an application;
- 2) suspension or resumption of proceedings;
- 3) termination of proceedings.

96. Within 90 days of the date of receipt of an application, having considered the dispute, the Court shall deliver a judgment or, at a request for clarification – provide an advisory opinion.

97. The time-limit for delivery of a judgment may be extended in the cases provided for in the Rules of Procedure.

98. Advisory opinion delivered upon a request for clarification shall be recommendatory in nature.

99. After the consideration of disputes provided for in paragraph 39 (1) of this Statute, the Court shall deliver a judgment that shall be obligatory for execution by the parties to the dispute.

100. After the consideration of disputes provided for in paragraph 39 (2) of this Statute, the Court shall deliver a judgment that shall be obligatory for execution by the Commission.

101. A judgment of the Court may not exceed the limits of issues stated in the application.

102. A judgment of the Court can not amend and/or abrogate the existing rules of the law of the Union, of the legislation of the Member States, and can not create new ones.

103. Without prejudice to the provisions of paragraphs 111–113 of this Statute, the parties to the dispute shall be free to determine the form and manner of execution of the judgment of the Court.

104. After the consideration of a case on the application of a Member State concerning the compliance of an international treaty within the Union or its particular provisions with the Treaty, the Grand Chamber of the Court shall deliver one of the following judgments:

- 1) on non-compliance of an international treaty within the Union or its particular provisions with the Treaty;
- 2) on compliance of an international treaty within the Union or its particular provisions with the Treaty.

105. After the consideration of a case on the application of a Member State concerning the observance by another Member State (other Member States) of the Treaty, international treaties within the Union and/or decisions of the bodies of the Union, as well as particular provisions of the said international treaties and/or decisions, the Grand Chamber of the Court shall deliver one of the following judgments:

1) on finding of observance by Member State (Member States) of the Treaty, international treaties within the Union and/or decisions of the bodies of the Union, as well as particular provisions of the said international treaties and/or decisions;

2) on finding of non-observance by Member State (Member States) of the Treaty, international treaties within the Union and/or decisions of the bodies of the Union, as well as particular provisions of the said international treaties and/or decisions.

106. After the consideration of a case on the application of a Member State concerning the compliance of a decision of the Commission or its particular provisions with the Treaty, international treaties within the Union and/or decisions of the bodies of the Union, the Grand Chamber of the Court shall deliver one of the following judgments:

1) on non-compliance of a decision of the Commission or its particular provisions with the Treaty, international treaties within the Union and/or decisions of the bodies of the Union;

2) on compliance of a decision of the Commission or its particular provisions with the Treaty, international treaties within the Union and/or decisions of the bodies of the Union.

107. After the consideration of a case on the application of a Member State challenging actions (failure to act) of the Commission, the Grand Chamber of the Court shall deliver one of the following judgments:

1) on declaring the challenged actions (failure to act) not in line with the Treaty and/or international treaties within the Union;

2) on declaring the challenged action (failure to act) in line with the Treaty and/or international treaties within the Union.

108. After the consideration of a case on the application of an economic entity concerning the compliance of a decision of the Commission or its particular provisions directly affecting the rights and legitimate interests of the economic entity in the area of business and other economic activities with the Treaty and/or international treaties within the Union, if such a decision or its certain provisions entailed a violation of any rights and legitimate interests of the economic entity granted by the Treaty and/or international treaties within the Union, the Chamber of the Court shall deliver one of the following judgments;

1) on declaring of the decision of the Commission or its certain provisions in line with the Treaty and/or international treaties within the Union;

2) on declaring of the decision of the Commission or its certain provisions not in line with the Treaty and/or international treaties within the Union.

109. After the consideration of a case on the application of an economic entity concerning challenging of actions (failure to act) of the Commission, the Chamber of the Court shall deliver one of the following judgments:

1) on declaring of the challenged actions (failure to act) of the Commission not in line with the Treaty and/or international treaties within the Union and violating the rights and legitimate interests of the economic entity in the area of business and other economic activities;

2) on declaring of the challenged actions (failure to act) of the Commission in line with to the Treaty and/or international treaties within the Union and not violating any rights and legitimate interests of the economic entity in the area of business and other economic activities.

110. After the consideration of a case on the appeal of an economic entity against a judgment of the Chamber of the Court, the Appeals Chamber of the Court shall deliver one of the following judgments:

1) on leaving the judgment of the Chamber of the Court without amendment and rejecting the appeal;

2) on overturning, entirely or in part, or amending the judgment of the Chamber of the Court, delivering of a new judgment on the case in accordance with paragraphs 108 and 109 of this Statute.

111. A decision of the Commission or its particular provisions declared by the Court not in line with the Treaty and/or international treaties within the Union shall continue to be valid after the entry into force of the corresponding judgment of the Court until the execution of the said judgment by the Commission.

A decision of the Commission or its particular provisions declared by the Court not in line with the Treaty and/or international treaties within the Union, shall be adjusted to comply with the Treaty and/or international treaties within the Union by the Commission within a reasonable time-limit not exceeding 60 calendar days from the date of entry into force of the judgment of the Court, unless a different term is established in the decision of the Court.

The Court may specify in its judgment, with regard to the provisions of the Treaty and/or international treaties within the Union, a different time-limit for bringing the Commission's decision in compliance with the Treaty and/or international treaties within the Union.

112. Upon a duly substantiated petition of a party to the dispute, a decision of the Commission or its particular provisions declared by the Court not in line with the Treaty and/or international treaties within the Union may be suspended by a judgment of the Court from the date of entry into force of such a judgment of the Court.

113. The Commission shall execute the effective judgment of the Court, where the challenged actions (failure to act) of the Commission were

declared not in line with the Treaty and/or international treaties within the Union and violating the rights and legitimate interests of economic entities granted by the Treaty and/or international treaties within the Union, within a reasonable time-limit not exceeding 60 calendar days from the date of entry into force of the respective judgment of the Court, unless a different time-limit is specified in the judgment of the Court.

114. In case of failure to execute the judgment of the Court, the Member State shall be entitled to apply to the Supreme Eurasian Economic Council for measures required for its execution.

115. Should the Commission fail to execute the judgment of the Court, the economic entity may file a petition to the Court for taking measures required for its execution.

Upon a petition of the economic entity, the Court shall, within 15 calendar days from the date of its receipt, apply to the Supreme Eurasian Economic Council for a decision on the indicated matter.

116. Acts of the Court shall be published in the official bulletin of the Court and on the official website of the Court.

117. A judgment of the Court may be clarified without amending its essence or content only by the Court itself upon a duly substantiated petition filed by the parties to the case.

Chapter VIII. Final provisions

118. Judges, officials and employees of the Court, persons participating in a case and experts from specialised groups shall not disclose or transmit to third parties any information acquired in the course of the proceedings on the case without the prior written consent of the person who provided such information.

119. The manner for the use and protection of restricted information shall be specified in the Rules of Procedure.

120. The Court shall submit to the Supreme Eurasian Economic Council annual reports on its activities.

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