



WORKING GROUP ON POLICY AND LEGAL HARMONIZATION (WGPL)

14 March 2024, virtual

PAPU/AC/ATC/PRC/04/2024- Doc No. 02c and Annex

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PROPOSED AMENDMENTS TO THE PAPU ACTS

Agenda item no. 3.3

1. Subject Proposed amendments to the PAPU Convention and Detailed Regulations of the Convention	2. References/paragraphs <ul style="list-style-type: none">• PAPU Acts;• Programme of Activities of the Policy and Regulation Committee for the 2022-2025 quadrennial cycle.
3. Decision expected <ul style="list-style-type: none">• Examen and adopt this working document;• Make any relevant comments/observations.	

I. INTRODUCTION

In pursuance of the Programme of activities of the Working Group on Policy and Legal Harmonization, the PAPU General Secretariat undertook a review of the Acts of the Union. This exercise revealed shortcomings and inconsistencies for which amendments were proposed as a remedial measure.

II. DECISION EXPECTED

Members are requested to :

- Consider and adopt the following proposed amendments to the Acts of Union and the Rules of Procedure of the Plenipotentiary Conference:
 - a) On PAPU Convention:**
 - i) Article 20 (New): Cybersecurity and personal data protection.
 - b) On Detailed Regulations:**
 - i) Article 6, point 1: Vacant seat on the Council;

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- ii) Article 6, point 2: Vacant seat on the Council;
- iii) Article 11: Emergency consultation;
- c) Rules of Procedure of Plenipotentiary Conference:**
 - i) Article 5 (bis) (New).
- Make any relevant comments and/or proposals.

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REFERENCES	COMMENTS/OBSERVATIONS	PROPOSED AMENDMENTS
PAPU CONVENTION		
<p>Chapter VII – Rights and obligations of Member States of the Union</p>	<p>Protecting privacy and fundamental rights and freedoms has become a pressing issue for Member States at both national and international level.</p> <p>For instance, the African Union has legislated on the subject through a convention on cyber security and personal data protection. In addition, at sub-regional and national levels, several African countries have passed legislation on the subject.</p> <p>PAPU should follow suit by introducing provisions in this area.</p>	<p>Article 20 (New): Cybersecurity and personal data protection</p> <p><i>20.1 Member States shall ensure compliance with the respective international and national provisions on personal data protection.</i></p> <p><i>20.2 Member States shall promote e-commerce, digital financial services and other digital services by offering a secure and reliable cyberspace.</i></p>

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DETAILED REGULATIONS OF THE CONVENTION

Article 6, point 1 of Detailed Regulations of the Convention: Vacant seat on the Council

A seat of the Council shall be considered vacant when a Member State is not represented at two consecutive sessions of the Council or when it resigns from the Council or denounces its membership of the Union.

The definition of a vacancy seems incomplete. It needs to be improved on to adequately cover various situations that may cause vacancies to arise.

Article 6, point 1 of Detailed Regulations of the Convention: Vacant seat on the Council

A seat in the Council shall be considered vacant in any of the following instances:

- Where a Member State is not represented during two consecutive sessions of the Council;
- Where a Member State resigns from the Council or the Union; or
- *Upon expiry of the term of office of a Member State in the Council.*

Article 6, point 2 of Detailed Regulations of the Convention: Vacant seat on the Council

When a seat on the Council becomes vacant, the affected region shall designate another Member State to serve on the Council for its remaining term of office.

This provision is deficient in that it does not sufficiently define the procedure for replacing the Member State whose seat on the Council becomes vacant. It would seem that the mere designation of the State by the region concerned is sufficient to give that State a seat on the Council. However, it is clear from the functions of the Conference that it elects the members of Council (**Article 2, paragraph 10 of the Detailed Regulations**). It is therefore only logical to harmonize this provision with **Article 2(10)** of the Detailed Regulations.

Article 6, point 2: Vacant seat on the Council

When a seat on the Council becomes vacant between two sessions of the Conference, the affected region shall designate another Member State to serve on the Council for its remaining term of office. *The designated member State presented to the Secretary General to serve on the Council for the remaining term of office shall be assessed for compliance with membership requirements by the Administrative Council, whereupon the latter who shall then refer the matter, as the case may be, to the Conference Bureau for a decision.*

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Article 11 of Detailed regulations of the convention: Emergency consultation

Between two sessions of the Council, the Secretary-General may, subject to guidance from the Chairperson of the Administrative Council, consult Member States of the Council about one or several urgent problems for decision. In such a case, the decisions shall be taken by simple majority on the basis of replies which Member-States shall communicate to the Secretary General by the speediest and most efficient means. Such consultation shall not relate to decisions with financial implications exceeding the budget ceiling for the current financial year. Any decision taken through this method shall be in accordance with the Convention and its Detailed Regulations, and tabled formally at the next meeting of the Council.

The issue of decision-making between two (02) sessions of the Conference of Plenipotentiaries was referred to the Legal Experts Team during its meetings on 27 July and 14 August 2023.

The opinion of the legal experts was to retain the provision as drafted on the grounds that it was sufficiently clear. However, in support of this provision, an emergency consultation procedure on matters falling within the competence of the Conference should be envisaged between two (02) sessions of the Conference.

Article 11: Emergency consultation

11.1. Between two sessions of the Council, the Secretary-General may, subject to guidance from the Chairperson of the Administrative Council, consult Member States of the Council about one or several urgent problems for decision. In such a case, the decisions shall be taken by simple majority on the basis of replies which Member-States shall communicate to the Secretary General by the speediest and most efficient means. Such consultation shall not relate to decisions with financial implications exceeding the budget ceiling for the current financial year. Any decision taken through this method shall be in accordance with the Convention and its Detailed Regulations, and tabled formally at the next meeting of the Council.

11.2 (New): *Between two sessions of the Conference, the Secretary General may, subject to guidance from the Chairperson of the Administrative Council, consult Member States of the Conference Bureau about one or several urgent matters for decision. Any decision taken through this method shall be in accordance with the Convention and its Detailed Regulations and tabled formally to the Conference during its next Ordinary Session.*

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RULES OF PROCEDURE OF PLENIPOTENTIARY CONFERENCE

Rules of Procedure of the
Plenipotentiary Conference

**Article 5 (bis) (New) of Rules of Procedure of the
Plenipotentiary Conference: Emergency
consultation of the Plenipotentiary Conference
Bureau**

- 1. Where an urgent matter is presented to the Bureau of the Conference for decision-making, the Chairperson of the Conference, after consulting the Bureau members, shall decide on the method and means of consultation. Insofar as possible, consultation shall take place by the most effective methods and means in light of the nature and urgency of the matter referred for consultation.**
- 2. The Conference Bureau's decision shall be signed by the Chairperson and reported to the Plenipotentiary Conference during its next session.**

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