



Disciplinary and Disputes Committee - Rules of Procedure

Version 2016 - Amended January 2020

Basic Texts.

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GENERAL PROVISIONS

Article 1

Powers

The Disciplinary and Disputes Committee is a statutory body of the Association, constituted pursuant to the relevant section of the Statutes, which states:

The Disciplinary and Disputes Committee shall rule on any alleged violation by one or several members or bodies of the Association of the Statutes, Code of Professional Ethics or any other current Regulation, and on any disputes between members, candidates, pre-candidates or bodies of the Association. Bodies of the association may also act on behalf of third parties in submitting a request to the Secretariat in order to file a complaint with the DDC when they are required to do so in order to comply with national legislation; any action taken to this end shall comply with article 3 hereunder.

It may not deal with issues that are commercial in nature, or those involving itself or the Assembly as bodies of the Association.

The Committee shall act on the basis of a complaint received. However, it may begin disciplinary proceedings of its own volition if, whilst investigating a case submitted to it, it concludes the Association's regulations have been breached.

Article 2

Membership



Pursuant to the relevant provisions of the Statutes, the Disciplinary and Disputes Committee shall comprise nine active or associate members who have preferably, served as members of the Council before 2015, of the Executive Committee or of an Assembly committee. Its term shall be from one ordinary Assembly to the next. The Assembly shall elect the members of the Committee. They may be re-elected. Current members of the Executive Committee, the Advisory Board or another Assembly committee may not be members of the Disciplinary and Disputes Committee.

Only active or associate members who have served as members of the Council before 2015, the Executive Committee or an Assembly Committee may stand for election in the first and second ballots. If after the second ballot, posts remain unfilled, anyone who has been an AIIC member for at least ten years may stand for election.

The administrative workings of the Committee shall be handled by a Bureau, comprised of the Chairperson, Deputy Chairperson and Secretary. The Committee shall elect a Chairperson and Deputy Chairperson from among its members. The Deputy Chairperson shall replace the Chairperson in event of the latter's absence or incapacity. The secretary shall be appointed for 6-month periods, in rotation with other members of the Committee.

Should a position on the Committee become vacant, it shall appoint, by simple majority, a replacement until the next ordinary Assembly. An exception may occasionally be made to this rule, especially where the position falls vacant shortly before the Assembly. Nevertheless, if less than half of the posts provided for on the Committee are filled during elections, a remote electronic vote shall be organised within 90 days.

Article 3

Confidentiality and conflict of interest

Committee members shall be bound by a general and lasting duty of confidentiality regarding facts, actions and information disclosed to them when serving on the Committee. The same duty of confidentiality shall apply to the deliberations of the Committee, the Committee Bureau, and the sub committees.

To ensure full confidentiality regarding facts, actions and information, the Minutes of committee meetings shall not be disclosed to any member or body of AIIC. A summary report of the Committee's activities alone will be presented to the General Assembly of AIIC at the end of each mandate.

Committee members shall not be involved in any discussions or decisions regarding a case to which they are a party or where there might be a potential conflict of interest. Committee members shall disclose whether they might face a genuine or apparent conflict of interest in any given case and recuse themselves.

Stipulations above shall also cover all relevant actions by those bodies of the association acting on behalf of third parties under article 1.



Article 4

Procedure and record keeping

The quorum required for deliberation and decision is five members, present or represented. Proxies shall only be allowed for meetings *in presentia*, and only one per person.

To keep procedures as short as possible, the Committee shall in principle work by e-mail and telephone. It may however convene plenary or smaller meetings if necessary providing the cost can be met from its budget.

The languages of procedure are English or French. All documents shall be submitted in one of these languages or as a certified translation into either language.

All paperwork relating to a case, including all correspondence shall be forwarded to the Secretariat that shall store the files of all disciplinary cases and of all disputes that have been the subject of a procedure pursuant to these Rules, taking reasonable measures to reserve access thereto. The Committee shall determine the conditions applying to file inspection.

Registered mail shall be understood to mean sending correspondence or documents by certified means in which a receipt is issued to the sender and the destination address is recorded in a register. The recipient's signature on a form upon delivery shall be taken as proof of delivery to the specific addressee. The DDC Bureau, in consultation with the Secretariat, shall determine which service, either post office or a registered carrier such as DHL or UPS, is most appropriate for each case.

The Committee may consult a lawyer if necessary.

For any situation not expressly covered by this document, the provisions of the Assembly Rules of Procedure shall apply *mutatis mutandis*.

DISCIPLINARY PROCEDURE

Article 5

Pre-admissibility of a complaint

1. Any member, candidate, pre-candidate or body of the Association, or third party, that wants the Committee to rule on a complaint against one or several other members, candidates or pre-candidates or bodies shall submit a request in writing to the Secretariat. "Third party" shall be taken to mean any person who is not a member, candidate or pre-candidate of the Association or a member of its staff. Bodies of the association may also act on behalf of third parties in submitting a request to the Secretariat in order to file a complaint with the DDC when they are required to do so in order to comply with national legislation.



2. Any complaint from a member, group of members, candidate or pre-candidate, a body of the Association or a third party shall be sent in writing on the official form to the Secretariat with the grounds for complaint and all relevant documents. It should clearly state which specific AIIC regulation(s) and DDC regulation(s) or item(s) thereof has/have been breached.
3. Any complaint not submitted on the official form or lacking the required information shall not be forwarded to the Committee until the fault(s) is (are) remedied, pursuant to the exchanges between the Secretariat and the complainant(s).

Determination of admissibility

4. The Committee Bureau shall present its recommendation regarding the admissibility of the complaint and transmit its opinion to the Committee who shall decide on admissibility by a simple majority of the valid votes, within two weeks of the date on which the complaint was received from the Secretariat. In the event of a tie, the Chair shall have the casting vote.
5. If the Committee decides that the complaint is not in compliance with these Rules or any other current regulation, the complaint shall be declared inadmissible. The Committee shall also reject any complaint that it considers to fall outside its jurisdiction or which is clearly frivolous, vexatious or in bad faith. The Committee Bureau shall inform the complainant(s) of the Committee's decision in writing, within two weeks, setting out brief grounds. No appeal may be filed against the Committee's decision.

Decision to admit

6. If the Committee decides that the complaint(s) is/are admissible, the Committee Bureau shall promptly appoint a sub-committee of enquiry of three members, one of whom shall act as Coordinator, subject to confirmation by all parties involved. The coordinator shall chair and ensure the efficient operation of the sub-committee of enquiry; he shall act as the contact point between sub-committee and parties and shall oversee the administrative aspects of the procedure. The sub-committee shall appoint a rapporteur from among its members. The rapporteur shall write the sub-committee's report and findings.
7. Having deemed that a complaint is admissible, the Committee Bureau shall notify the complainant(s) by registered letter, within two weeks of the forming of the sub-committee of enquiry, that his complaint has been deemed admissible and indicating the names of the members of the sub-committee of enquiry. He/they shall also be informed that he/they may challenge the composition of the sub-committee of enquiry on justifiable grounds, in writing to the Committee Bureau, within a maximum of ten days, following which the Bureau's decision is final.
8. At the same time, the Committee Bureau shall notify the member(s) or bodies against which a complaint has been admitted of the opening of a disciplinary procedure. The notification shall contain a brief description of the procedure and potential sanctions and the names of the members of the sub-committee of enquiry; it shall give the respondent(s)



a period of 4 weeks to send the sub-committee a written response to the complaint, plus all relevant documents in either EN or FR, or as a certified translation into either language. The respondent(s) shall also be informed that he/they may challenge the composition of the sub-committee of enquiry on justifiable grounds, in writing to the Committee Bureau, within a maximum of ten days, following which the Bureau's decision is final. Respondent(s) shall also state if whether he/they wish(es) to be heard by the sub-committee of enquiry. A copy of all documents on file at this stage shall also be forwarded to the respondent(s).

The enquiry

- 9.** Once appointed and confirmed, the sub-committee of enquiry alone shall be responsible for conducting investigations. It shall be bound only by these Rules of Procedure and any guidelines adopted by the Committee as deemed appropriate. Any measure giving rise to costs for the Association beyond the budget allocated to the Committee shall be subject to prior approval from the Treasurer or, if appropriate, the Budget Committee, after consultation with the Committee Bureau.
- 10.** The sub-committee of enquiry shall forward a copy of all documents submitted with the respondent's reply to the complainant(s), who shall also be asked whether he/they wish(es) to be heard by the sub-committee.
- 11.** The sub-committee of enquiry may, inter alia, take the following steps:
 - a.** The sub-committee may ask the complainant(s) and respondent(s) to provide any additional clarification, explanation or document that it deems necessary. A refusal to provide additional material may damage the case of the person to whom the request has been made.
 - b.** On request, or by its own initiative, the sub-committee may decide to hear the respondent(s) and/or the complainant(s). The parties to the complaint(s) shall defray their own expenses. Hearings shall be conducted using whatever means are deemed suitable and fair in the light of circumstances and shall take place within a reasonable time.
 - c.** The sub-committee may approach other members of the Association and in particular representatives of the region(s) involved, to collect all information and/or documents relating to the case or to prepare the hearing.
 - d.** On condition that personal interests are safeguarded, the sub-committee may also approach third parties to obtain any information and/or document regarding the case or to prepare the hearing.
 - e.** The sub-committee shall afford parties a reasonable period to respond. It shall have the discretion to extend the procedural deadline on the basis of a reasoned request.
 - f.** The Secretariat and the Committee Bureau shall immediately forward any new information or exhibits they receive to the sub-committee of enquiry. The sub-committee



shall also forward all new information or exhibits relevant to the case to the parties to the complaint, in a timely manner and in any case before the end of the investigation.

Post enquiry

12. When the investigation is concluded, the sub-committee rapporteur shall draft a written report. Once approved by the sub-committee of enquiry, the report and all relevant case documents shall be sent to the Committee. The sub-committee may recommend sanctions. The sub-committee of enquiry's report shall not be forwarded to members of the Committee who might be in conflict of interest or are parties to the complaint(s).

13. The Committee shall consider the sub-committee's report and reach a decision. The Committee shall decide by secret ballot and *in camera*. The Committee may, at its own discretion, ask the Secretariat to organize a vote by email, in which case the individual ballot papers shall be sent directly to the Secretariat, which after tallying the votes, shall communicate the result of the vote to the Committee. Only members of the Committee who have not recused themselves and are not parties to the case may vote on the decision. The Committee's decision shall take effect from notification.

14. The Committee shall vote on each, if any, of the following questions. In the event that the complaint(s) has/have been filed against several members or bodies the Committee shall clearly indicate to which of the respondent(s) or body(ies) its decision(s) apply.

- a.** Has/have the respondent(s) breached the Association's regulations?

If more than half of the valid votes, rounded off to the next full digit if necessary, are NO, the procedure shall cease.

If more than half of the valid votes, rounded off to the next full digit if necessary, are YES, the Committee shall decide which penalty to apply, in the following order (only the sanctions specifically mentioned shall be put to a vote; and only the most stringent achieving the required majority shall be applied):

- expulsion
- suspension:
 1. YES/NO
 2. If YES, duration, from a maximum of three years down to one year
- reprimand
- warning

If none of the first three sanctions achieves the required majority of votes, a warning shall be automatically issued.



b. Warnings and reprimands may be applied to members or bodies of the Association. Suspension and expulsion may be applied to members only.

c. Expulsion requires a two-thirds majority of valid votes, rounded off to the next full digit if necessary. Suspension and reprimand require a simple majority. In the event of a tied vote, the sanction shall not be imposed.

15. The Committee Bureau shall notify the parties to the complaint by registered mail, of the decision as soon as possible. Notification shall include reasons for the decisions, although the Bureau may waive this provision for third parties.

- The respondent(s) and the complainant(s) only shall be informed of a warning.
- The respondent(s) and the complainant(s) shall be informed of a reprimand; the sanction shall also be communicated to the members of the Association.
- The respondent(s) and the complainant(s) shall be informed of a suspension; the sanction shall also be communicated to the members of the Association.
- The respondent(s) and the complainant(s) shall be informed of an expulsion; the sanction shall also be communicated to the members of the Association.

Appeals

16. An appeal against expulsion may be filed with the Assembly within 90 days of receipt of the written notification. All appeals shall be sent to the Secretariat by registered letter, and should include a statement and grounds of appeal. The filing of an appeal shall stay the expulsion, although the respondent shall be considered suspended until the Assembly reaches its decision.

Appeals may not be filed against the other sanctions.

DISPUTE SETTLEMENT PROCEDURE

Article 6

Pre-admissibility of a dispute

1. Any member, candidate, pre-candidate or body of the Association, or third party that wants the Commission to rule on a dispute with one or several other members, candidates or pre-candidates or bodies shall submit a request in writing, to the Secretariat. "Third party" shall be taken to mean any person who is not a member, candidate or pre-candidate of the Association or a member of its staff.

2. The request must contain a short description of the complainant's arguments. The complainant shall append any document or documentary evidence for consideration. All



exhibits must be written in EN or FR or as a certified translation into either language. The Secretariat shall forward the file to the Committee.

3. Committee members shall not be involved in any discussions or decisions regarding a case to which they are a party or in case of a potential conflict of interest. Committee members shall disclose whether they might face a genuine or apparent conflict of interest in any given case and recuse themselves.

Decision to admit

4. The Committee Bureau shall examine the request and make its recommendation to the Committee who shall decide on the admissibility of the dispute by a simple majority of the valid votes cast, within two weeks of the date on which the request was received from the Secretariat. In the event of a tie, the Chair shall have the casting vote.

a. If the Committee decides that the dispute is contrary to these Rules or any other current regulation, it shall declare it inadmissible. The Committee shall also reject any dispute which it considers to fall outside its jurisdiction or which is clearly frivolous, vexatious or in bad faith. The Committee Bureau shall inform the complainant(s) of the Committee's decision in writing, within two weeks, setting out brief grounds. No appeal may be filed against the Committee's decision.

b. If the Committee decides to proceed, the Committee Bureau shall appoint a conciliation sub-committee of three members, one of whom shall act as Coordinator, subject to confirmation by all parties involved. The coordinator shall chair and ensure the efficient operation of the conciliation sub-committee; he shall act as the contact point between the sub-committee and the parties and shall oversee the administrative aspects of the procedure. The conciliation sub-committee shall appoint a rapporteur from among its members. The rapporteur shall write the sub-committee's report and findings.

c. Having deemed that a dispute is admissible, the Committee Bureau shall notify the complainant(s), by registered letter, within two weeks, of the names of the members of the conciliation sub-committee, informing him/them that he/they may challenge the composition of the sub-committee on justifiable grounds, in writing to the Committee Bureau, within a maximum of ten days, regarding which the Bureau's decision is final.

d. At the same time, the Committee Bureau shall notify the member(s) or bodies against which the notification of a dispute has been admitted for attempted conciliation or, failing that, adjudication, of the opening of a procedure, by registered letter, within two weeks of the forming of the conciliation sub-committee. It shall also inform the respondent(s) that he/they may challenge the composition of the conciliation sub-committee on justifiable grounds, in writing to the Committee Bureau, within a maximum of ten days, following which the Bureau's decision is final. The notification shall contain a brief description of the procedure, the members of the sub-committee and the facts of the matter under



consideration and give the respondent(s) a period of 4 weeks to send the sub-committee a written response to the dispute.

Conciliation procedure

5. The conciliation sub-committee shall prepare a file on the dispute under consideration. It may seek any additional clarification, explanations or documents that it deems necessary. A refusal to provide any information requested by the conciliation sub-committee may damage the case of the party to whom the request has been made.

6. The parties shall be heard by the conciliation sub-committee if they so request within 4 weeks of notification of the admissibility of the complaint. Hearings shall be conducted using whatever means are deemed suitable and fair in the light of circumstances. Parties who wish to be heard shall pay their own costs. The sub-committee may dispense with a hearing, but must give its reasons for the decision.

7. The conciliation sub-committee shall endeavour to settle the dispute by conciliation. If the conciliation procedure is successful, the file, together with the rapporteur's report, shall be forwarded to the Committee for information before the case is closed.

Post-conciliation procedure

8. In the event that no conciliation is possible, the sub-committee rapporteur shall draft a written report that may include the conciliation sub-committee's recommendations regarding the adjudication of rights or wrongs. Once approved by the conciliation sub-committee, the report and all relevant documents shall be sent to the Committee, which shall make a final ruling.

9. The Committee Bureau shall inform the parties to the dispute of the Committee's ruling, in writing and without delay. No appeal may be filed against the Committee's ruling.

AMENDMENT PROCEDURE

Article 7

The Committee shall decide proposed amendments to these Rules – after seeking legal advice if appropriate – by a majority of two thirds of its members.

Recommended citation format:

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