

NORTH ATLANTIC TREATY ORGANIZATION
ORGANISATION DU TRAITÉ DE L'ATLANTIQUE NORD
ADMINISTRATIVE TRIBUNAL
TRIBUNAL ADMINISTRATIF

**PRACTICE DIRECTIONS
FOR THE PARTIES TO JUDICIAL
PROCEEDINGS BEFORE
THE NATO ADMINISTRATIVE TRIBUNAL**

North Atlantic Treaty Organization
B-1110 Brussels - Belgium

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INTRODUCTION

In accordance with the Rules of Procedure of the Administrative Tribunal (Rule 5(h) of Appendix 1 to Annex IX to the NATO Civilian Personnel Regulations), under the authority of the President, the Registrar of the Tribunal shall issue practice directions relating to the lodging of written pleadings and the preparation for and conduct of hearings.

These Directions are for information purposes only. They do not amend, and are subject to, the requirements of Annex IX of the NATO Civilian Personnel Regulations (CPR), the Tribunal's Rules of Procedure (ROP), and any directions given by the Tribunal in a particular case.

The purpose of these Practice Directions (hereinafter "Directions") is to assist the parties in understanding the procedures followed in proceedings before the NATO Administrative Tribunal (AT). By outlining in greater detail the conduct of the proceedings before the Tribunal, they give the parties and their representatives a better understanding of the provisions, in particular with regard to the preparation and submission of written documents and the conduct of hearings.

Compliance with these Directions contributes to smooth and efficient conduct of the proceedings, in the interests of all parties and the Tribunal.

DEFINITIONS

Appellant	A staff member or his/her legal successor, or a member of the retired NATO staff or his/her legal successor, who has lodged an appeal with the AT as prescribed in Article 6 of Annex IX to the CPR.
NATO body	Those civilian or military headquarters, agencies or other organizational units as described in paragraph B(v)(a) of the Preamble to the Civilian Personnel Regulations.
Head of NATO body (HONB)	The senior responsible officer of any NATO body which employs international civilian personnel.
NATO Civilian Personnel Regulations (CPR)	The Regulations applicable throughout the North Atlantic Treaty Organization that govern personnel administration in each NATO body for international civilian personnel, consultants and temporary (civilian) personnel.
President	The President of the Tribunal appointed by the Council pursuant to Article 6.1 of Annex IX to the CPR.
Registrar	The Registrar of the Tribunal designated under Article 6.4.1 of Annex IX to the CPR.
Respondent	The NATO body against which the appellant is lodging his/her appeal.
Rules of Procedure (ROP)	The AT Rules of Procedure established by the Tribunal in accordance with Article 6.2.4 of Annex IX.
Submission	A record submitted to the AT's attention constituting: an appeal or a reply (if submitted by the appellant), an answer or a rejoinder (if submitted by the respondent).

PRACTICE DIRECTION I – ON THE FILING AND MODALITIES OF SUBMISSIONS

Date of filing and time limits

1. In accordance with Rule 9 (paragraph 5), Rule 12 (paragraph 3), Rule 14 (paragraph 4), and Rule 15 (paragraph 4) of the ROP, the date of filing of an appeal, answer, reply or rejoinder shall be considered the first of the following dates:

- the date on which appellant has submitted an electronic copy of the appeal *[answer, reply or rejoinder, as appropriate]*, together with its complete enclosures, using the Tribunal's e-submission tool. A complete paper copy of the appeal *[answer, reply or rejoinder, as appropriate]* shall be dispatched by mail to the Tribunal no later than one week following submission on the portal;

or

- the date on which the Registrar has received an electronic copy of the appeal *[answer, reply or rejoinder, as appropriate]*, and its complete enclosures, at mailbox.tribunal@hq.nato.int. A complete paper copy of the appeal *[answer, reply or rejoinder, as appropriate]*, shall be dispatched by mail to the Tribunal no later than one week following submission of the electronic copy;

or

- the date on which the Registrar has received by mail one paper copy, and its complete enclosures, of the appeal *[answer, reply or rejoinder, as appropriate]*. However, a complete electronic version of the appeal *[answer, reply or rejoinder, as appropriate]* shall be either deposited using the e-submission tool or submitted by e-mail to the Registrar at mailbox.tribunal@hq.nato.int no later than one week following receipt of the paper copy.

2. The established time limits for the different submissions are set as follows:

- upon transmittal by the Registrar of an appeal to the respondent HONB, the HONB shall answer within 60 days of its receipt;
- upon transmittal by the Registrar of the HONB answer to the appellant, he/she may file a reply within 30 days of its receipt;
- upon transmittal by the Registrar of the appellant's reply, the respondent HONB may submit a rejoinder within 30 days of its receipt.

3. In exceptional cases and in accordance with Article 6.6.4 of Annex IX to the CPR, the Tribunal may depart from the applicable time limits.

4. Either party may request an expedited hearing on the basis of exceptional circumstances, in particular the need to avoid irreparable harm. Before deciding on the request, the President will take into account the view of the other party on the matter.

E-submission through the AT portal

5. If a party opts for e-submission through the password-protected AT portal, the statements of appeal, answer, reply and rejoinder and all supporting material (“submissions”) shall be prepared in accordance with the requirements of Rules 9, 12, 14 and 15 (as applicable) of the AT ROP.
6. Documents shall be submitted, within the prescribed time limits, in PDF.
7. The scanned documentation shall be of good, readable quality. Electronic files should not be submitted in compressed or archived form, and the size of each document must not exceed 20 MB. Documents digitally signed cannot be accepted.
8. Guidelines on the access and use of the password-protected AT portal are available on the AT website. Parties shall send any technical questions about e-submission to the Registrar.

Submission by e-mail

9. If a party opts for e-mail submission at the address mailbox.tribunal@hq.nato.int the statements of appeal, answer, reply and rejoinder and all supporting material (“submissions”) shall be prepared in accordance with the requirements of Rules 9, 12, 14 and 15 (as applicable) of the AT ROP.
10. Documents shall be submitted, within the prescribed time limits, in PDF.
11. The scanned documentation shall be of good, readable quality. Electronic files should not be submitted in compressed or archived form, and the size of each document must not exceed 20 MB. Documents digitally signed cannot be accepted.
12. Parties shall send any technical questions about e-submission to the Registrar.

Submission by mail

13. If a party opts for a submission by mail, the statements of appeal, answer, reply and rejoinder and all supporting material (“submissions”) shall be prepared in accordance with the requirements of Rules 9, 12, 14 and 15 (as applicable) of the AT ROP and shall be submitted by regular post (regular mail, registered mail or parcel delivery service) or internal NATO mail distribution, to reach the Registrar’s office within the prescribed time limits.

14. The postal address to use is the following:

NATO Headquarters
NATO Administrative Tribunal
Blvd Leopold III
B-1110 Brussels

15. If a person has access to NATO Headquarters, hand delivery, within the prescribed time limits, is possible by contacting the Registrar beforehand to make an appointment.

Communication between the Registrar and the parties

16. In the interest of smooth, expeditious administration of justice, communication between the Registrar and the parties will be primarily by e-mail. The e-mail address to be used is: mailbox.tribunal@hq.nato.int

17. The password-protected AT portal is the main tool for the distribution of submissions between the parties and the judges.

Formalities

18. Every submission shall be sent to the Registrar. The information to be included in the submissions and in the supporting evidence is listed under Rule 9 of the ROP and is, *mutatis mutandis*, applicable to all the subsequent submissions. In order to avoid misunderstandings, the parties, in their writings, should avoid where possible the use of symbols, signs or unspecified abbreviations and acronyms.

19. No NATO classified documentation shall be included in the submissions. The dispositions of Articles 6.7.2 and 6.7.5 of Annex IX to the CPR are applicable and the Registrar shall be contacted beforehand to liaise appropriately. The parties must furthermore take all necessary steps to ensure that the documentation provided is either a declassified version of a NATO document or a NATO Unclassified extract from it.

20. The original paper copy of the submission must not be bound or affixed together (i.e. no glue, staples or binders). Only one original copy shall be submitted to the Registrar's office.

21. Upon receipt and review of the submission, if it is determined that minor defects or omission are to be corrected, the Registrar duly informs the party concerned who shall comply with the instruction given (see *infra* a sample of a cover letter and main plea contents for an appeal submission).

22. The appellant can withdraw his/her appeal provided that such withdrawal is not subject to conditions. He/she shall inform in writing the Registrar (following the same modalities for any other submission as indicated above) as soon as possible so that the Tribunal does not spend time on the case unnecessarily.

Language

23. Submissions are accepted only if provided in one of the two official languages of the Organization, English or French. If a document is not in one of these languages, it is the parties' responsibility to provide an English or French version.

Categorization

24. Upon receipt of a submission, the Registrar will process the documentation. The document will bear:

- (a) the case number, which will be repeated in each subsequent submission;
- (b) the year in which the initial filing was made;
- (c) consecutive page numbering (for all submissions).

25. The submissions are to be identified as follows:

Appeal	Pièce A
Answer	Pièce B
Reply	Pièce C
Rejoinder	Pièce D

26. Written submissions by additional participants under Chapter III of the ROP are to be identified as follows:

Third Parties	TP
Office of the Legal Adviser	OLA
Interveners	INT
Council	Council
Amicus Curiae	Amicus

Pleas

27. In the interest of both parties and for the proper administration of justice, submissions should be as concise as possible, given the nature of the facts and the complexity of the issues raised. Accordingly, as a general rule, a submission (appeal and answer, not including the annexes) shall not exceed 20 pages (A4 format, Arial or

equivalent font, font size 12, single line spacing, 2.5 cm margins – or 30 pages using 1.5 line spacing). Other procedural documents (reply and rejoinder) shall not exceed 10 single-spaced pages (or 15 pages using 1.5 line spacing, following the same character and font requirements as above).

Annexes

28. Regarding the annexes, parties should limit their selection of documents to those relevant to the proceedings. If lengthy documents are required, parties are asked to submit only the relevant extracts and to identify clearly the document from which the extract is taken. Information to which the AT has access (e.g. AT judgments) should not be reproduced, and only the relevant extracts should be quoted in the text. After either party has introduced a document as an annex, it should not be included again in subsequent submissions; instead, each party should refer to the document in its original location.

29. The following rules must be followed for the annexes:

- the annexes must be preceded by a table of contents indicating the annex number, title, nature and date (see *infra* an example of table)
- the annexes and the topic to which they refer to must be clearly indicated in the submissions; and
- the annexes must be clearly legible.

Additional participants

30. Submission modalities for additional participants (Rule 18-22 of the ROP) follow the same filing modalities as described in these Directions. Detailed information are available for the submission of *amicus curiae* briefs (available on the AT website).

PRACTICE DIRECTION II – ON THE ORAL PROCEDURE

31. Upon completion of the written exchanges, the parties receive the official invitation to the AT hearing. The invitation indicates the date and time of the hearing as well as the composition of the Panel that will examine the case. If required, the official invitation can be used for official travel purposes. If the notified party cannot be present at the hearing, it will be held *in absentia*.
32. The hearing is opened by the AT President, who welcomes and introduces the parties and/or their representatives. The judges are expected already to have read the submissions thoroughly, and the parties and/or representatives are asked to concentrate on the main issues and legal arguments of their case.
33. Documents not already in the record may not be submitted at the hearing, except under very exceptional circumstances when a party's request is granted by the AT. (A party expecting to request permission to submit documents at the hearing should be prepared to explain why the documents were not submitted earlier, and bring sufficient copies to allow distribution in the event that the AT allows them to be submitted.)
34. The parties and/or the representatives speak from their allocated seated positions.
35. The speaking time is fixed by the President of the Tribunal. As a general rule, the parties and/or representatives are given the floor twice, beginning with the appellant: a first time after the opening of the hearing to present the case (maximum allocated time 15/20 minutes), and a second time after the debate/exchange with the judges (which occurs after the respondent has presented its views) to sum up their positions (maximum allocated time 5/10 minutes). If the appellant is present he/she is given the opportunity, if he/she wishes, to address the AT with a brief statement (maximum allocated time 5 minutes). Should the parties and/or their representatives have specific audio/video requirements in support of their oral submissions, they must contact the Registrar beforehand in order to make proper arrangements.
36. The AT President closes the hearing when the panel considers that there are sufficient elements to reach a conclusion in the case.
37. In accordance with Rule 26 of ROP, paragraph 9, the members of the Panel and the parties may participate using secure videoconferencing. The Registrar makes the necessary technical arrangements to test the viability of the connection with the parties. The parties are asked to update their software and follow all technical instructions they receive, such as wearing a headset with a microphone.
38. In accordance with Article 6.7.6 of the CPR, all those attending a hearing of the Tribunal "shall preserve the utmost secrecy concerning the facts which come to their knowledge and the views expressed during the hearings." The hearings are not recorded. Carrying out any type of recording of the hearing by the parties, their representatives and/or participants constitutes a breach of the CPR and the applicable Security Regulations.

39. Simultaneous interpretation is available during the hearings. In order to guarantee the quality of the interpretation provided, the parties and/or representatives are invited to provide, where available, the speaking notes of their oral submission as soon as possible, and before the start of the hearing, by contacting the Registrar. The confidentiality of the speaking notes will be protected and they will be provided only to the interpreters.

40. In accordance with Article 6.7.1, if exceptional circumstances warrant, such as the personal and private nature of the matters, the Tribunal shall decide that the hearings are to be held in private. Cases involving matters of discipline are in any case held *in camera*. No attendees other than the parties will therefore be allowed in such cases.

41. The parties may submit names of witnesses they wish to have called in accordance with Article 6.7.4 of the CPR and the procedure at Rule 25 ROP. It is for the Tribunal, however, to decide which witnesses will be heard. The Tribunal normally asks to have written statements from the witnesses; if it is not possible to provide such written statements, explanations must be given as to why.

PRACTICE DIRECTION III – ON THE WRITTEN PROCEDURE ONLY

42. The parties can agree to have the case examined through a written procedure only (i.e. no oral hearing) under Rule 25 of the ROP. Such a request shall be noted in the submissions, or reach the Registrar, in accordance with the above-mentioned modalities of submission, no more than 15 days after the last submission has been distributed to the parties.

43. In such cases the parties will be informed by letter of the date and time when the case will be examined as well as of the composition of the Panel.

PRACTICE DIRECTION IV – PRACTICALITIES

44. Hearings are normally held at NATO Headquarters, Brussels, in a conference room in the main HQ conference area.

45. The hearings are open to any interested person who meets the specifications of Article 6.7.1 of Annex IX of the CPR. To access NATO Headquarters, please consult the “Guidelines for attendance of AT hearings”, available on the AT website. In accordance with the NATO Security Regulations applicable to the Headquarters, parties who do not have an access badge will be escorted to the hearing room prior to the hearing. Parties requiring escort should contact the Registrar beforehand to make the necessary arrangements.

46. The conference room is equipped with an automatic amplification system and, when given the floor by the President, speakers are asked to press the button on the microphone before starting to speak. Simultaneous interpretation in English/French is available by selecting the appropriate language from each speaker’s dock. Technical assistance is available in the room. The technical specifications of online hearings depend on the tool used. Guidelines for each tool are to be provided by the Registrar accordingly.

47. NATO Headquarters is easily accessible by private or public transport; the Registrar can provide information on this if required.

Done in Brussels, on 4 October 2021.

_____/s/_____
Chris de Cooker, President

_____/s/_____
Laura Maglia, Registrar

ENCLOSURES

(Sample of a cover letter for an appeal submission)

Indicate the addressee: (to the AT Registrar)

Indicate the **date** of the letter

Indicate the **subject** of the letter (e.g. appeal against the ...)

Start the letter, making sure to indicate:

- the last name, first name;
- the HONB against which the appeal is submitted
- the postal address, e-mail address and telephone number for the purposes of the proceedings; or alternatively, if represented, of the representing counsel

Append a **handwritten signature**
(appellant or representing counsel as applicable)

Enclose:

- the appeal, signed in original
- the table summarizing the supporting evidence
- the supporting evidence

(Sample of an appeal submission)

Indicate the addressee: (to the President and Members of the NATO Administrative Tribunal)

Detail the argumentation of the case, making sure to indicate:

- a brief explanation of the **facts in chronological order**, including:
 - a. the HOBN decision challenged; and
 - b. as applicable, the pre-litigation channels pursued in accordance with the relevant provisions of Annex IX and the associated documentation (e.g. the Complaints Committee report, etc.)

- the main **legal arguments**, including:
 - c. the legal grounds for the appeal (e.g. the CPR articles and/or other policies or general principles which allegedly have been violated); the reasons why the decision is being challenged; how the requirements of Annex IX for the AT to consider the appeal have been met (e.g. jurisdiction, admissibility);
 - d. supporting facts, evidence and documents, including statements by supporting witnesses (if any) and any additional requests (e.g. for production of documents, written proceedings only, anonymity, etc.)

- the **relief or remedy sought**, including:
 - e. the amount of compensation sought (if any) and/or the specific performance of an obligation;
 - f. any request for costs (if any)

Indicate the **date**

Append a **handwritten signature**
(appellant or representing counsel as applicable)

(Sample of a list of annexes)

LIST OF ANNEXES

- Annex 1** description of the document enclosed (title and nature, e.g. HONB letter, contract, etc...), date
- Annex 2** description of the document enclosed (title and nature, e.g. HONB letter, contract, etc...), date
- Annex 3** ...