

Regulation No. 1/96/CM on the Rules of Procedure of the WAEMU Court of Justice

The Council of Ministers of the West African Economic and Monetary Union (WAEMU)

HAVING REGARD to the Treaty of 10 January 1994 creating the West African Economic and Monetary Union ;

HAVING REGARD TO Additional Protocol No. I relating to the supervisory bodies of the West African Economic and Monetary Union (WAEMU) ;

HAVING REGARD TO Additional Act No. 1/95 of 27 January 1995 appointing the members of the Court of Justice;

HAVING REGARD TO Additional Act n°10/96 of 10 May 1996 of the Conference of Heads of State and Government on the Statutes of the WAEMU Court of Justice;

On a proposal from the Court of Justice ;

TITLE I: DEFINITIONS

For the purposes of these Regulations and unless the context otherwise requires:

- a) - The term "Treaty" refers to the Treaty of 10 January 1994 creating the West African Economic and Monetary Union;
- b) - Protocol No. 1" means Additional Protocol No. 1 relating to the supervisory bodies of the West African Economic and Monetary Union ;
- c) - The term "States" refers to the Member States of the West African Economic and Monetary Union;
- d) - The term "Council" refers to the Council of Ministers of the West African Economic and Monetary Union;
- e) - The term "Commission" refers to the Commission of the West African Economic and Monetary Union;
- f) - The expression "Observations of the Commission" means the observations of the Commission provided for in Article 7 of Protocol No. 1;
- g) - The term "Court" refers to the Court of Justice of the West African Economic and Monetary Union.

TITLE II: ORGANISATION, JURISDICTION AND OPERATION OF THE COURT

CHAPTER I: ORGANISATION OF THE COURT SECTION I: MEMBERS OF THE COURT

Article 1: The Court shall consist of seven members appointed for a renewable term of six years by the Conference of Heads of State and Government.

The term of office of the members of the Court of Justice begins when they are sworn in.

Article 2: Before taking office, the members of the Court must take an oath in open court in the following terms:

"I solemnly swear that I will perform my duties as a member of the Court of Justice of the West African Economic and Monetary Union with complete independence and impartiality, in a dignified and loyal manner, and that I will maintain the secrecy of my deliberations".

Minutes are taken.

Article 3: Members of the Court may not hold any political, administrative or judicial office or engage in any other occupation incompatible with the independence and impartiality required of them.

This may be waived by decision of the Court, with the member concerned not taking part in the deliberations.

In case of doubt, the Court shall give its ruling at the request of a Member State or a Union body.

Article 4: The members of the Court rank after the President according to seniority in office.

Where seniority is equal, age determines rank.

Retiring members who are reappointed retain their previous rank.

Article 5: Apart from regular renewal, replacement and death, the duties of a member of the Court shall end individually by resignation.

In the event of the resignation of a member of the Court, the letter of resignation shall be addressed to the President of the Court for transmission to the President of the Council; this latter notification shall cause the seat to become vacant; however, the resigning member shall continue to sit until his successor takes up his duties, if his presence does not impair the proper functioning of the Court.

Article 6: The members of the Court shall appoint the President of the Court from among their number for a term of three (3) years.

The Chairman continues in office until his successor is appointed.

Article 7: The President directs the work and administration of the Court and presides over its hearings.

It appoints a Judge-Rapporteur for each case.

Article 8: If the President of the Court is absent or unable to act, the most senior judge shall deputise in the order set out in Article 4 of these Rules.

In the event of a vacancy in the presidency, the judge designated in the previous paragraph shall act as interim President until a new President is elected.

Article 9: The Advocates General shall be responsible for presenting publicly, impartially and independently, reasoned submissions on cases submitted to the Court, with a view to assisting the Court in the performance of its task.

The most senior Advocate General within the meaning of Article 4 shall have the title of 1st Advocate General. He shall decide on the allocation of cases to the Advocates General and shall make the necessary arrangements in the event that an Advocate General is absent or unable to act.

SECTION II: THE COURT REGISTRY AND COURT STAFF

Article 10: The Court shall appoint the Registrar. Applications shall be accompanied by full details of the candidates' age, nationality, academic qualifications, current and previous occupations and judicial experience.

The Registrar shall be appointed for a period of six (6) years, renewable once. Before taking up his duties, the Registrar shall take an oath before the Court in the following terms:

"I swear that I will perform my duties faithfully, discreetly and conscientiously, and that I will not divulge any secrets that have come to my knowledge in the course of or in connection with the performance of my duties".

Minutes are taken.

Article 11: Within the limits of the posts authorised by the budget of the Union, the Court may appoint one or more Deputy Registrars to assist the Registrar and placed under his hierarchical authority.

Before taking up their duties, the Deputy Registrars take an oath in the same terms as the Registrar. Minutes are taken.

Article 12: The President shall provide the Registrar with the staff and equipment necessary for the normal operation of the Court.

Article 13: Under the authority of the Chairman, the Registrar shall be responsible for the receipt, transmission, service and safekeeping of all documents required for the application of these Rules.

The Registrar assists the Court, the President and the judges in all the acts of their ministry. The Registrar has custody of the seals. He is responsible for the archives and takes care of the Court's publications. He announces the date and time set for hearings.

General instructions prepared by the Registrar and adopted by the President shall govern the operation of the Registry.

CHAPTER II: JURISDICTION OF THE COURT

Article 14: The Court of Justice shall ensure that the law is observed in the interpretation and application of the Treaty.

Article 15: The Court shall have jurisdiction:

1) - Infringement proceedings

The Commission is responsible for bringing infringement proceedings. If it considers that a Member State has failed to

has not complied with Community obligations, it shall send a reasoned opinion to that State, after giving it the opportunity to submit its observations.

If the State in question does not comply with this opinion within the time limit set by the Commission, the latter may refer the matter to the Court of Justice.
This procedure is also open to each Member State, after prior referral to the Commission.

The Commission must issue a reasoned opinion after giving the State concerned the opportunity to submit its observations. If the Commission has not issued an opinion within three months of the request, the case may be referred directly to the Court.

If the Court considers the action to be well founded, it finds that there has been a failure to fulfil obligations. All the organs of the Member State concerned are under an obligation to ensure, within the areas of their respective powers, compliance with the judgment.

In the event of failure by the Member State whose failure has been established, the Commission may refer the matter to the Conference of Heads of State and Government so that it may invite the defaulting Member State to comply, without prejudice to the penalties provided for in Article 74 of the Treaty on European Union relating to the exercise of multilateral surveillance.

2) - Legal review

Actions for assessment of legality are brought against binding Community acts: regulations, directives and individual decisions taken by the Council and the Commission.

This right of appeal shall be open to any natural or legal person against any act of a Union body adversely affecting that person.

The Member States, the Council and the Commission may bring actions for assessment of legality against regulations, directives and decisions.

The appeal for assessment of legality must be lodged within a period of two (02) months, starting from the publication of the act, its notification to the applicant or, failing that, the day on which the applicant became aware of it.

3) - Full competition litigation

The Court may be called upon to rule on decisions and sanctions that the Commission may have taken against undertakings that have not respected the principle of free competition or that have abused their dominant position on the EU market. It may amend or annul such decisions, reduce or increase the amount of fines and periodic penalty payments, make findings and impose obligations on undertakings.

4) - Union staff appeals

The Court shall rule on any dispute between the bodies of the Union and their servants under the conditions laid down in the Staff Regulations.

5) - Liability claims

The Court of Justice alone shall have jurisdiction to declare non-contractual liability engaged and to order the Union to pay compensation for damage caused either by material acts or by legislative acts of the Union bodies or its servants.

in the course of or in connection with the performance of their duties.

The Union's servants may only be held liable for damage caused in the course of or in connection with the performance of their duties. However, such staff may be required to make good, in whole or in part, any damage suffered by the Union as a result of personal negligence on their part in the course of or in connection with the performance of their duties.

Liability claims against the Union or against third parties or its servants shall be barred after three (3) years from the date on which the damage occurred. Where there is more than one case of fault or where a third party is liable, the matter may be referred to the national courts. In such a case, the matter may only be referred to the Court after all remedies before the national courts have been exhausted.

6) - Preliminary rulings

Where a question of interpretation of the Union Treaty, of the legality and interpretation of acts adopted by bodies of the Union, or of the legality and interpretation of the statutes of bodies set up by an act of the Council arises before any court or tribunal of a Member State against whose decisions there is a right of appeal, that court or tribunal may, if it considers it necessary, refer questions to the Court for a preliminary ruling.

Where a question of the same nature is raised before a national court or tribunal of final instance, that court or tribunal is obliged to refer the matter to the Court.

7) - Opinions and recommendations

The Court may issue opinions and recommendations on any draft text submitted by the Commission.

The Council of Ministers, the Commission or a Member State may seek the opinion of the Court on the compatibility of an existing international agreement, or one under negotiation, with the provisions of the WAEMU Treaty.

When a matter is referred to it by the Commission, the Council of Ministers, the Conference of Heads of State and Government or a Member State, the Court may give an opinion on any difficulty encountered in applying or interpreting acts of Community law.

The question on which the advisory opinion is sought shall be presented to the Court by means of a written request specifying the point on which the Court's opinion is sought. It shall be accompanied by any document that may help to elucidate the question.

8) - Arbitration clauses

The Court also acts as an arbitrator by virtue of a compromise drawn up by the Member States when a dispute arises over the interpretation or application of the Treaty.

The States Parties to the compromise shall specify the procedure applicable to their dispute.

CHAPTER III: OPERATION OF THE COURT

Article 16: The seat of the Court shall be in Ouagadougou. However, the Court may, if necessary, sit and exercise its functions in any other place in the territory where the seat is located or in that of one of the Member States of the West African Economic and Monetary Union.

Article 17: A quorum of three (3) judges shall be required for a plenary meeting; failing this, the Chairman shall adjourn the meeting.

Article 18: Hearings shall be public. However, the Court may decide otherwise of its own motion or at the request of one of the parties on serious grounds.

Article 19: The deliberations of the Court shall be and remain secret. Each member of the Court present at the deliberations shall express his opinion.

Article 20: Decisions of the Court shall be taken by a majority of the judges present.

Votes are cast in the reverse order to that set out in Article 4 of these rules.

TITLE III: PROCEEDINGS BEFORE THE COURT

CHAPTER 1: GENERAL PROVISIONS

Article 21: The official working language of the Court shall be French. However, the Conference of Heads of State may add other official languages.

Article 22: States, as well as organs of the Union, shall be represented before the Court by an agent appointed for each case; States or organs of WAEMU may appoint a Lawyer registered at one of the Bars of Member States either to assist the agent appointed or to represent him.

The other parties must be represented by a lawyer registered at a bar in one of the Member States.

Article 23: The agents and lawyers of the parties shall enjoy before the Court the rights and guarantees necessary for the independent exercise of their functions, under the conditions laid down in these Rules.

Article 24: With regard to lawyers who appear before it, the Court shall have the powers normally granted to the Courts and Tribunals of the country in which the Court has its seat.

Article 25: If, for a communication, notification or summons intended for persons other than the agents of the States and bodies of the Union, the Court considers that the assistance of the Member State in whose territory the communication, notification or summons is to have effect is required, it may apply directly to the judicial authorities to obtain the necessary facilities.

The same applies where the Court wishes to make or arrange to make on-the-spot observations or take evidence, or where it invites persons residing in or passing through the territory to appear.

CHAPTER II: WRITTEN PROCEDURE SECTION I:

COMMENCEMENT OF PROCEEDINGS

Article 26: Cases shall be referred to the Court either by a petition or by notification of the compromise addressed to the President.

The application must contain the full name and elected domicile of the applicant, where applicable, the name and address of the agent and the lawyer appointed, the capacity of the signatory, the name of the defendant, the subject matter of the dispute, the submissions and a summary of the facts and arguments.

In addition to the original, the application shall be drawn up in as many certified copies as there are parties to the proceedings.

It must be accompanied, where appropriate, by the document whose annulment is sought.

The Registrar shall transmit a certified copy of the application to the defendant as soon as possible; upon receipt, the defendant shall inform the Court of the full names of his agent or lawyer.

The requesting party, with the exception of Member States and organs of WAEMU, is required to deposit at the Registry of the Court, against receipt, a security, the amount of which is fixed by deliberation of the Court.

If the application is rejected, the security shall be forfeited to UEMOA.

Article 27: Where proceedings are brought before the Court by notification of a special agreement in accordance with Article 17 of Protocol No. 1, such notification may be made jointly by the Member States or by one or more of them. If the notification is not made jointly, a certified copy thereof shall be transmitted forthwith by the Registrar to the other State.

The notification is always accompanied by the original or a certified copy of the arbitration agreement. The notification shall also indicate the precise subject matter of the dispute and the parties, insofar as this is not already clear from the arbitration agreement.

The party notifying a compromise agreement shall indicate the full names of its agent and lawyer.

Article 28: All acts done on behalf of Member States after proceedings have been instituted shall be done by agents or lawyers. They shall have an address for service at which all communications relating to the case shall be sent.

SECTION 2: CONDUCT OF THE PROCEEDINGS

Article 29: The application shall be served at the defendant's elected domicile by the Registrar.

Within one month of service of the application, the defendant submits a statement of defence.

This statement of defence contains the full name and address of the defendant, the arguments of fact and law put forward, the defendant's submissions and the evidence.

This time limit may be extended by order of the President at the reasoned request of the defendant.

Article 30: The application and the statement of defence may be supplemented by a reply from the applicant and by a rejoinder from the defendant.

The Chairman sets the dates on which these procedural documents are produced.

Article 31: The parties may still offer evidence in the reply and rejoinder in support of their arguments. They shall give reasons for any delay in presenting their evidence.

If, in the course of the proceedings, a party raises a new plea, the President may, after the expiry of the normal time limits for the proceedings, on a report from the Judge-Rapporteur, the avocat

in general, of course, set a time limit for the other party to respond to the plea.
The decision on the admissibility of the plea is reserved for the final judgment.

Article 32: After hearing the parties and the Advocate General, the President may at any time order that several cases involving the same subject matter and opposing the same parties be joined on the grounds that they are related. He may separate them again if necessary.

Article 33: Without prejudice to the special provisions laid down in these Rules, and save in specific cases where the Court, on the report of the Judge-Rapporteur, after hearing the Advocate General and with the express agreement of the parties, decides otherwise, proceedings before the Court shall also include an oral phase.

CHAPTER III: ORAL PROCEEDINGS

Article 34: Subject to the priority of the decisions provided for in paragraph 3 of this Article, the Court shall hear the cases referred to it in the order in which their investigation is completed. The order in which a number of cases are dealt with at the same time is determined by the date on which they are entered in the register of applications.
The Chairman may, in view of the particular circumstances, decide to give priority to a case.

The President may, after hearing the parties and the Advocate General, in view of the particular circumstances, either of his own motion or at the request of a party, decide to adjourn a case to a later date.

Article 35: The hearing shall be opened and conducted by the Chairman after presentation of the report by the designated judge. The President is responsible for the conduct of the hearing.
The decision to hold the hearing in camera includes a defence of publication of the proceedings.

Article 36: The Chairman may, during the hearing, put questions to the agents or lawyers of the parties.
Each judge, the Advocate General, the parties and their representatives have the same right.

Article 37: The parties may only plead through their agent or lawyer.

Article 38: The Advocate General shall deliver his opinion before the close of the oral procedure.
Following the Opinion of the Advocate General, the President shall declare the oral procedure closed.

Article 39: The Court may, after hearing the Advocate General, order an investigative measure at any time. It may instruct the Judge-Rapporteur to carry out this measure.

Article 40: The Court may, in a ruling before it, request the parties to produce any documents and to provide any information that it considers necessary. In the event of refusal, the Court shall take note of the refusal.

Article 41: The Court may also request from Member States and institutions which are not parties to the proceedings any information it considers necessary for the purposes of the proceedings.

Article 42: The Court may also order and entrust an expert opinion to any person, body, organ, commission or office of its choice, in accordance with the conditions laid down by law.

the rules of procedure.

Article 43: Witnesses may be heard under the conditions laid down in the Rules of Procedure.

Article 44: The Court may also order that a witness or expert be heard by the judicial authority of his place of residence.
the Court shall bear the costs, subject to the parties bearing them where appropriate.

Article 45: The Court may, after hearing the Advocate General, either of its own motion or at the request of one of the parties, order that the oral proceedings be reopened.

Article 46: The Registrar shall draw up minutes of each hearing. These minutes shall be signed by the President and the Registrar. They shall constitute an authentic instrument.
The parties may inspect the minutes at the Registry and obtain a copy at their own expense.

Article 47: The Court shall order the verification of certain facts by witnesses, either of its own motion or at the request of the parties, after hearing the Advocate General.

Witnesses are called by the Court, either of its own motion or at the request of the parties or the Advocate General.

The summons of witnesses whose attendance is deemed necessary shall contain the surnames, forenames, capacity and addresses of the witnesses, a statement of the facts on which the witnesses may be heard, a statement of the arrangements made by the Court for the reimbursement of expenses incurred by the witnesses and the penalties applicable to defaulting witnesses.

Article 48: After verifying his identity and before giving evidence, every witness shall take the following oath:

"I swear on my honour and good conscience to tell the truth, the whole truth and nothing but the truth".

The Court may, after hearing the parties, exempt the witness from taking the oath. In this case, the witness is heard for information purposes only.

Article 49: The Court may order an expert report. The decision appointing the expert shall specify his mission and set a time limit for the submission of his report.

The expert is placed under the control of the judge-rapporteur, who may attend the expert appraisal operations and is kept informed of the progress of the mission entrusted to the expert.

The Court may request the parties or one of them to deposit an advance to cover the costs of the expertise.

Article 50 : Before carrying out his mission, the expert shall take an oath, if necessary in writing, in the following terms:

"I solemnly declare that I will perform my duties as expert honourably, conscientiously and impartially".

Article 51: If one of the parties objects to a witness or expert on the grounds of incapacity, unworthiness or any other cause, or if a witness or expert refuses to give evidence, to take an oath or to make a solemn declaration in lieu thereof, the Court shall give a ruling.

Article 52: Witnesses and experts summoned or appointed by the Court shall be entitled to reimbursement of their travel and subsistence expenses. They may be granted an advance

on these costs by the Court's cashier.

Experts are entitled to fees for their work. In the event of a dispute, these fees are assessed by the Chairman on a motion.

Article 53: The Court may, at the request of the parties or of its own motion, issue letters rogatory for the examination of witnesses or experts.

Article 54 : The parties may inspect the minutes and the expert's report at the court registry without having to leave their premises and may obtain a copy at their own expense.

CHAPTER IV: JUDGMENTS

Article 55 : The judgment shall contain an indication that it is delivered by the Court, the date of delivery, the surnames and forenames of the President and of the Judges who took part in it, of the Advocate General and of the Registrar, the names of the parties, the surnames and forenames of the agents or lawyers of the parties, the submissions of the parties, the mention of the presentation of the report, the mention that the Advocate General was heard, the statement of facts, the reasons, the operative part, including the decision relating to costs. Article 56: The judgment shall be delivered in open court, the parties having been duly summoned.

A copy of the judgment, signed by the Chairman and the Registrar, is filed at the Court Office and a certified copy is served on each of the parties.

The date on which the judgment was delivered shall be recorded by the court clerk on the original of the judgment. Article 57: The judgment is binding from the day it is delivered.

Article 58: Without prejudice to the provisions relating to the interpretation of judgments, clerical, arithmetical or material errors may be rectified by the Court, either of its own motion or at the request of a party.

The Court decides in chambers, after hearing the Advocate General.

Article 59: If the Court has omitted to give a ruling either on an isolated aspect of the claim or on the costs, the party intending to rely on this shall bring the matter before the Court by way of application within one month of service of the judgment.

The application is served on the other party and the Chairman sets a time limit for it to submit its written observations.

After those observations have been submitted, the Court, after hearing the Advocate General, shall rule on the admissibility and merits of the application.

CHAPTER V: COSTS

Article 60: A ruling on costs shall be made in the judgment or order that brings the proceedings to

an end. Any unsuccessful party shall be ordered to pay the costs.

If several parties are unsuccessful, the Court shall decide how the costs are to be shared.

The Court may apportion the costs or order that each party bear its own costs if the parties are unsuccessful on one or more heads of claim, or on exceptional grounds.

The Court may order a party, even a winning party, to reimburse the other party for the costs of the litigation.

which it has caused to be incurred and which the Court recognises as frustrating or vexatious. The Member States and the bodies intervening in the proceedings shall bear their own costs.

The Court may decide that an intervening party other than that referred to in the preceding paragraph shall bear its own costs.

The withdrawing party shall be ordered to pay the costs if the other party so agrees. However, at the request of the withdrawing party, the costs shall be borne by the other party, if this appears justified by virtue of the latter's conduct.

If the parties agree on costs, the case shall be decided in accordance with the agreement. In the absence of an order as to costs, each party shall bear its own costs. If there is no

need to adjudicate, the Court shall settle the costs.

Article 61: In disputes between the Union and its servants, the costs incurred by the bodies of the Union shall be borne by them, without prejudice to the provisions of Article 60, paragraph 5, of these Rules.

Article 62 : The costs which a party has had to incur for the purposes of enforcement shall be reimbursed by the other party in accordance with the tariff in force in the State where enforcement takes place.

Article 63: Proceedings before the Court shall be free of charge, subject to the following provisions:

- a) - if the Court has incurred costs which could have been avoided, it may, after hearing the Advocate General, order the party which caused them to be reimbursed.
- b) - the costs of any copying and translation work carried out at the request of a party shall be reimbursed by that party.

Article 64: Without prejudice to the provisions of the preceding article, the following shall be deemed to be recoverable costs:

- a) - sums due to witnesses and experts under Article 53 of these Rules ;
- b) - the essential costs incurred by the parties for the purposes of the proceedings, in particular travel and subsistence expenses and the remuneration of an agent or lawyer.

In the event of non-payment of the said sums, the costs shall be taxed by the President on application.

CHAPTER VI: LEGAL AID

Article 65: If a party is unable to meet all or part of the costs of the proceedings, it may at any time apply to the Court for legal aid.

The application shall be accompanied by all information establishing that the applicant is in urgent need, in particular a certificate from the competent authority justifying his indigence. If the application is submitted prior to the action that the applicant intends to bring, it shall briefly state the purpose of the action.

The application does not require the assistance of a lawyer.

The Chairman appoints a rapporteur. The Court, in General Meeting, decides.

The Court may at any time, either of its own motion or on application, withdraw the benefit of assistance.

if the conditions under which it was admitted change during the course of the proceedings.

If legal aid is granted, the Court's fund shall advance the costs. The decision as to costs may order that sums paid by way of legal aid be set off in favour of the Court's fund.

These sums are recovered by the Registrar from the party who has been ordered to pay them.

CHAPTER VII: AMICABLE SETTLEMENT AND WITHDRAWAL

Article 66: If, before the Court has given its ruling, the parties agree on the solution to be given to the dispute and inform the Court that they renounce all claims, the President shall order the removal of the case from the Register and shall give a ruling without prejudice to any damages in accordance with the provisions of Article 60, where appropriate in the light of the proposals made by the parties.

Article 67: If the applicant informs the Court in writing that he or she intends to discontinue the proceedings, the President shall order the case to be removed from the register and shall make a decision as to costs.

CHAPTER VIII: MEANINGS

Article 68: Service of the documents provided for in these Rules shall be effected by the Registrar at the address for service of the addressee, either by sending a copy of the document to be served by registered post, with acknowledgement of receipt, or by delivering the copy in return for a receipt.

Copies of the original to be served shall be drawn up and certified by the Registrar.

CHAPTER XI: TIME LIMITS

Article 69: The procedural time limits provided for in the Treaty of the West African Economic and Monetary Union, the Additional Protocols, the Statutes of the Court and these Rules shall be calculated as follows:

- a) - if a period expressed in days, weeks, months or years is to be counted from the moment when an event occurs or an act is carried out, the day during which the event occurs or the act is carried out is not counted in the period.
- b) - a period expressed in weeks, months or years shall end with the expiry of the day which in the last week, month or year bears the same name or number as the day during which the event occurred or the act was performed from which the period is counted. If, in a period expressed in months or years, the day determined for its expiry does not occur in the last month, the period ends at the expiry of the last day of that month.
- c) - when a period is expressed in months and days, first the whole months are taken into account, then the days;
- d) - deadlines include public holidays, Sundays and Saturdays;
- e) - time limits are not suspended during court holidays.

If the period ends on a Saturday, Sunday or public holiday, the expiry date is postponed to the end of the next working day.

The procedural time limits, due to distance, are established by a decision of the Court published in the Official Journal of the Union.

Article 70: The time limits set under these regulations may be extended by the authority that set them.

The Chairman may delegate his powers to the Registrar to set certain time limits that he is responsible for setting pursuant to these Rules or to grant extensions.

CHAPTER X: SUSPENSION OF PROCEEDINGS

Article 71: In exceptional circumstances, the proceedings may be suspended by order of the Court, after hearing the Advocate General.

The resumption of the proceedings may be ordered in the same manner. The parties shall be notified of the judgments referred to in this paragraph.

During the period of the stay, no procedural time limit shall expire for the parties. Where the stay has not been terminated by a judgment, the stay shall terminate on the date indicated in the judgment resuming the proceedings or, in the absence of such indication, on the date of that judgment.

From the date of resumption, the procedural deadlines start running again from the beginning.

TITLE IV: SPECIAL PROCEDURES

CHAPTER I: STAY OF EXECUTION AND OTHER INTERIM MEASURES

Article 72: Any application for a stay of execution of an act of an institution shall be admissible only if the applicant has challenged that act in an action before the Court.

The request referred to in the preceding paragraph shall specify the subject-matter of the dispute, the circumstances establishing the urgency, and the pleas of fact and law justifying prima facie the grant of the interim measure which it seeks.

The request is served on the other party, which is given a time limit by the Chairman for the presentation of its written or oral observations. Service of the application, as approved by the Chairman, suspends the execution of the act in question, even if it has already begun.

The Chairman may grant the request even before the other party has presented its observations. This measure may subsequently be amended or revoked, even automatically.

Article 73: The Chairman shall rule on the application by means of a reasoned order that is not subject to appeal. This order, together with a security in an amount set by the President, shall be served immediately on the parties.

An order that prescribes only provisional measures does not prejudice the merits of the case.

Article 74: At the request of a party, the order may at any time be modified or revoked due to a change in circumstances.

Article 75: The rejection of an application for an interim measure shall not prevent the party who submitted it from submitting another application based on new facts.

Article 76: An application for a stay of enforcement of a decision of the Court given by default or subject to third-party proceedings or to an act of another organ of the Union shall be governed by the provisions of this Chapter.

CHAPTER II: PROCEDURAL INCIDENTS

Article 77: If a party requests that the Court rule on a plea or incident without entering into the debate on the merits, it shall submit its request in a separate document.

The application shall contain a statement of the grounds of fact and law on which it is based, the form of order sought and, in an annex, the documents relied on in support.

As soon as the document introducing the claim has been submitted, the Chairman shall set a time limit for the other party to submit its pleas in law and submissions in writing. Unless the Court decides otherwise, the rest of the proceedings on the application will be oral.

The Court, after hearing the Advocate General, shall rule on the application or join it to the merits. If the Court rejects the application or joins it to the merits, the President sets new time limits for the continuation of the proceedings.

Article 78: Where the Court of Justice manifestly lacks jurisdiction to hear and determine an application or where the application is manifestly inadmissible, the Court of Justice, after hearing the Advocate General, may give judgment without further formality.

The Court shall examine of its own motion the grounds of inadmissibility on grounds of public policy; it shall give its ruling in accordance with the conditions laid down in Article 76 of these Rules.

CHAPTER III: INTERVENTION

Article 79: The application to intervene shall be submitted at the latest before the close of the written procedure.

An application to intervene shall state the subject-matter of the case, the principal parties to the proceedings, the full names and permanent address of the intervener, the intervener's address for service at the place where the Court has its seat, the submissions in support of which he seeks to intervene and, in the case of applications to intervene other than those of Member States or bodies, a statement of the reasons justifying the intervener's interest in the resolution of the dispute.

The parties are notified of the application to intervene.

The Chairman invites the parties to present their written or oral observations before ruling on the application to intervene.

If the Chairman admits the intervention, the intervener shall be served with all the procedural documents served on the parties.

The intervener accepts the dispute as it stands at the time of his intervention.

The Chairman shall fix the time limit within which the intervener may submit a statement in intervention. The statement in intervention shall contain the intervener's submissions in support or rejection, in whole or in part, of the submissions of one of the parties, the pleas in law and arguments relied upon and any offers of evidence.

After the statement in intervention has been lodged, the Chairman shall, if appropriate, set a time limit within which the parties may respond.

CHAPTER IV: DEFAULT JUDGMENTS AND OPPOSITIONS

Article 80: If the defendant, who has been duly summoned, fails to respond to the application in the prescribed form and time, the applicant may request the Court to award him his claims. This request is served on the defendant. The Chairman sets the date for the opening of the oral proceedings.

Before giving judgment by default, the Court, after hearing the Advocate General, shall examine the admissibility of the application and ascertain whether the formalities have been duly completed and whether the applicant's submissions appear to be well founded. It may order measures of inquiry.

The judgment rendered by default is enforceable. However, the Court may suspend enforcement until it has ruled on the opposition or make enforcement subject to the provision of security, the amount and terms of which shall be fixed having regard to the circumstances; such security shall be released in the absence of opposition or in the event of rejection.

Default judgments may be appealed.

The objection must be lodged within one month of service of the judgment.

After the objection has been served, the Chairman sets a time limit for the other party to submit its written observations.

The Court shall give its decision in an unopposed judgment.

The original of this judgment is appended to the original of the default judgment. A note of the judgment delivered in opposition is made in the margin of the original of the default judgment.

CHAPTER V: EXTRAORDINARY REMEDIES SECTION I: THIRD-

PARTY PROCEEDINGS

Article 81: The provisions of Articles 26 and 27 of these Rules shall apply to the application for third-party proceedings:

- a) - Specify the judgment under appeal;
- b) - state the objections made to the judgment by the third party ;
- c) - state the reasons why the opposing third party was unable to participate in the main proceedings. The application is made against all parties to the main dispute.

If the judgment has been published in the Official Journal of the Union, the application shall be submitted within two (2) months of publication.

A stay of execution of the contested judgment may be ordered at the request of the third party opponent. The judgment under appeal shall be modified to the extent that the third-party proceedings are upheld.

The original of the judgment delivered on third-party proceedings shall be annexed to the original of the contested judgment. A note of the judgment handed down on third-party proceedings shall be made in the margin of the original of the contested judgment.

SECTION 2: REVISION

Article 82: An application for review shall be made no later than three (3) months from the day on which the applicant became aware of the fact on which the application for review is based.

Article 83: The provisions of Articles 26 and 27 of these Rules shall apply to an application for revision; the application must also specify the judgment under review, state the points on which the judgment is challenged, set out the facts on which the application is based and state the evidence adduced to show that there are facts justifying the revision and to establish that the time limit laid down in the preceding Article has been observed.

The application for review shall be made against all the parties to the judgment whose review is sought.

Article 84: Without prejudice to the merits of the case, the Court shall, after hearing the Advocate General and having regard to the written observations of the parties, give judgment in chambers on the admissibility of the application.

If the Court declares the application admissible, it shall proceed to consider the substance of the case and shall give judgment in accordance with the provisions of these Rules.
The original of the revising judgment is annexed to the original of the revised judgment. Mention of the revision judgment is made in the margin of the revised judgment.

CHAPTER VI VI: INTERPRETATION OF JUDGMENTS

Article 85: The request for interpretation shall be submitted in accordance with the provisions of Articles 26 and 27 of these Rules. It shall also specify

- a) - the judgment referred to ;
- b) - the points of the judgment whose interpretation is sought .

it shall be made against all the parties to that judgment.

The Court shall give judgment after giving the parties an opportunity to submit their observations and after hearing the Advocate General.

The original of the interpretative judgment shall be annexed to the original of the judgment interpreted. A reference to the interpreting judgment shall be made in the margin of the judgment interpreted.

CHAPTER VII: REFERENCES FOR PRELIMINARY RULINGS AND OTHER PROCEDURES RELATING TO INTERPRETATION

Article 86: The provisions of this Regulation shall apply to references for preliminary rulings, subject to the adjustments required by their nature.

The decisions of national courts are communicated to the Member States in the original version. As regards the representation and appearance of the parties to the main proceedings in proceedings for a preliminary ruling, the Court shall take account of the rules of procedure applicable before the national courts before which the case has been brought.

Where a question referred for a preliminary ruling is manifestly identical to a question on which the Court of Justice has already ruled, it may, after informing the national court or tribunal and after hearing any submissions from interested parties and the Advocate General, give judgment by way of reasoned order referring to the earlier judgment.

Without prejudice to the provisions of the preceding paragraph, the procedure before the Court in the event of a reference for a preliminary ruling shall also include an oral phase. However, the Court may, on a report from the Judge-Rapporteur, after informing the persons concerned that they have the right to submit statements of case or observations, and if none of them has applied to be heard making oral observations, and after hearing the Advocate General, decide otherwise.

It is for the national court to rule on the costs of the preliminary ruling proceedings.

TITLE V: FINAL PROVISIONS

Article 87: These Regulations shall be published in the Official Bulletin of the West African Economic and Monetary Union and shall enter into force upon publication.

Signed in Ouagadougou on 5 July 1996.

For the Council of Ministers; The
Chairman
N'GORAN NIAMIEN