

# Court of Conciliation and Arbitration

## Key Documents

- Convention on Conciliation and Arbitration within the OSCE
- Rules of Procedure
- Ratifications / Accessions



## **Conference on Security and Co-operation Final Act - Helsinki, 1975**

### **Declaration on Principles Guiding Relations between Participating States**

#### **PRINCIPLE V - PEACEFUL SETTLEMENT OF DISPUTES**

“ The participating States will settle disputes among them by peaceful means in such manner as not to endanger international peace and security, and justice.

They will endeavour in good faith and spirit of co-operation to reach a rapid and equitable solution on the basis of international law. For this purpose they will use such means as negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their choice including any settlement procedure agreed to in advance of disputes to which they are parties.

In the event of failure to reach a solution by any of the above peaceful means, the parties to a dispute will continue to seek a mutually agreed way to settle the dispute peacefully.

Participating States, parties to a dispute among them, as well as other participating States, will refrain from any action which might aggravate the situation to such a degree as to endanger the maintenance of international peace and security and thereby make a peaceful settlement of the dispute more difficult. ”

## FOREWORD

Principle V of the Final Act of Helsinki, signed by the Heads of States and Governments of the Participating States, on 1st of August 1975, heralds the legal commitment enshrined in article 33 of the UN Charter in 1945, thirty years before. It reflects the work of the international community for centuries to promote friendly settlement of disputes, first on a bilateral level, and then, in an international framework. The Hague Peace Conference held in 1899, initiated by Tsar Nicolas II, was a first landmark for inter-State arbitration. Together with the Bryan Treaties signed in 1913, they enshrined the first modern example for inter-States arbitration. Bilateral treaties of conciliation and arbitration, developed in the twenties following the « Swiss model » were matched by the *General Act (Pacific Settlement of International Disputes)* of 1928 signed in Geneva and revised in 1949. The same direction was taken at the regional level, with, the *European Convention for the Peaceful Settlement of Disputes* of 1957.

The principle of peaceful settlement of disputes was taken into consideration during several meetings of the CSCE, from Malta to La Valette. A decisive step forward took place with the adoption of the *Convention on Conciliation and Arbitration within the OSCE* adopted on 15 December 1992 in Stockholm. This multilateral treaty entered into force in 1994 and has been ratified by 34 States Parties by today. The Court having been established within the OSCE, its mechanisms are available to all OSCE participating States on the basis of a special agreement between them. The Court as an independent institution has links to other OSCE institutions and structures, as well as with other international and regional entities dealing with public international law and settlement of disputes.

The added value of the Convention is to create an established Court, with two rosters of qualified experts, a list of conciliators and a list of arbitrators. These members elect the President of the Court and the Bureau with four members (and four alternates), which constitute the executive body of the Court. Its role is to represent the Court, to promote the Convention and to establish a Commission of Conciliation, and/or an Arbitral Tribunal. The anchorage of the Court within the OSCE that offers a framework of principles and commitments for good neighbouring relations between States across all the OSCE area from Vancouver to Vladivostok, in the spirit of the Helsinki Final Act and of the Charter of Paris for a New Europe, can be considered as an essential asset.

As President of the Court I am happy to present this document to contribute to the awareness of the Convention of Stockholm and its tools, at the crossroad of diplomacy and law. The spirit of conciliation is to smoothen discords by

providing « good offices » by an impartial body of five conciliators in a confidential way, leaving open the follow-up for the States which could agree or disagree with the final report of the conciliators. On the other hand, an arbitration tribunal has the duty to adjudicate a case on the basis of international law with the « autorité de la chose jugée ». Both methods are conducted for the sake of peace, friendship and justice.

The Bureau of the Court strives to make the various methods of pacific settlement of inter-States disputes better known to a wider audience, and especially to the community of legal advisors and diplomats. This brochure provides a compilation of the essential documents, such as the Stockholm Convention and the Rules of Procedure.

The Court stands ready to fulfill its mandate, with competence, dedication and confidentiality, independence and impartiality. I hope these user-friendly set of information will contribute to its noble mission which is more important than never in a troubled world.



Emmanuel Decaux  
President of the Court

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## CONVENTION ON CONCILIATION AND ARBITRATION WITHIN THE CSCE

ADOPTED AT THE CSCE COUNCIL AT STOCKHOLM, ON 15 DECEMBER 1992

The States parties to this Convention, being States participating in the Conference on Security and Co-operation in Europe,

Conscious of their obligation, as provided for in Article 2, paragraph 3, and Article 33 of the Charter of the United Nations, to settle their disputes peacefully;

Emphasizing that they do not in any way intend to impair other existing institutions or mechanisms, including the International Court of Justice, the European Court of Human Rights, the Court of Justice of the European Communities and the Permanent Court of Arbitration;

Reaffirming their solemn commitment to settle their disputes through peaceful means and their decision to develop mechanisms to settle disputes between participating States;

Recalling that full implementation of all CSCE principles and commitments constitutes in itself an essential element in preventing disputes between the CSCE participating States;

Concerned to further and strengthen the commitments stated, in particular, in the Report of the Meeting of Experts on Peaceful Settlement of Disputes adopted at Valletta and endorsed by the CSCE Council of Ministers of Foreign Affairs at its meeting in Berlin on 19 and 20 June 1991,

Have agreed as follows:

## CHAPTER I - GENERAL PROVISIONS

### **Article 1 Establishment of the Court**

A Court of Conciliation and Arbitration shall be established to settle, by means of conciliation and, where appropriate, arbitration, disputes which are submitted to it in accordance with the provisions of this Convention.

### **Article 2 Conciliation Commissions and Arbitral Tribunals**

1. Conciliation shall be undertaken by a Conciliation Commission constituted for each dispute. The Commission shall be made up of conciliators drawn from a list established in accordance with the provisions of Article 3.
2. Arbitration shall be undertaken by an Arbitral Tribunal constituted for each dispute. The Tribunal shall be made up of arbitrators drawn from a list established in accordance with the provisions of Article 4.
3. Together, the conciliators and arbitrators shall constitute the Court of Conciliation and Arbitration within the CSCE, hereinafter referred to as « the Court ».

### **Article 3 Appointment of Conciliators**

1. Each State party to this Convention shall appoint, within two months following its entry into force of this Convention for the State concerned.
2. The conciliators must be persons holding or having held senior national or international positions and possessing recognized qualifications in international law, international relations, or the settlement of disputes.
3. Conciliators shall be appointed for a renewable period of six years. Their functions may not be terminated by the appointing State during their term of office. In the event of death, resignation or inability to attend recognized by the Bureau, the State concerned shall appoint a new conciliator; the term of office of the new conciliator shall be the remainder of the term of office of the predecessor.
4. Upon termination of their period of office, conciliators shall continue to hear any cases that they are already dealing with.
5. The names of the conciliators shall be notified to the Registrar, who shall enter them into a list, which shall be communicated to the CSCE Secretariat for transmission to the CSCE participating States.

#### **Article 4**

##### **Appointment of Arbitrators**

1. Each State party to this Convention shall appoint, within two months following its entry into force, one arbitrator and one alternate, who may be its nationals or nationals of any other CSCE participating State. A State which becomes Party to this Convention after its entry into force shall appoint its arbitrator and the alternate within two months of the entry into force of this Convention for that State.
2. Arbitrators and their alternates must possess the qualifications required in their respective countries for appointment to the highest judicial offices or must be jurists of recognized competence in international law.
3. Arbitrators and their alternates are appointed for a period of six years, which may be renewed once. Their functions may not be terminated by the appointing State party during their term of office. In the event of death, resignation or inability to attend, recognized by the Bureau, the arbitrator shall be replaced by his or her alternate.
4. If an arbitrator and his or her alternate die, resign or are both unable to attend, the fact being recognized by the Bureau, new appointments will be made in accordance with paragraph 1. The new arbitrator and his or her alternate shall complete the term of office of their predecessors.
5. The Rules of the Court may provide for a partial renewal of the arbitrators and their alternates.
6. Upon expiry of their term of office, arbitrators shall continue to hear any cases that they are already dealing with.
7. The names of the arbitrators shall be notified to the Registrar, who shall enter them into a list, which shall be communicated to the CSCE Secretariat for transmission to the CSCE participating States.

#### **Article 5**

##### **Independence of the Members of the Court and of the Registrar**

The conciliators, the arbitrators and the Registrar shall perform their functions in full independence. Before taking up their duties, they shall make a declaration that they will exercise their powers impartially and conscientiously.

#### **Article 6**

##### **Privileges and Immunities**

The conciliators, the arbitrators, the Registrar and the agents and counsel of the parties to a dispute shall enjoy, while performing their functions in the territory of the States parties to this Convention, the privileges and immunities accorded to persons connected with the International Court of Justice.



### **Article 7 Bureau of the Court**

1. The Bureau of the Court shall consist of a President, a Vice-President and three other members.
2. The President of the Court shall be elected by the members of the Court from among their number. The President presides over the Bureau.
3. The conciliators and the arbitrators shall each elect from among their number two members of the Bureau and their alternates.
4. The Bureau shall elect its Vice-President from among its members. The Vice-President shall be a conciliator if the President is an arbitrator, and an arbitrator if the President is a conciliator.
5. The Rules of the Court shall establish the procedures for the election of the President as well as of the other members of the Bureau and their alternates.

### **Article 8 Decision-Making Procedure**

1. The decisions of the Court shall be taken by a majority of the members participating in the vote. Those abstaining shall not be considered participating in the vote.
2. The decisions of the Bureau shall be taken by a majority of its members.
3. The decisions of the Conciliation Commissions and the Arbitral Tribunals shall be taken by a majority of their members, who may not abstain from voting.
4. In the event of a tied vote, the vote of the presiding officer shall prevail.

### **Article 9 Registrar**

The Court shall appoint its Registrar and may provide for the appointment of such other officers as may be necessary. The staff regulations of the Registry shall be drawn up by the Bureau and adopted by the States parties to this Convention.

### **Article 10 Seat**

1. The seat of the Court shall be established in Geneva.
2. At the request of the parties to the dispute and in agreement with the Bureau, a Conciliation Commission or an Arbitral Tribunal may meet at another location.

### **Article 11**

#### **Rules of the Court**

1. The Court shall adopt its own Rules, which shall be subject to approval by States parties to this Convention.
2. The Rules of the Court shall establish, in particular, the rules of procedure to be followed by the Conciliation Commissions and Arbitral Tribunals constituted pursuant to this Convention. They shall state which of these rules may not be waived by agreement between the parties to the dispute.

### **Article 12**

#### **Working Languages**

The Rules of the Court shall establish rules on the use of languages.

### **Article 13**

#### **Financial Protocol**

Subject to the provisions of Article 17, all the costs of the Court shall be met by the States parties to this Convention. The provisions for the calculation of the costs; for the drawing up and approval of the annual budget of the Court; for the distribution of the costs among the States parties to this Convention; for the audit of the accounts of the Court; and for related matters, shall be contained in a Financial Protocol to be adopted by the Committee of Senior Officials. A State becomes bound by the Protocol on becoming a party to this Convention.

### **Article 14**

#### **Periodic Report**

The Bureau shall annually present to the CSCE Council through the Committee of Senior Officials a report on the activities under this Convention.

### **Article 15**

#### **Notice of Requests for Conciliation or Arbitration**

The Registrar of the Court shall give notice to the CSCE Secretariat of all requests for conciliation or arbitration, for immediate transmission to the CSCE participating States.

### **Article 16**

#### **Conduct of Parties - Interim Measures**

1. During the proceedings, the parties to the dispute shall refrain from any action which may aggravate the situation or further impede or prevent the settlement of the dispute.
2. The Conciliation Commission may draw the attention of the parties to the dispute submitted to it to the measures the parties could take in order to prevent the dispute from being aggravated or its settlement made more difficult.

3. The Arbitral Tribunal constituted for a dispute may indicate the interim measures that ought to be taken by the parties to the dispute in accordance with the provisions of Article 26, paragraph 4.

### **Article 17 Procedural Costs**

The parties to a dispute and any intervening party shall each bear their own costs.

## **CHAPTER II - COMPETENCE**

### **Article 18 Competence of the Commission and of the Tribunal**

1. Any State party to this Convention may submit to a Conciliation Commission any dispute with another State party which has not been settled within a reasonable period of time through negotiation.
2. Disputes may be submitted to an Arbitral Tribunal under the conditions stipulated in Article 26.

### **Article 19 Safeguarding the Existing Means of Settlement**

1. A Conciliation Commission or an Arbitral Tribunal constituted for a dispute shall take no further action in the case:
  - (a) If, prior to being submitted to the Commission or the Tribunal, the dispute has been submitted to a court or tribunal whose jurisdiction in respect of the dispute the parties thereto are under a legal obligation to accept, or if such a body has already given a decision on the merits of the dispute;
  - (b) If the parties to the dispute have accepted in advance the exclusive jurisdiction of a jurisdictional body other than a Tribunal in accordance with this Convention which has jurisdiction to decide, with binding force, on the dispute submitted to it, or if the parties thereto have agreed to seek to settle the dispute exclusively by other means.
2. A Conciliation Commission constituted for a dispute shall take no further action if even after the dispute has been submitted to it, one or all of the parties refer the dispute to a court or tribunal whose jurisdiction in respect of the dispute the parties thereto are under a legal obligation to accept.
3. A Conciliation Commission shall postpone examining a dispute if this dispute has been submitted to another body which has competence to formulate proposals with respect to this dispute. If those prior efforts do not lead to a settlement of the dispute, the

Commission shall resume its work at the request of the parties or one of the parties to the dispute, subject to the provisions of Article 26, paragraph 1.

4. A State may, at the time of signing, ratifying or acceding to this Convention, make a reservation in order to ensure the compatibility of the mechanism of dispute settlement that this Convention establishes with other means of dispute settlement resulting from international undertakings applicable to that State.
5. If, at any time, the parties arrive at a settlement of their dispute, the Commission or Tribunal shall remove the dispute from its list, on receiving written confirmation from all the parties thereto that they have reached a settlement of the dispute.
6. In the event of disagreement between the parties to the dispute with regard to the competence of the Commission or the Tribunal, the decision in the matter shall rest with the Commission or the Tribunal.

### **CHAPTER III - CONCILIATION**

#### **Article 20**

##### **Request for the Constitution of a Conciliation Commission**

1. Any State party to this Convention may lodge an application with the Registrar requesting the constitution of a Conciliation Commission for a dispute between it and one or more other States parties. Two or more States parties may also jointly lodge an application with the Registrar.
2. The constitution of a Conciliation Commission may also be requested by agreement between two or more States parties or between one or more States parties and one or more other CSCE participating States. The agreement shall be notified to the Registrar.

#### **Article 21**

##### **Constitution of the Conciliation Commission**

1. Each party to the dispute shall appoint, from the list of conciliators established in accordance with Article 3, one conciliator to sit on the Commission.
2. When more than two States are parties to the same dispute, the States asserting the same interest may agree to appoint one single conciliator. If they do not so agree, each of the two sides to the dispute shall appoint the same number of conciliators up to a maximum decided by the Bureau.
3. Any State which is a party to a dispute submitted to a Conciliation Commission and which is not a party to this Convention, may appoint a person to sit on the Commission, either from the list of conciliators established in accordance with Article 3, or from among other persons who are nationals of a CSCE participating State. In this event, for the purpose of examining the dispute, such persons shall have the same rights and the same

obligations as the other members of the Commission. They shall perform their functions in full independence and shall make the declaration required by Article 5 before taking their seats on the Commission.

4. As soon as the application or the agreement whereby the parties to a dispute have requested the constitution of a Conciliation Commission is received, the President of the Court shall consult the parties to the dispute as to the composition of the rest of the Commission.
5. The Bureau shall appoint three further conciliators to sit on the Commission. This number can be increased or decreased by the Bureau, provided it is uneven. Members of the Bureau and their alternates, who are on the list of conciliators, shall be eligible for appointment to the Commission.
6. The Commission shall elect its Chairman from among the members appointed by the Bureau.
7. The Rules of the Court shall stipulate the procedures applicable if an objection is raised to one of the members appointed to sit on the Commission or if that member is unable to or refuses to sit at the commencement or in the course of the proceedings.
8. Any question as to the application of this article shall be decided by the Bureau as a preliminary matter.

## **Article 22**

### **Procedure for the Constitution of a Conciliation Commission**

1. If the constitution of a Conciliation Commission is requested by means of an application, the application shall state the subject of the dispute, the name of the party or parties against which the application is directed, and the name of the conciliator or conciliators appointed by the requesting party or parties to the dispute. The application shall also briefly indicate the means of settlement previously resorted to.
2. As soon as an application has been received, the Registrar shall notify the other party or parties to the dispute mentioned in the application. Within a period of fifteen days from the notification, the other party or parties to the dispute shall appoint the conciliator or conciliators of their choice to sit on the Commission. If, within this period, one or more parties to the dispute have not appointed the member or members of the Commission whom they are entitled to appoint, the Bureau shall appoint the appropriate number of conciliators. Such appointment shall be made from among the conciliators appointed in accordance with Article 3 by the party or each of the parties involved or, if those parties have not yet appointed conciliators, from among the other conciliators not appointed by the other party or parties to the dispute.
3. If the constitution of a Conciliation Commission is requested by means of an agreement, the agreement shall state the subject of the dispute. If there is no agreement, in whole or in part, concerning the subject of the dispute, each party thereto may formulate its own position in respect of such subject.

4. At the same time as the parties request the constitution of a Conciliation Commission by agreement, each party shall notify the Registrar of the name of the conciliator or conciliators whom it has appointed to sit on the Commission.

### **Article 23 Conciliation Procedure**

1. The conciliation proceedings shall be confidential and all parties to the dispute shall have the right to be heard. Subject to the provisions of Articles 10 and 11 and the Rules of the Court, the Conciliation Commission shall, after consultation with the parties to the dispute, determine the procedure.
2. If the parties to the dispute agree thereon, the Conciliation Commission may invite any State party to this Convention which has an interest in the settlement of the dispute to participate in the proceedings.

### **Article 24 Objective of Conciliation**

The Conciliation Commission shall assist the parties to the dispute in finding a settlement in accordance with international law and their CSCE commitments.

### **Article 25 Result of the Conciliation**

1. If, during the proceedings, the parties to the dispute, with the help of the Conciliation Commission, reach a mutually acceptable settlement, they shall record the terms of this settlement in a summary of conclusions signed by their representatives and by the members of the Commission. The signing of the document shall conclude the proceedings. The CSCE Council shall be informed through the Committee of Senior Officials of the success of the conciliation.
2. When the Conciliation Commission considers that all the aspects of the dispute and all the possibilities of finding a solution have been explored, it shall draw up a final report. The report shall contain the proposals of the Commission for the peaceful settlement of the dispute.
3. The report of the Conciliation Commission shall be notified to the parties to the dispute, which shall have a period of thirty days in which to examine it and inform the Chairman of the Commission whether they are willing to accept the proposed settlement.
4. If a party to the dispute does not accept the proposed settlement, the other party or parties are no longer bound by their own acceptance thereof.
5. If, within the period prescribed in paragraph 3, the parties to the dispute have not accepted the proposed settlement, the report shall be forwarded to the CSCE Council through the Committee of Senior Officials.

6. A report shall also be drawn up which provides immediate notification to the CSCE Council through the Committee of Senior Officials of circumstances where a party fails to appear for conciliation or leaves a procedure after it has begun.

## CHAPTER IV - ARBITRATION

### Article 26

#### Request for the Constitution of an Arbitral Tribunal

1. A request for arbitration may be made at any time by agreement between two or more States parties to this Convention or between one or more States parties to this Convention and one or more other CSCE participating States.
2. The States parties to this Convention may at any time by a notice addressed to the Depositary declare that they recognize as compulsory, *ipso facto* and without special agreement, the jurisdiction of an Arbitral Tribunal, subject to reciprocity. Such a declaration may be made for an unlimited period or for a specified time. It may cover all disputes or exclude disputes concerning a State's territorial integrity, national defence, title to sovereignty over land territory, or competing claims with regard to jurisdiction over other areas.
3. A request for arbitration against a State party to this Convention which has made the declaration specified in paragraph 2 may be made by means of an application to the Registrar only after a period of thirty days after the report of the Conciliation Commission which has dealt with the dispute has been transmitted to the CSCE Council in accordance with the provisions of Article 25, paragraph 5.
4. When a dispute is submitted to an Arbitral Tribunal in accordance with this article, the Tribunal may, on its own authority or at the request of one or all of the parties to the dispute, indicate interim measures that ought to be taken by the parties to the dispute to avoid an aggravation of the dispute, greater difficulty in reaching a solution, or the possibility of a future award of the Tribunal becoming unenforceable owing to the conduct of one or more of the parties to the dispute.

### Article 27

#### Cases Brought before an Arbitral Tribunal

1. If a request for arbitration is made by means of an agreement, it shall indicate the subject of the dispute. If there is no agreement, in whole or in part, concerning the subject of the dispute, each party thereto may formulate its own position in respect of such subject.
2. If a request for arbitration is made by means of an application, it shall indicate the subject of the dispute, the States party or parties to this Convention against which it is directed, and the main elements of fact and law on which it is grounded. As soon as the application

is received, the Registrar shall notify the other States party or parties mentioned in the application.

### **Article 28** **Constitution of the Arbitral Tribunal**

1. When a request for arbitration is submitted, an Arbitral Tribunal shall be constituted.
2. The arbitrators appointed by the parties to the dispute in accordance with Article 4 are *ex officio* members of the Tribunal. When more than two States are parties to the same dispute, the States asserting the same interest may agree to appoint one single arbitrator.
3. The Bureau shall appoint, from among the arbitrators, a number of members to sit on the Tribunal so that the members appointed by the Bureau total at least one more than the *ex officio* members. Members of the Bureau and their alternates, who are on the list of arbitrators, shall be eligible for appointment to the Tribunal.
4. If an *ex officio* member is unable to attend or has previously taken part in any capacity in the hearings of the case arising from the dispute submitted to the Tribunal, that member shall be replaced by his or her alternate. If the alternate is in the same situation, the State involved shall appoint a member to examine the dispute pursuant to the terms and conditions specified in paragraph 5. In the event of a question arising as to the capacity of a member or of his or her alternate to sit on the Tribunal, the matter shall be decided by the Bureau.
5. Any State, which is a party to a dispute submitted to an Arbitral Tribunal and which is not party to this Convention, may appoint a person of its choice to sit on the Tribunal, either from the list of arbitrators established in accordance with Article 4 or from among other persons who are nationals of a CSCE participating State. Any person thus appointed must meet the conditions specified in Article 4, paragraph 2, and for the purpose of examining the dispute, shall have the same rights and obligations as the other members of the Tribunal. The person shall perform his or her functions in full independence and shall make the declaration required by Article 5 before sitting on the Tribunal.
6. The Tribunal shall appoint its Chairman from among the members appointed by the Bureau.
7. In the event that one of the members of the Tribunal appointed by the Bureau is unable to attend the proceedings, that member shall not be replaced unless the number of members appointed by the Bureau falls below the number of *ex officio* members, or members appointed by the parties to the dispute in accordance with paragraph 5. In this event, one or more new members shall be appointed by the Bureau pursuant to paragraphs 3 and 4 of this article. A new Chairman will not be elected if one or more new members are appointed, unless the member unable to attend is the Chairman of the Tribunal.



## **Article 29**

### **Arbitration Procedure**

1. All the parties to the dispute shall have the right to be heard during the arbitration proceedings, which shall conform to the principles of a fair trial. The proceedings shall consist of a written part and an oral part.
2. The Arbitral Tribunal shall have, in relation to the parties to the dispute, the necessary fact-finding and investigative powers to carry out its tasks.
3. Any CSCE participating State which considers that it has a particular interest of a legal nature likely to be affected by the ruling of the Tribunal may, within fifteen days of the transmission of the notification by the CSCE Secretariat as specified in Article 15, address to the Registrar a request to intervene. This request shall be immediately transmitted to the parties to the dispute and to the Tribunal constituted for the dispute.
4. If the intervening State establishes that it has such an interest, it shall be authorized to participate in the proceedings in so far as may be required for the protection of this interest. The relevant part of the ruling of the Tribunal is binding upon the intervening State.
5. The parties to the dispute have a period of thirty days in which to address their observations regarding the request for intervention to the Tribunal. The Tribunal shall render its decision on the admissibility of the request.
6. The hearings in the Tribunal shall be held *in camera*, unless the Tribunal decides otherwise at the request of the parties to the dispute.
7. In the event that one or more parties to the dispute fail to appear, the other party or parties thereto may request the Tribunal to decide in favour of its or their claims. Before doing so, the Tribunal must satisfy itself that it is competent and that the claims of the party or parties taking part in the proceedings are well-founded.

## **Article 30**

### **Function of the Arbitral Tribunal**

The function of the Arbitral Tribunal shall be to decide, in accordance with international law, such disputes as are submitted to it. This provision shall not prejudice the power of the Tribunal to decide a case *ex aequo et bono*, if the parties to the dispute so agree.

## **Article 31**

### **Arbitral Award**

1. The award of the Arbitral Tribunal shall state the reasons on which it is based. If it does not represent in whole or in part the unanimous opinion of the members of the Arbitral Tribunal, any member shall be entitled to deliver a separate or dissenting opinion.

2. Subject to Article 29, paragraph 4, the award of the Tribunal shall have binding force only between the parties to the dispute and in respect of the case to which it relates.
3. The award shall be final and not subject to appeal. However, the parties to the dispute or one of them may request that the Tribunal interpret its award as to the meaning or scope. Unless the parties to the dispute agree otherwise, such request shall be made at the latest within six months after the communication of the award. After receiving the observations of the parties to the dispute, the Tribunal shall render its interpretation as soon as possible.
4. An application for revision of the award may be made only when it is based upon the discovery of some fact which is of such a nature as to be a decisive factor and which, when the award was rendered, was unknown to the Tribunal and to the party or parties to the dispute claiming revision. The application for revision must be made at the latest within six months of the discovery of the new fact. No application for revision may be made after the lapse of ten years from the date of the award.
5. As far as possible, the examination of a request for interpretation or an application for revision should be carried out by the Tribunal which made the award in question. If the Bureau should find this to be impossible, another Tribunal shall be constituted in accordance with the provisions of Article 28.

**Article 32**  
**Publication of the Arbitral Award**

The award shall be published by the Registrar. A certified copy shall be communicated to the parties to the dispute and to the CSCE Council through the Committee of Senior Officials.

**CHAPTER V - FINAL PROVISIONS**

**Article 33**  
**Signature and Entry into Force**

1. This Convention shall be open for signature with the Government of Sweden by the CSCE participating States until 31 March 1993. It shall be subject to ratification.
2. The CSCE participating States which have not signed this Convention may subsequently accede thereto.
3. This Convention shall enter into force two months after the date of deposit of the twelfth instrument of ratification or accession.
4. For every State which ratifies or accedes to this Convention after the deposit of the twelfth instrument of ratification or accession, the Convention shall enter into force two months after its instrument of ratification or accession has been deposited.

5. The Government of Sweden shall serve as depositary of this Convention.

#### **Article 34 Reservations**

This Convention may not be the subject of any reservation that it does not expressly authorize.

#### **Article 35 Amendments**

1. Amendments to this Convention must be adopted in accordance with the following paragraphs.
2. Amendments to this Convention may be proposed by any State party thereto, and shall be communicated by the Depositary to the CSCE Secretariat for transmission to the CSCE participating States.
3. If the CSCE Councils adopts the proposed text of the amendment, the text shall be forwarded by the Depositary to States parties to this Convention for acceptance in accordance with their respective constitutional requirements.
4. Any such amendment shall come into force on the thirtieth day after all States parties to this Convention have informed the Depositary of their acceptance thereof.

#### **Article 36 Denunciation**

1. Any State party to this Convention may, at any time, denounce this Convention by means of a notification addressed to the Depositary.
2. Such denunciation shall become effective one year after the date of receipt of the notification by the Depositary.
3. This Convention shall, however, continue to apply for the denouncing party with respect to proceedings which are under way at the time the denunciation enters into force. Such proceedings shall be pursued to their conclusion.

#### **Article 37 Notifications and Communications**

The notifications and communications to be made by the Depositary shall be transmitted to the Registrar and to the CSCE Secretariat for further transmission to the CSCE participating States.

**Article 38**  
**Non-Parties**

In conformity with international law, it is confirmed that nothing in this Convention shall be interpreted to establish any obligations or commitments for CSCE participating States that are not parties to this Convention if not expressly provided for and expressly accepted by such States in writing.

**Article 39**  
**Transitional Provisions**

1. The Court shall proceed, within four months of the entry into force of this Convention, to elect the Bureau, to adopt its rules and to appoint the Registrar in accordance with the provisions of Article 7, 9 and 11. The host Government of the Court shall, in co-operation with the Depositary, make the arrangements required.
2. Until a Registrar is appointed, the duties of the Registrar under Article 3, paragraph 5, and Article 4, paragraph 7 shall be performed by the Depositary.

Done at Stockholm,  
in the English, French, German,  
Italian, Russian and Spanish languages,  
all six language versions being equally  
authentic, on 15 December 1992

## FINANCIAL PROTOCOL

### Article 1 Costs of the Court

1. All the costs of the Court established by the Convention on Conciliation and Arbitration within the CSCE (hereinafter referred to as "the Convention") shall be met by the States parties to the Convention. Costs of conciliators and arbitrators shall be costs of the Court.
2. The obligations of the host State with respect to expenditures in connection with the premises and furniture for use by the Court, their maintenance, insurance and security, as well as utilities, shall be set out in an exchange of letters between the Court acting with the consent of and on behalf of the States parties to the Convention, and the host State.

### Article 2 Contributions to the Budget of the Court

1. Contributions to the budget of the Court shall be divided among the States parties to the Convention according to the scale of distribution applicable within the CSCE, adjusted to take into account the difference in number between the CSCE participating States and the States parties to the Convention.
2. If a State ratifies or accedes to the Convention after its entry into force, its contribution shall be equal, for the current financial year, to one-twelfth of its portion of the adjusted scale, as established according to paragraph 1 of this Article, for each full month of that financial year which remains after the date on which the Convention enters into force in respect of it.
3. If a State which is not a party to the Convention submits a dispute to the Court pursuant to the provisions of Article 20, paragraph 2, or Article 26, paragraph 1 of the Convention, it shall contribute to the financing of the budget of the Court, for the duration of the proceedings, as if it were a party to the Convention.

For the application of this paragraph, the conciliation shall be presumed to commence on the day the Registrar receives notice of the agreement of the parties to set up a Commission and to end on the day the Commission notifies its report to the parties. If a party withdraws from the proceedings, these proceedings shall be considered as ended on the day of notice of the report specified in Article 25, paragraph 6 of the Convention. The arbitration proceedings shall be presumed to start on the day the Registrar receives notice of the agreement of the parties to establish a Tribunal and to end on the day the Tribunal renders its award.

### **Article 3 Financial Year and Budget**

1. The financial year shall be from 1 January to 31 December.
2. The Registrar, acting with the concurrence of the Bureau of the Court, shall establish each year a budget proposal for the Court. The budget proposal for the ensuing financial year shall be submitted to the States parties to the Convention before 15 September.
3. The budget shall be approved by the representatives of the States parties to the Convention. Consideration and approval of the budget shall take place in Vienna unless the States parties to the Convention otherwise agree. On approval of the budget for the financial year the Registrar shall request the States parties to the Convention to remit their contributions.

If the budget is not approved by 31 December the Court will operate on the basis of the preceding budget and, without prejudice to later adjustments, the Registrar shall request the States parties to the Convention to remit their contributions in accordance with this budget.

The Registrar shall request States parties to the Convention to make fifty per cent of their contributions available on 1 January and the remaining fifty per cent on 1 April.

4. Barring a decision to the contrary by the representatives of the States parties to the Convention, the budget shall be established in swiss francs and the contributions of the States shall be paid in this currency.
5. A State which ratifies or accedes to the Convention after its entry into force shall pay its first contribution to the budget within two months after the request by the Registrar.
6. States which, without being parties to the Convention, have submitted a dispute to the Court, shall pay their contribution within two months after the request by the Registrar.
7. The year the Convention enters into force, the States parties to the Convention shall pay their contribution to the budget within two months following the date of deposit of the twelfth instrument of ratification of the Convention. This budget is preliminarily fixed at 250,000 swiss francs.

### **Article 4 Obligations, Payments and Revised Budget**

1. The approved budget shall constitute authorization to the Registrar, acting under the responsibility of the Bureau of the Court, to incur obligations and make payments up to the amounts and for the purposes approved.
2. The Registrar, acting under the responsibility of the Bureau of the Court, is authorized to make transfers between items and sub-items of up to 15 per cent of items/sub-items. All

such transfers must be reported by the Registrar in connection with the financial statement mentioned in Article 9 of this Protocol.

3. Obligations remaining undischarged at the end of the financial year shall be carried over to the next financial year.
4. If so obliged by circumstances and following careful examination of available resources with a view to identify savings, the Registrar is authorized to submit a revised budget, which may entail requests for supplementary appropriations, for the approval of the representatives of the States parties to the Convention.
5. Any surplus for a given financial year shall be deducted from the assessed contributions for the financial year following the one in which the accounts have been approved by the representatives of the States parties to the Convention.

Any deficit shall be charged to the ensuing financial year unless the representatives of the States parties to the Convention decide on supplementary contributions.

#### **Article 5 Working Capital Fund**

A working capital fund may be established in case the States parties to the Convention deem it necessary. It will be funded by the States parties to the Convention.

#### **Article 6 Allowances and Nominal Retainers**

1. Members of the Bureau of the Court, of the Conciliation Commissions and of the Arbitral Tribunals shall receive, for each day on which they exercise their functions, a daily allowance.
2. Members of the Bureau of the Court shall additionally receive a nominal annual retainer.
3. The daily allowance and the nominal annual retainer shall be determined by the representatives of the States parties to the Convention.

#### **Article 7 Salaries, Social Security and Pensions**

1. The Registrar and any other registry staff appointed in accordance with Article 9 of the Convention shall receive a salary to be determined by the representatives of the States parties to the Convention.
2. The registry staff shall be limited to the strict minimum needed to ensure the operation of the Court.

3. The representatives of the States parties to the Convention shall ensure that the Registrar and the registry staff are afforded an adequate social security scheme and retirement pension.

### **Article 8 Travel Expenses**

1. Travel expenses which are absolutely necessary for exercising their functions shall be paid to the members of the Bureau of the Court, of the Conciliation Commissions and of the Arbitral Tribunals and to the Registrar and the registry staff.
2. Travel expenses shall comprise actual transportation costs, including expenses normally incidental to transportation, and a daily subsistence allowance to cover all charges of meals, lodging, fees and gratuities and other personal expenses. The daily subsistence allowance shall be determined by the representatives of the States parties to the Convention.

### **Article 9 Records and Accounts**

1. The Registrar, acting under the authority of the Bureau of the Court, shall ensure that appropriate records and accounts are kept of the transactions and that all payments are properly authorized.
2. The Registrar, acting under the authority of the Bureau of the Court, shall submit to the States parties to the Convention, not later than 1 March, an annual financial statement showing, for the preceding financial year:
  - (a) the income and expenditures relating to all accounts;
  - (b) the situation with regard to budget provisions;
  - (c) the financial assets and liabilities at the end of the financial year.

### **Article 10 Audit**

1. The accounts of the Court shall be audited by two auditors, of different nationalities, appointed for renewable periods of three years by the representatives of the States parties to the Convention.

Persons appearing or having appeared on the lists of conciliators or arbitrators or having received payment by the Court pursuant to Article 7 of this Protocol may not be auditors.

2. Auditors shall annually conduct audits. They shall, in particular, check the accuracy of the books, the statement of assets and liabilities, and the accounts. The accounts shall be available for the annual auditing and inspection not later than 1 March.
3. Auditors shall perform such audits as they deem necessary to certify:



- (a) that the annual financial statement submitted to them is correct and in accordance with the books and records of the Court,
  - (b) that the financial transactions recorded in this statement have been effected in accordance with the relevant rules, the budgetary provisions and other directives which may be applicable, and
  - (c) that the funds on deposit and on hand have been verified by certificates received directly from the depositories or by actual count.
4. The Registrar shall give auditors such assistance and facilities as may be needed for the proper discharge of their duties. Auditors shall, in particular, have free access to the books of account, records and documents which, in their opinion, are necessary for the audit.
5. Auditors shall annually draw up a report certifying the accounts and setting forth the comments warranted by the audit. They may, in this context, also make such observations as they deem necessary regarding the efficiency of financial procedures, the accounting system and the internal financial control.
6. The report shall be submitted to the representatives of the States parties to the Convention not later than four months after the end of the financial year to which the accounts refer. The report shall be transmitted to the Registrar beforehand, so that he will have at least 15 days in which to furnish such explanations and justifications as he may consider necessary.
7. In addition to the annual auditing, auditors will at any time have free access to check the books, the statement of assets and liabilities, and accounts.
8. On the basis of the audit report, the representatives of the States parties to the Convention shall signify their acceptance of the annual financial statement or take such other action as may be considered appropriate.

#### **Article 11** **Special Disbursement Account**

1. A special disbursement account may be established by the States parties to the Convention aimed at lowering the procedural costs for the States parties to disputes submitted to the Court which have difficulties paying these costs. It will be funded by voluntary contributions from States parties to the Convention.
2. A State party to a dispute submitted to the Court that wishes to receive funds from the special disbursement account shall file a request to the Registrar, with a detailed statement estimating procedural costs.

The Bureau of the Court shall examine the request and forward its recommendation to the representatives of the States parties to the Convention which shall decide whether to grant this request and to what extent.

After the case has been heard, the State having received funds from the special disbursement account shall address to the Registrar, for study by the Bureau, a detailed statement of procedural costs actually expended and shall proceed, if need be, with reimbursing the sums in excess of the actual costs.

### **Article 12 Decision Making**

All decisions by the States parties to the Convention or their representatives under this Protocol shall be taken by consensus.

### **Article 13 Amendments**

Amendments to this Protocol shall be adopted in accordance with the provisions of Article 35 of the Convention. The Bureau of the Court may address its opinion on the proposed amendments to the CSCE Secretariat for transmission to the CSCE participating States.

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This Protocol, established in the English, French, German, Italian, Russian and Spanish languages, all six language versions being equally authentic, having been adopted by the Committee of Senior Officials at Prague, on 28 April 1993 in accordance with Article 13 of the Convention on Conciliation and Arbitration within the CSCE is deposited with the Government of Sweden.

# RULES OF PROCEDURE

## CHAPTER I: GENERAL AND INSTITUTIONAL PROVISIONS

### 1. General Provisions

#### Article 1 Rules of the Court

1. The present Rules, adopted by the Court of Conciliation and Arbitration (hereinafter: the Court) and approved by the States Parties to the Stockholm Convention of 15 December 1992 on Conciliation and Arbitration within the OSCE (hereinafter: the Convention), shall govern, in accordance with Article 11, paragraph 1, of the Convention, the activities of the Court and of the organs established within the Court.
2. In the event of a conflict between provisions of the Convention and of the Rules, the former shall prevail.

### 2. The Court

#### Article 2 Solemn Declaration

Upon taking up their duties, conciliators, arbitrators and their alternates shall make the following solemn declaration: "I solemnly declare that I shall fulfil impartially and conscientiously, to the best of my ability, my duties as member of the Court of Conciliation and Arbitration established by the Convention on Conciliation and Arbitration within the OSCE."

#### Article 3 Working Languages

1. The languages of the Court and of the organs established within the Court shall be the official languages of the OSCE (English, French, German, Italian, Russian and Spanish).
2. From among those languages, in each case, the conciliation commission or the arbitral tribunal concerned, after hearing the parties, shall determine, in its rules of procedure, the language or languages to be used.
3. Any party to a dispute may however request to express itself in another language. In that event, it shall bear the additional expenses arising from the use of that language.

**Article 4**  
**Notice of Requests and List of Cases**

1. In accordance with Article 15 of the Convention, all requests for conciliation or arbitration addressed to the Court shall be communicated by the Registrar to the Secretariat of the OSCE, which shall transmit them forthwith to the States participating in the OSCE.
2. The Court shall establish a list of the cases brought before it. The List shall be kept by the Registrar.

**Article 5**  
**Decision-Making**

1. The decision-making procedure of the Court, the Bureau and the organs established within the Court shall be governed by Article 8 of the Convention.
2. The Court, the Bureau and the organs established within the Court may decide to take decisions by correspondence or facsimile.

**Article 6**  
**Procedural Costs**

1. In accordance with Article 17 of the Convention, the parties to a dispute and any intervening party shall each bear their own costs.
2. This rule shall apply to the circumstances contemplated in Article 23, paragraph 2, of the Convention.

**Article 7**  
**Publications of the Court**

1. In accordance with Article 32 of the Convention, the Court shall publish the awards rendered by arbitral tribunals established within it.
2. The Court may also publish the Annual Report on its activities submitted by the Bureau to the OSCE Council pursuant to Article 14 of the Convention.
3. The Court shall not publish the final reports of conciliation commissions established within it, unless the parties so agree.

### **3. The Bureau of the Court**

#### **Article 8 Composition**

1. The Bureau of the Court shall consist of the President of the Court, the Vice-President of the Bureau and three other members of the Court.
2. The alternates of the four members of the Bureau other than the President shall participate in the work of the Bureau without vote.

#### **Article 9 Election of the President of the Court, the Other Members of the Bureau and the Vice-President of the Bureau**

1. Nominations for President of the Court and for membership of the Bureau may be submitted by any member of the Court. They shall be announced to the Depository State twenty days at least before the date set for the election.
2. In accordance with Article 7, paragraph 2, of the Convention, the President of the Court shall be elected for a six-year term by all the members of the Court. The candidate obtaining the highest number of votes shall be elected. In the event of a tie, a second ballot shall be held. In the event of a further tie, the election shall be decided by lot. The election of the President shall take place under the chairmanship of a representative of the Depository State.
3. In accordance with Article 7, paragraph 3, of the Convention, the conciliators and the arbitrators shall then each elect, from among their number, two members of the Bureau for six-year terms. The two candidates obtaining the highest number of votes shall be elected. In the event of a tie, a second ballot shall be held. In the event of a further tie, the election shall be decided by lot. Elections under this paragraph shall take place under the chairmanship of the President of the Court.
4. Two alternates each shall be elected by the conciliators and by the arbitrators from among their number, following the procedure laid down in the preceding paragraph. The Bureau shall subsequently indicate which alternate would be called upon to take the place of which member of the Bureau.
5. The Vice-President shall be elected by the Bureau from among its members, in accordance with Article 7, paragraph 4, of the Convention.
6. The President, the other members of the Bureau and the alternates may be re-elected.
7. In the event of the death, resignation or prolonged inability of the President to fulfil his or her duties, a new President shall be elected, following the procedure laid down in paragraphs 1 and 2 of this Article, to serve out the term of the former President.

8. In the event of the death, resignation or prolonged inability of a member of the Bureau other than the President to fulfil his or her duties, the alternate appointed under paragraph 4 of this Article shall serve out the term of the member concerned. In the event of the death, resignation or prolonged inability of an alternate to fulfil his or her duties, a new alternate shall be elected, following the procedure laid down in paragraph 4 of this Article, to serve out the former alternate's term.

#### **Article 10 Functions of the Bureau**

1. The Bureau is the permanent executive body of the Court. It shall meet regularly to ensure the satisfactory operation of the Court and carry out the duties entrusted to it under the Convention, the Financial Protocol and the present Rules.
  2. The Bureau shall appoint the conciliators and arbitrators as provided by Articles 21 and 28 of the Convention.
  3. An exchange of letters shall take place between the Bureau and the host State concerning the obligations assumed by that State in accordance with Article 1 of the Financial Protocol. A further exchange of letters between the Bureau and that State shall specify the legal status, on the territory of the host State, of the members, the Registrar and the officials of the Court, as well as of the agents, counsel and experts of the States parties to a dispute brought before the Court. Such exchanges of letters shall be approved by the States Parties.
- 4. The Registrar**

#### **Article 11 Appointment of the Registrar and of Registry Officials**

1. The Registrar shall be appointed by the Court for a maximum term of six years on the proposal of the Bureau of the Court.
2. The Court may appoint such other officials as it requires and its financial resources permit. It may delegate that function to the Bureau.

#### **Article 12 Functions of the Registrar**

1. The Registrar shall supervise the Court's officials under the authority and control of the Bureau of the Court.

2. The Registrar and, under his or her authority, the officials of the Court shall perform all the duties laid upon them by the Convention, the Financial Protocol and the present Rules.
3. The Registrar shall serve as secretary of the Court, of its Bureau, and of the conciliation commissions and arbitral tribunals established within the Court. The Registrar shall draw up the minutes of the meetings of such organs.
4. The Registrar shall be responsible for the Archives of the Court.
5. The Registrar shall fulfil such other duties as may be entrusted to him or her by the Court, its Bureau or the conciliation commissions and arbitral tribunals established within the Court.
6. The Registrar may, as necessary, delegate duties to other officials of the Court.

### **Article 13 Solemn Declaration**

Upon taking up their duties, the Registrar and the other officials of the Court shall make the following solemn declaration: "I solemnly declare that I shall fulfil impartially and conscientiously, to the best of my ability, my duties at the Court of Conciliation and Arbitration established by the Convention on Conciliation and Arbitration within the OSCE."

## **CHAPTER II: CONCILIATION**

### **Article 14 Purpose**

1. The purpose of conciliation is to assist the parties to a dispute in finding a settlement in accordance with international law and their OSCE commitments. The conciliation commission may submit to the parties proposals with a view to bringing about a settlement of the dispute.
2. The parties may request the conciliation commission to clarify questions of fact. Its findings shall not be binding upon the parties, unless they otherwise agree.
3. Conciliation proceedings may be initiated only after a fact-finding procedure set in motion under paragraph 2 of this Article has been concluded.

**Article 15**  
**Request for Conciliation**

1. Any dispute between States Parties to the Convention may be submitted to conciliation by unilateral or joint application, as laid down in Articles 18, paragraph 1, and 20, paragraph 1, of the Convention. The application shall specify the facts, the subject of the dispute, the parties thereto, the name or names of the conciliator or conciliators appointed by the applicant or applicants, and the means of settlement previously used.
2. Disputes between two or more States Parties to the Convention, or between one or more States Parties to the Convention and one or more other OSCE participating States, may be submitted to conciliation by an agreement notified to the Registrar, in accordance with Article 20, paragraph 2, of the Convention. That agreement shall specify the subject of the dispute; in the event of total or partial disagreement concerning the subject of the dispute, each party shall state its own position. When notifying the agreement, the parties shall inform the Registrar of the name or names of the conciliator or conciliators appointed by them.

**Article 16**  
**Composition and Constitution of Conciliation Commissions**

1. The conciliation commission shall be composed and constituted in accordance with Articles 21 and 22 of the Convention.
2. If more than two States are parties to a dispute, and the parties in the same interest are unable to agree on the appointment of a single conciliator, as contemplated by Article 21, paragraph 2, of the Convention, each of the two sides shall appoint the same number of conciliators, up to a maximum decided by the Bureau of the Court.
3. If more than two States are parties to a dispute, and there are no parties in the same interest, each State may appoint one conciliator.
4. In accordance with Article 21, paragraph 5, of the Convention, the Bureau shall appoint three conciliators. It may increase or decrease this number after consulting the parties. If more than two States are parties to the dispute, the number of members appointed to the conciliation commission by the Bureau shall total one more than the members appointed by the parties.
5. When all its members have been appointed, the conciliation commission shall hold its constitutive meeting. At that meeting, it shall elect its chairman in accordance with Article 21, paragraph 6, of the Convention.



**Article 17**  
**Objection and Refusal or Inability to Sit**

1. If a party to the dispute objects to a conciliator, the Bureau of the Court shall rule on the objection. Any objection shall be made within thirty days of the notification of the conciliator's appointment. If the objection is upheld, the conciliator concerned shall be replaced according to the provisions laid down for his or her own appointment.
2. If a conciliator, having previously taken part in the case or for any other reason, refuses to sit, he or she shall be replaced according to the provisions laid down for his or her own appointment.
3. In the event of death or of a prolonged inability or refusal to sit during the proceedings, the conciliator concerned shall be replaced according to the provisions laid down for his or her own appointment if this is considered necessary by the Bureau.

**Article 18**  
**Safeguarding Existing Means of Settlement**

1. In the situations referred to by Article 19, paragraphs 1 and 2, of the Convention, the conciliation commission shall take no further action and have the case removed from the List.
2. In the situation referred to by Article 19, paragraph 3, of the Convention, the commission shall suspend the conciliation proceedings. The proceedings shall be resumed, at the request of the parties or one of them, if the procedure resulting in the suspension failed to produce a settlement of the dispute.
3. In the situation referred to by Article 19, paragraph 4, of the Convention, the commission shall take no further action and have the case removed from the List upon the request of one of the parties if it is satisfied that the dispute is covered by the reservation.

**Article 19**  
**Rules of Procedure**

In accordance with Article 23, paragraph I, of the Convention, the conciliation commission shall determine its own rules of procedure after consulting the parties to the dispute. The rules of procedure laid down by the commission, which are subject to approval by the Bureau of the Court, may not derogate from the following rules:

- a) Each party shall appoint a representative to the commission no later than at the time of its constitution.

- b) The parties shall participate in all the proceedings and co-operate with the commission, in particular by providing the documents and information it may require.

#### **Article 20 Interlocutory Matters**

1. The conciliation commission may, *proprio motu* or at the request of the parties to the dispute or one of them, call the parties' attention to the measures they could take in order to prevent the dispute from being aggravated or its settlement made more difficult.
2. In accordance with Article 23, paragraph 2, of the Convention, the commission may, with the parties' consent, invite to participate in the proceedings any other State Party to the Convention which has an interest in the settlement of the dispute.

#### **Article 21 Result of Conciliation**

1. The conciliation proceedings shall be concluded by the signature, by the representatives of the parties, of the summary of conclusions referred to in Article 25, paragraph 1, of the Convention. The summary of conclusions shall be tantamount to an agreement settling the dispute.
2. Failing such an agreement, the conciliation commission shall draw up a final report when it considers that all possibilities of reaching an amicable settlement have been exhausted. The report, which shall be communicated to the parties, shall include a statement of the facts and claims of the parties, a record of the proceedings and proposals made by the commission for the peaceful settlement of the dispute.
3. The parties may agree in advance to accept the proposals of the commission. Failing such an agreement, they shall, within thirty days of the notification of the report under Article 25, paragraph 3, of the Convention, inform the chairman of the commission whether they accept the proposals for a settlement contained in the final report.
4. The acceptance of such proposals by the parties shall be tantamount to an agreement settling the dispute. If one of the parties rejects the proposals, the other party or parties shall no longer be bound by their own acceptance, in accordance with Article 25, paragraph 4, of the Convention.
5. In the event of a party failing to appear, the commission shall draw up a report for the OSCE Council in accordance with Article 25, paragraph 6, of the Convention.

## CHAPTER III: ARBITRATION

### **Article 22 Purpose**

The role of an arbitral tribunal is to settle, in accordance with international law, such disputes as are submitted to it. If the parties to the dispute agree, the tribunal may decide *ex aequo et bono*.

### **Article 23 Institution of Proceedings**

1. Any dispute between two or more States Parties to the Convention, or between one or more States Parties to the Convention and one or more States participating in the OSCE, may be submitted to arbitration, as provided by Article 26 of the Convention.
2. When a request for arbitration is made by means of an agreement, in accordance with Article 26, paragraph 1, of the Convention, such agreement, notified to the Registrar by the parties to the dispute or by one of them, shall indicate the subject of the dispute. In the event of total or partial disagreement concerning the subject of the dispute, each party may state its own position in that respect.
3. When a request for arbitration is made by means of an application addressed to the Registrar, in accordance with Article 26, paragraphs 2 and 3, of the Convention, the application shall indicate the facts giving rise to the dispute, the subject of the dispute, the parties, the means of settlement previously used and the main legal arguments invoked.

### **Article 24 Composition and Constitution of Arbitral Tribunals**

1. The arbitral tribunal shall be composed and constituted in accordance with Article 28 of the Convention.
2. If more than two States are parties to a dispute and the parties in the same interest are unable to agree on the appointment of a single arbitrator, as contemplated by Article 28, paragraph 2, of the Convention, the arbitrators designated by each party under Article 28, paragraphs 2, 4 or 5, of the Convention shall be *ex officio* members of the tribunal.
3. In accordance with Article 28, paragraph 3, of the Convention, the Bureau of the Court shall appoint a number of members to sit on the tribunal totalling at least one more than the *ex officio* members under paragraph 2 of this Article. The Bureau may consult the parties in this matter.

4. When all its members have been appointed, the tribunal shall hold its constitutive meeting. At that meeting, it shall elect its chairman in accordance with Article 28, paragraph 6, of the Convention.

#### **Article 25** **Objection and Refusal or Inability to Sit**

1. If a party to the dispute objects to an arbitrator, the Bureau of the Court shall rule on the objection. Any objection shall be made within thirty days of the notification of the arbitrator's appointment. If the objection is upheld, the arbitrator concerned shall be replaced according to the provisions laid down for his or her own appointment, except for *ex officio* members of the tribunal who shall be replaced by their alternates. If the alternate is in the same situation, the State concerned shall appoint a member according to the procedure laid down in Article 28, paragraph 5, of the Convention.
2. If an arbitrator, having previously taken part in the case or for any other reason, refuses to sit, he or she shall be replaced according to the procedure laid down for his or her own appointment, except for *ex officio* members of the tribunal who shall be replaced by their alternates. If the alternate is in the same situation, the State concerned shall appoint a member according to the procedure laid down in Article 28, paragraph 5, of the Convention.
3. In the event of death, or of a prolonged inability or refusal to sit during the proceedings, an *ex officio* member of the tribunal shall be replaced by his or her alternate. If the alternate is in the same situation, the State concerned shall appoint a member according to the procedure laid down in Article 28, paragraph 5, of the Convention. A member appointed by the Bureau shall only be replaced, in accordance with Article 28, paragraph 7, of the Convention, if the number of members appointed by the Bureau falls below the number of *ex officio* members or members appointed by the parties to the dispute under paragraph 5 of the same Article. If the member concerned was the chairman of the tribunal, a new chairman shall then be elected.

#### **Article 26** **Safeguarding Existing Means of Settlement**

1. In the situations referred to by Article 19, paragraph 1, of the Convention, the arbitral tribunal shall take no further action and have the case removed from the List.
2. In the situation referred to by Article 19, paragraph 4, of the Convention, the tribunal shall take no further action and have the case removed from the List upon the request of one of the parties or if it is satisfied that the dispute is covered by the reservation. To be admissible, the request must be formulated within the time-limit set under Article 29, paragraph 1, of the present Rules.

**Article 27**  
**Rules of Procedure**

1. The arbitral tribunal shall lay down its own rules of procedure after consulting the parties to the dispute. The rules of procedure laid down by the tribunal, which are subject to approval by the Bureau of the Court, may not derogate from the rules that follow.
2. All the parties to the dispute shall have the right to be heard in the course of the proceedings, which shall conform to the principles of a fair trial.
3. Each party shall appoint an agent to represent it before the tribunal no later than at the time of its constitution.
4. The parties shall participate in all the proceedings and co-operate with the tribunal, in particular by providing the documents and information it may require.
5. A certified copy of every document produced by one party shall immediately be communicated to the other party or parties.
6. The proceedings shall consist of a written phase and hearings. The hearings shall be held *in camera*, unless the tribunal decides otherwise at the request of the parties.
7. The tribunal shall have all the necessary fact-finding and investigative powers to carry out its task. It may, in particular:
  - a) make any orders necessary for the good conduct of the proceedings;
  - b) determine the number and order of, and the time-limits for, the written phase;
  - c) order the production of evidence and make all other arrangements for the taking of evidence;
  - d) refuse to admit, after the closure of the written phase, any new documents a party may wish to submit without the consent of the other party or parties;
  - e) visit the site;
  - f) appoint experts;
  - g) examine witnesses and request clarifications from the agents, counsel or experts of the parties.
8. As soon as the hearings have been completed, the tribunal shall declare the proceedings closed and begin its deliberations. It may however, during its deliberations, request the parties to provide any additional information or clarification it considers necessary.

### **Article 28**

#### **Interim Measures**

1. Before indicating any interim measures under Article 26, paragraph 4, of the Convention, the arbitral tribunal shall hear the parties to the dispute.
2. The tribunal may at any time request the parties to provide information on the implementation of the measures indicated by it.
3. The tribunal may at any time examine, *proprio motu* or at the request of the parties or one of them, whether the situation requires the maintenance, modification or cancellation of the measures indicated. Before taking any decision, it shall hear the parties.
4. The measures indicated by the tribunal shall cease to apply upon the rendering of the arbitral award.

### **Article 29**

#### **Objections Concerning Jurisdiction and Admissibility**

1. Any objection concerning jurisdiction or admissibility shall be made in writing to the Registrar within thirty days of the transmission of the notice of the request for arbitration referred to in Article 15 of the Convention. The preliminary objection shall set out the facts and the law on which the objection is based, the submissions of the objecting party and any evidence it may wish to produce. The other party shall have a period of thirty days to communicate its written observations on the objection.
5. The tribunal shall decide, in an order, whether it upholds or rejects the objection, or declare that the objection is not, in the circumstances of the case, exclusively preliminary in character. If it upholds the objection, the tribunal shall have the case removed from the List. If it rejects the objection or considers that it is not exclusively preliminary in character, the tribunal shall fix time-limits for the further proceedings.

### **Article 30**

#### **Counter-claims**

1. The tribunal may examine counter-claims directly connected with the subject-matter of the main claim if they are within its jurisdiction.
2. Counter-claims shall be submitted within the time-limit set for the filing of the Counter-Memorial.
3. After hearing the parties, the tribunal shall decide on the admissibility of the counter-claim in the form of an order.

### **Article 31 Intervention**

1. In accordance with Article 29, paragraph 3, of the Convention, any OSCE participating State which considers that it has a particular interest of a legal nature likely to be affected by the award of the tribunal may, within fifteen days of the transmission of the notice of the request for arbitration, as referred to in Article 15 of the Convention, address to the Registrar of the Court a request to intervene indicating the legal interest concerned and the precise object of its intervention. Such request, which shall be immediately transmitted to the tribunal and the parties to the dispute, shall also include, as appropriate, a list of the documents submitted in support of the request and which shall be attached to the request.
2. The parties shall have thirty days to comment in writing on the request for intervention.
3. The tribunal shall decide on the request for intervention in the form of an order. If the request is granted, the intervening State shall participate in the proceedings to the extent required to protect its interest. The relevant part of the award shall be binding upon the intervening State in accordance with Article 29, paragraph 4, of the Convention.

### **Article 32 Failure to Appear**

In the event that one or more parties to the dispute fail to appear, the tribunal shall apply Article 29, paragraph 7, of the Convention.

### **Article 33 Discontinuance of Proceedings**

1. If, at any time prior to the rendering of the arbitral award, all the parties to the dispute, jointly or separately, notify the arbitral tribunal in writing that they have agreed to discontinue the proceedings, the tribunal shall make an order noting the discontinuance and have the case removed from the List.
2. If, in the course of proceedings initiated by an application, the applicant informs the tribunal that it wishes to discontinue the proceedings, the tribunal shall set a time-limit for the respondent to state its position. If the respondent does not object to the discontinuance, the tribunal shall make an order noting the discontinuance and have the case removed from the List.

**Article 34**  
**The Arbitral Award**

1. When the tribunal has concluded its deliberations, which shall be secret, and adopted the arbitral award, it shall render the award by communicating to the agent of each party to the dispute an authentic copy bearing the seal of the Court and the signatures of the chairman of the tribunal and the Registrar of the Court. A further authentic copy shall be placed in the Archives of the Court.
2. The award, which shall mention the names of all the arbitrators, shall state the reasons on which it is based. Any member of the tribunal may, if he or she so desires, attach a dissenting or separate opinion. The same shall apply to the orders of the tribunal.
3. The award shall have binding force only between the parties to the dispute and in respect of the case to which it relates, subject to Article 29, paragraph 4, of the Convention and Article 30, paragraph 3, of the present Rules. The same shall apply to the orders of the tribunal.
4. The award shall be final and not subject to appeal. The same shall apply to orders made by the tribunal under Articles 2, 30, paragraph 3, 31, paragraph 3, and 37, paragraph 3, as well as to the awards rendered under Articles 35 and 36 of the present Rules.

**Article 35**  
**Interpretation of the Arbitral Award**

1. Any request for interpretation of the arbitral award the meaning or scope of which is in dispute shall be in the form of a written application made under the conditions laid down by Article 31, paragraph 3, of the Convention. The application shall indicate the precise point or points in dispute.
2. Requests for interpretation shall be examined by the arbitral tribunal which rendered the award. If the Bureau of the Court should find this to be impossible, a new arbitral tribunal shall be constituted in accordance with Article 28 of the Convention and Article 24 of the present Rules.
3. Before interpreting the award by means of an additional award, the tribunal shall set a time-limit for the parties to communicate their written observations.
4. It is up to the tribunal to decide whether and to what extent the implementation of the award is to be suspended pending the communication of the additional award.



### **Article 36 Revision**

1. Any request for revision of the arbitral award shall be in the form of a written application made under the conditions laid down by Article 31, paragraph 4, of the Convention. The application shall indicate the precise grounds for revision according to the party claiming revision.
2. A request for revision shall be examined by the arbitral tribunal which rendered the award. If the Bureau of the Court should find this to be impossible, a new arbitral tribunal shall be constituted in accordance with Article 28 of the Convention and Article 24 of the present Rules.
3. The other party or parties may, within a time-limit set by the tribunal, make written observations on the admissibility of the request for revision.
4. If the tribunal, by an order, declares the application admissible, it shall set time-limits for the subsequent proceedings on the merits.
5. At the request of the party claiming revision, and if the circumstances so justify, the tribunal may suspend the implementation of the award pending its revision.
6. The tribunal shall decide on the merits in the form of a new arbitral award.

## **CHAPTER IV: FINAL PROVISIONS**

### **Article 37 Amendments**

1. The Court, any member of the Court and any State Party to the Convention may propose amendments to the present Rules.
2. Proposals for amendment shall be communicated to the Court for comment and approved by consensus of the States Parties to the Convention.
3. Amendments shall come into force upon their approval by the States Parties to the Convention but shall not apply to cases pending at the time of their entry into force.

### **Article 38 Entry into Force of the Present Rules**

The present Rules shall enter into force on 1 February 1997, date of their approval by consensus of the States Parties to the Convention.

**List showing signatures and ratifications or accessions with respect to the  
Convention on Conciliation and Arbitration within the OSCE**

January 2021

Number of signatures: 33

Number of ratifications / accessions: 34

Conditions for entry into force: 12 ratifications / accessions

Entered into force: 5 December 1994

State	Signature	Ratification/Accession	Entry into Force
<b>Albania</b>	15 December 1992	10 June 1996	10 August 1996
<b>Armenia</b>	15 December 1992	8 October 2001	8 December 2001
<b>Austria</b>	15 December 1992	14 November 1995 <sup>1)</sup>	14 January 1996
<b>Belarus</b>		7 February 2000	7 April 2000
<b>Belgium</b>	15 December 1992		
<b>Bosnia and Herzegovina</b>	15 December 1992	14 November 2000	14 January 2001
<b>Bulgaria</b>	15 December 1992 <sup>3)</sup>		
<b>Canada</b>	31 March 1993		
<b>Croatia</b>	15 December 1992	4 November 1993	5 December 1994
<b>Cyprus</b>	15 December 1992	16 February 1994	5 December 1994
<b>Denmark</b>	25 March 1993	23 August 1994 <sup>1) 2)</sup>	5 December 1994
<b>Finland</b>	15 December 1992	20 February 1995 <sup>2)</sup>	20 April 1995
<b>France</b>	15 December 1992	13 August 1993	5 December 1994
<b>Germany</b>	15 December 1992	29 September 1994 <sup>1)</sup>	5 December 1994
<b>Greece</b>	15 December 1992	22 August 1995 <sup>2)</sup>	22 October 1995
<b>Hungary</b>	15 December 1992	2 June 1995	2 August 1995
<b>Italy</b>	15 December 1992	5 October 1994	5 December 1994
<b>Latvia</b>	15 December 1992	25 July 1997	25 September 1997
<b>Liechtenstein</b>	15 December 1992	15 July 1994 <sup>1)</sup>	5 December 1994

<b>Lithuania</b>		19 December 1997 <sup>1)</sup>	19 February 1998
<b>Luxembourg</b>	15 December 1992	18 June 2003	18 August 2003
<b>Malta</b>	15 December 1992	6 April 2001 <sup>1) 2)</sup>	6 June 2001
<b>Moldova</b>	15 December 1992	1 February 1999	1 April 1999
<b>Monaco</b>	15 December 1992	14 October 1993	5 December 1994
<b>Montenegro</b>		15 April 2016	15 June 2016
<b>North Macedonia</b>		21 April 1998 <sup>2)</sup>	21 June 1998
<b>Norway</b>	15 December 1992	8 September 1998	8 November 1998
<b>Poland</b>	15 December 1992	9 December 1993 <sup>1)</sup>	5 December 1994
<b>Portugal</b>	15 December 1992	9 August 2000	9 October 2000
<b>Romania</b>	15 December 1992	22 May 1996 <sup>1)</sup>	22 July 1996
<b>Russian Federation</b>	15 December 1992		
<b>San Marino</b>	15 December 1992	18 November 1994	18 January 1995
<b>Slovak Republic</b>	31 March 1993		
<b>Slovenia</b>	29 March 1993	11 May 1994	5 December 1994
<b>Sweden</b>	15 December 1992	25 November 1993 <sup>2)</sup>	5 December 1994
<b>Switzerland</b>	15 December 1992	23 December 1993 <sup>1)</sup>	5 December 1994
<b>Tajikistan</b>		24 March 1995	24 May 1995
<b>Ukraine</b>	15 December 1992	12 December 1995	12 February 1996
<b>Uzbekistan</b>		24 January 1996	24 March 1996

1) Reservation made under article 19.4

2) Declaration made under article 26.2

3) Declaration made upon signature (interpretative statement)

## RESERVATIONS, DECLARATIONS AND STATEMENTS

### Reservations Made on the Basis of Article 19(4)

#### **Austria** (14 November 1995)

« Conformément à l'article 19, paragraphe 4, de la Convention relative à la conciliation et à l'arbitrage au sein de la CSCE, la République d'Autriche déclare que, compte tenu de la compétence de la Cour internationale de Justice fondée sur l'Accord modifiant l'article 27, lettre a, de la Convention européenne pour le règlement pacifique des différends, l'article 19, paragraphe premier, lettre b, première hypothèse, de la Convention relative à la conciliation et à l'arbitrage au sein de la CSCE n'est pas applicable dans les rapports entre l'Autriche et l'Italie. »

#### **Denmark** (23 August 1994)

« In conformity with Article 19, paragraph 4, the Kingdom of Denmark reserves the right to the conciliation and jurisdictional procedures established in bilateral treaties concluded or to be concluded by the Kingdom of Denmark, provided that these procedures can be set in motion unilaterally. The Kingdom of Denmark also reserves the right to the conciliation and jurisdictional procedures agreed on or to be agreed on *ad hoc* for a specific dispute or a series of specific disputes. »

#### **Germany** (27 September 1994)

« In conformity with Article 19, paragraph 4, of the Convention on Conciliation and Arbitration within the CSCE, the Government of the Federal Republic of Germany reserves the right to submit disputes to dispute settlement procedures established in bilateral or multilateral treaties concluded or to be concluded by the Federal Republic of Germany, provided that these procedures can be initiated unilaterally. The Federal Republic also reserves the right to submit a specific dispute or a series of specific disputes to dispute settlement procedures agreed or to be agreed on an *ad hoc* basis. »

#### **Liechtenstein** (28 June 1994)

« In accordance with article 19, paragraph 4, the Principality of Liechtenstein reserves the right to the conciliation and jurisdictional procedures established in bilateral treaties concluded or to be concluded by the Principality of Liechtenstein, provided that these procedures can be set in motion unilaterally. The Principality of Liechtenstein also reserves the right to the conciliation and jurisdictional procedures agreed or to be agreed on *ad hoc* for a specific dispute or a series of specific disputes. »

#### **Lithuania** (24 November 1997)

« As provided in paragraph 4, Article 19 of the Convention on Conciliation and Arbitration within the OSCE, the Republic of Lithuania reserves the right to the conciliation and jurisdictional procedures established in bilateral and multilateral treaties concluded or to be concluded by the Republic of Lithuania, provided that these procedures can be initiated unilaterally. The Republic of Lithuania also reserves the right to submit a specific dispute or a series of specific disputes to dispute settlement procedures agreed or to be agreed on an *ad hoc* basis. »

**Malta** (20 March 2001)

« In conformity with Article 19, paragraph 4, Malta reserves the right to the conciliation and jurisdictional procedures established in bilateral treaties concluded or to be concluded by Malta, provided that these procedures can be set in motion unilaterally. Malta also reserves the right to the conciliation and jurisdictional procedures agreed on or to be agreed on *ad hoc* for a specific dispute or a series of specific disputes. »

**Poland** (16 December 1993)

« In conformity with Article 19, paragraph 4, the Republic of Poland reserves the right to the conciliation and jurisdictional procedures established in bilateral treaties concluded or to be concluded by the Republic of Poland, provided that these procedures can be set in motion unilaterally. The Republic of Poland also reserves the right to the conciliation and jurisdictional procedures agreed or to be agreed on *ad hoc* for a specific dispute or a series of specific disputes. »

**Romania** (22 May 1996)

« By applying the provisions of Article 19, paragraph 4, Romania reserves the right of option to use the conciliation and arbitration proceedings provided in bilateral and multilateral treaties it already concluded or it will conclude ».

**Switzerland** (17 December 1993)

« En application de l'article 19, paragraphe 4, le Conseil fédéral suisse réserve les procédures de conciliation et juridictionnelles prévues dans les traités bilatéraux conclus et à conclure par la Suisse, pour autant que ces procédures puissent être unilatéralement déclenchées. Il réserve également les procédures de conciliation et juridictionnelles convenues ou à convenir *ad hoc* pour un différend particulier ou une série de différends particuliers. »

### Declarations Made on the Basis of Article 26(2)

#### **Greece** (21 August 1995)

« La République hellénique reconnaît, conformément à l'Article 26, paragraphe 2, comme obligatoire de plein droit et sans accord spécial la compétence d'un tribunal arbitral sous réserve de réciprocité. Cette déclaration est faite pour une durée de cinq ans pour les différends, à l'exclusion de ceux concernant la défense nationale. »

#### **Denmark** (23 August 1994)

« Pursuant to Article 26, paragraph 2, of the Convention on Conciliation and Arbitration within the CSCE, done at Stockholm on 15 December 1992, the Kingdom of Denmark will recognise as compulsory, *ipso facto* and without special agreement, the jurisdiction of an Arbitral Tribunal established under the said Convention, subject to reciprocity. This declaration is valid for a period of ten years, from the day of deposit of the Instrument of Ratification. »

#### **Finland** (10 February 1995)

« Pursuant to Article 26, paragraph 2, of the Convention, Finland declares that it recognises as compulsory, *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of an Arbitral Tribunal established under the Convention. This declaration is valid for a time-period of ten years from the day of deposit of the Instrument of Ratification. »

#### **North Macedonia** (31 March 1998)

« Referring to the Article 26.2 of the Convention on Conciliation and Arbitration within the CSCE, the Republic of Macedonia hereby declares that it will recognize as compulsory, *ipso facto*, and without special agreement, subject to reciprocity, the jurisdiction of an Arbitral Tribunal established under the Convention on Conciliation and Arbitration within the CSCE.

This Declaration is valid for a period of five years, from the date of its deposit to the Depository of the above mentioned Convention – the Government of the Kingdom of Sweden – and shall not apply to the disputes concerning territorial integrity and national defence of the country. »

#### **Malta** (20 March 2001)

« Pursuant to Article 26, paragraph 2, of the Convention on Conciliation and Arbitration within the OSCE, done at Stockholm on 17<sup>th</sup> December 1992, Malta will recognise as compulsory, *ipso facto*, and without special agreement the jurisdiction of an Arbitral Tribunal established under the said Convention, subject to reciprocity.

This Declaration is valid for a time period of ten years from the day of deposit of the Instrument of Ratification. »

**Sweden** (25 November 1993)

« Referring to Article 26, paragraph 2, of the Convention on Conciliation and Arbitration within the CSCE, Sweden hereby declares that it will recognise as compulsory *ipso facto* and without special agreement the jurisdiction of an Arbitral Tribunal established under the Convention on Conciliation and Arbitration within the CSCE, subject to reciprocity. This declaration is valid for a time-period of ten years from the date of its deposit. »

**Interpretative Statement****Bulgaria – Interpretative Statement made upon the Signature of the Convention**  
(15 December 1992)

« 1. In the understanding of the Republic of Bulgaria, the provisions of Article 22, paragraph 3, do not provide for the constitution of a conciliatory commission under Article 20, paragraph 2, of the Convention on Conciliation and Arbitration, opened for signature on 15 December 1992 in Stockholm, in the absence of an effective agreement between the parties to a dispute in the sense of paragraph 2 of Article 20, duly notified to the Registrar.

2. In the understanding of the Republic of Bulgaria, the provisions of Article 27, paragraph 1, do not provide for the constitution of an Arbitral Tribunal under Article 26, paragraph 1, of the Convention, in the absence of an effective agreement between the parties to a dispute in the sense of paragraph 1 of Article 26.

3. In the understanding of the Republic of Bulgaria, the provisions of Article 26, paragraph 2, do not preclude States from limiting the application in time of the unilateral declarations under that paragraph by setting a condition of non-retroactivity of such declarations. »

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