

Approved

By the EKA Constitutional  
Assembly on November 14, 2018

Minutes No 2-8/18/03

## **THE ACADEMIC COURT OF ARBITRATION REGULATIONS**

### **I. General provisions**

1. The regulations determine the composition and the order of the Academic Court of Arbitration of the EKA University of Applied Sciences (hereinafter - EKA, the University) through which the Academic Court of Arbitration shall review cases.
2. The Academic Court of Arbitration shall:
  - 2.1. review the applications of students and academic staff concerning violations of academic freedom and restrictions or violations of rights described in the University's Constitution;
  - 2.2. review conflicts among the University's officials as well as structural management institutions which stand in mutual subordination;
  - 2.3. examine the applications of the contesting of an administrative act or action and decide the cases stipulated by the Law on Higher Education Institutions;
  2. 4. perform other tasks stipulated by the University's Constitution.
3. The Court of Arbitration, by examining issues on their merits, shall comply with the external laws and regulations, the EKA Constitutional provisions and the rules of these Regulations, as well as other internal normative acts.
4. The members of the Academic Court of Arbitration shall answer to the University's Constitutional Assembly.

### **II. The composition of the Academic Court of Arbitration**

5. In accordance with the EKA University of Applied Sciences Constitution, Section 42, the Academic Court of Arbitration of the University shall act on the basis of regulations approved by the EKA Constitutional Assembly with three arbitrators, who are elected for three years. Two representatives from the University's academic staff shall be elected through secret ballot by the Constitutional Assembly. The students' representative shall be elected to the Academic Court of Arbitration by the Students' Self-government Council.
6. The EKA Constitutional Assembly, without the three members of the Academic Court of Arbitration, shall also elect three member candidates of the Academic Court of Arbitration for who EKA is the place where they are elected and who, in the case any of

the elected members of the Academic Court of Arbitration are unable to discharge their duties, shall have the right to take the vacant place of the members of the Academic Court of Arbitration. The member candidates of the Academic Court of Arbitration, those three academic staff members shall be elected who have received the largest number of votes of the participants of the EKA Constitutional Assembly immediately after the elected members of the Academic Court of Arbitration.

7. Arbitrator powers shall expire before the expiry of the Court of Arbitration mandate as described in Section 6 in the following cases:
  - 7.1. if the employment relationship between EKA and the arbitrator, who is the representative of the academic staff, has been terminated;
  - 7.2. if the arbitrator, who is a student representative, has been exmatriculated;
  - 7.3. if the arbitrator submits his resignation to the Constitutional Assembly;
  - 7.4. if the arbitrator has been transferred to another staff category;
  - 7.5. if the arbitrator has been recalled through a motivated decision by the Constitutional Assembly or the Students Self-government Council.
8. Following the recommendation of the Senate, the Constitutional Assembly has the right to exclude certain individuals from the Academic Court of Arbitration, if those individuals by their actions have not been conducive to complying with the Constitution, other internal rules of the University and the principles of academic integrity. In this case, a meeting of the Constitutional Assembly shall be called, which shall decide on the persons' exclusion from the Academic Court of Arbitration and on electing new individuals in the governing institution.
9. The members of the Academic Court of Arbitration shall be convened to the first meeting of the newly elected composition of the Court of Arbitration by the Constitutional Assembly Chair. During its first meeting after the election, the arbitrators shall elect the Chair, the Vice-Chair, who shall replace the Chair if necessary, and the Secretary of the Academic Court of Arbitration from their midst.

## **II. Order in which cases are to be reviewed**

10. Administrative directives or factual actions of the University may be challenged by the University's personnel at the University's Academic Court of Arbitration, but the decision made by the Academic Court of Arbitration may be appealed to the court following the steps described in the Administrative Procedure Law.
11. Individuals who do not belong to the University's personnel may challenge the University's administrative directives and factual actions by submitting an application letter to the EKA Rector, but the EKA Rector's decision may be appealed to the court following the steps described in the Administrative Procedure Law. If the challenged administrative directive was issued or the factual action was performed by the EKA Rector, then the individuals who do not belong to the University's personnel may challenge the respective administrative directive or factual action by applying to the EKA Board, but the EKA Board decision may be appealed to the court following the steps described in the Administrative Procedure Law.
12. The Academic Court of Arbitration shall reach its decision collegiately by a majority of votes. The Academic Court of Arbitration shall be entitled to hold the meeting, if the meeting is attended by at least two members of the Court of Arbitration. The meetings are run by the Chair of the Court of the Arbitration, or in his absence, by the Vice-Chair of the Court of Arbitration.

13. All meetings of the Academic Court of Arbitration are recorded in the form of minutes. The minutes of the meetings shall be signed by the Chair (or the Vice-Chair) and the Secretary. All minutes of the meetings, after signing and within three working days, shall be deposited to the EKA Rector's office for record keeping.
14. The University's personnel member can apply to the Academic Court of Arbitration within ten days from the date on which he became aware that his rights to work or study or interests protected by law have been violated.
15. The letter which is addressed to the Academic Court of Arbitration and signed by the applicant shall be submitted in two written copies. It shall contain:
  - 15.1. the applicant's full name, residential address, as well as phone number or email address;
  - 15.2. the parties to the dispute;
  - 15.3. the subject of the dispute, the substance of the claim and the justification;
  - 15.4. evidence demonstrating the circumstances of the dispute specified by the applicant;
  - 15.5. measures taken to reconcile the differences between the parties until the submission of the application;
  - 15.6. names and addresses of witnesses, experts or specialists that have been invited to the hearing of the Academic Court of Arbitration;
  - 15.7. list of documents accompanying the application;
  - 15.8. preferred/priority form of communication: phone or email.
16. The application has to be submitted to the EKA Rector's office where it is registered and forwarded to the Chair of the Academic Court of Arbitration. The EKA Rector's office has the right to refuse an application, if it does not contain the required information specified in Section 15 of these regulations and, if the application is not signed.
17. After receiving the application, the Chair of the Academic Court of Arbitration shall immediately convene the hearing of the Court of Arbitration. During the hearing, the Court of Arbitration has to assess whether the application is within the competence of the Academic Court of Arbitration. In complex cases, the Court of Arbitration shall have the right to appeal to the EKA Rector with the request to solicit advice from experts with relevant qualifications and experience. The expressed opinion by the solicited experts shall not be binding in the decision making at the hearing of the Academic Court of Arbitration.
18. If, during the hearing, the Court of Arbitration finds that the submitted application is not within the competence of the Academic Court of Arbitration, it decides to leave the application without consideration, stating the reasons for doing so. The decision of the Court of Arbitration to leave the application without consideration shall be signed by all participating members of the Court of Arbitration. This decision, after its adoption, shall be immediately submitted to the EKA Rector's office, which is obliged, within three working days, to contact the applicant using the listed phone number or email addresses informing about the decision and the fact that the decision's copy can be obtained at the EKA Rector's office. If the applicant cannot be contacted or he, after 14 days from the moment of notification, does not arrive to receive the copy of the decision, the EKA Rector's office, after three working days, shall send the decision of the Academic Court of Arbitration by mail to the applicant's home address that has been listed.
19. If, during the hearing, the Court of Arbitration finds that the submitted application is within its competence, the Court of Arbitration shall set up a meeting to review the

case within fifteen days from the day the application has been received. With complex cases, duly justified, this period may be extended by additional fifteen days.

20. The time and place of the Academic Court of Arbitration meeting has to be notified in writing sending the information to the parties not later than three days before the meeting. The notification shall be forwarded to the parties through the EKA Rector's office, which registers it in its record keeping system. The written notification is also considered submitted in the case, if the applicant arrives at the EKA Rector's office and signs for the fact of becoming informed of the Academic Court of Arbitration meeting's place and time.
21. The Academic Court of Arbitration has to review disputes in the presence of the party that has submitted the application. If the party that has submitted the application has not been present at the Academic Court of Arbitration meeting twice in a row and without a good reason, the Court of Arbitration may decide to drop the case.
22. The member of the Academic Court of Arbitration shall not participate in the review of the case, if he or she has a direct or indirect personal interest in the case or if there are other circumstances that cast doubt on their impartiality.
23. The Academic Court of Arbitration shall comprehensively, completely and objectively clarify the circumstances of the dispute; to that end, the Court of Arbitration may request from the defendant the necessary documents, calculations, evidence, ask the defendant to be present at the meeting in order to provide explanations relating to the case. If the discovery of significant circumstances of the case requires specialized knowledge, the Academic Court of Arbitration may invite specialists or experts, asking them to make accounting, technical, or other examination.
24. The Academic Court of Arbitration shall examine the case openly, using oral procedure. If the parties agree, the case can be heard in closed session in order not to expose the economic, service or commercial secret. The applicant has the right to invite his representative to provide advice during the meeting while the case is being reviewed. The number of the applicant's representatives (consultants) is not limited. The applicant is responsible for informing his representative(s) in a timely fashion about date, time and place of the Court of Arbitration meeting. The party representative has the right, during the Court of Arbitration meeting, to ask questions that are of interest in connection with the present case.
25. The Academic Court of Arbitration shall hear the case in the meeting in the state language. The reflection of the case in the Court of Arbitration record-keeping occurs in the state language, documents in other languages are added to the file with a notarized translation into the state language. The notarized translation of the document in the state language shall be provided by the applicant. In the event that the applicant is a foreign student, the University shall provide the interpreting/translation into English.

#### **IV. The Academic Court of Arbitration decisions and their implementation**

26. The decision (the part of the Court of Arbitration meeting's minutes that is formed as a separate document) shall be issued by the University's office within three working days since the decision has been made. The decision shall be signed by all members of the Academic Court of Arbitration, who participated at the case review meeting. The copies of the decision on the dispute shall be issued to the applicant and the defendant at the EKA Rector's office after three working days after the moment the decision has been taken.

27. The decision shall contain:
  - 27.1. the title of the Academic Court of Arbitration and details of the present members of the Court of Arbitration;
  - 27.2. the date when the decision was made;
  - 27.3. the parties to the dispute and their representatives;
  - 27.4. the subject-matter and the substance of the dispute;
  - 27.5. the parties' explanations and the evidence submitted;
  - 27.6. the decision motives and the evaluation of the submitted evidence;
  - 27.7. the decision (operative part) to satisfy, to satisfy in part or reject the requests described in the application.
28. The decisions made by the Academic Court of Arbitration shall be complied with by the University's administration.