

Grievance Hearing Instructions for 2020
Issued Pursuant to Article (7/A/3) and Article (10) of the Investor Grievance Regulation
No. 163 of 2019

Article (1)

These Instructions shall be called “Grievance Hearing Instructions for 2020” and they shall come into force as of 23/01/2020.

Article (2): Definitions

The following terms and expressions, wherever they appear in these Instructions, shall have the meanings assigned to them hereunder unless otherwise indicated by context:

Law: The Investment Law.

Regulations: The Investor Grievance Regulations.

Commission: Investment Commission.

Chairman: Chairman of the Commission.

Government Entity: Any ministry, department, commission, council, authority, official public institution, public institution or municipality.

Register: The application register created in accordance with the provisions of the Regulations.

Investor: A natural or juridical person practicing any industrial, commercial, agricultural, tourist, media, health, craft, vocational or service activity, including information technology.

Committee: The Grievance Committee formed at the Commission in accordance with the provisions of the Regulations.

Application: The grievance application submitted to the Commission in accordance with the provisions of these Instructions.

Article (3): Application Submission

- A. Any investor may submit a grievance application in accordance with the provisions of these Instructions, provided that the periods of amicable dispute settlement referred to in the investment treaties to which the Kingdom is a party and referred to in the contracts concluded with the Investor are taken into consideration and as the case may be.
- B. The application shall be submitted by the Investor or the representative thereof to the Committee’s Secretary or any of the Commission’s employees assigned by the Chairman, and according to the form approved for this purpose, which shall include the following data:

1. The name, title and address of the applicant.
2. The name of the company or commercial organization.
3. Means of communication with the applicant, including the applicant's e-mail address and phone number.
4. The national ID number of the applicant or the economic establishment.
5. The economic activity carried out by the applicant.
6. The government entity against which the application is submitted.
7. Location of the economic activity.
8. Indication of whether the application is urgent or not.
9. Estimation of the size of the investment subject of the application.
10. The number of workers hired for the applicant's investment and who may be affected by the procedure or decision in question.
11. Indication of whether the subject matter of the application is being heard by any competent judicial, arbitral or investigative body.
12. Any other information determined by the Committee's Chairman.

C. When submitting the application, the following documents shall be attached:

1. A copy of the ID card or passport of the applicant.
2. A copy of the authorization if the application is submitted by a party other than the Investor.
3. Commercial Registration Certificate or Company Registration Certificate.
4. Vocational License of the Investor.
5. A memorandum clearly stating the legal standing in relation to the grievance, determining the damage suffered by the applicant or the expected damage, specifying the party causing this damage, supported by evidence and data, and defining the aspect of violating the relevant legislation or investment agreements to which the Kingdom is a party and which apply to the Investor or the contract concluded with the Investor.

D. The application may be submitted electronically to the Commission, provided that the Commission shall determine the necessary procedures for submitting the application in this manner on the relevant website.

Article (4): Register/Documentation

- A. Upon receipt of the application, the application recipient shall ensure that it contains complete data and documents as stipulated in Article (3) of these Instructions. In the event of incomplete data or documents, the recipient of the application shall inform the applicant immediately to complete the missing data or documents within five (5) working days. If the applicant fails to do so during this period, the application is considered cancelled, provided that the applicant is informed of such decision.
- B. The application recipient shall provide the applicant with a notice stating the application submission date and whether the application is complete or not. The said notice shall indicate the dates during which the Committee reply to the applicant.
- C. The application recipient shall record the applications submitted to the Commission in the Register, indicating whether they are complete or not upon receipt, and assigning a serial number to each application according to the date of its submission.

- D. The periods stipulated in these Instructions to govern the receipt and examination of application and reply thereto shall not start except after completing the application data and documents stipulated in Article (3) of these Instructions.

Article (5): Referral to the Committee

the Committee's Secretary shall refer the completed application and its attachments immediately to the Committee, and the Secretary shall attach the following to the application:

- A. The Secretary's opinion as to whether the application is a grievance application that falls within the jurisdiction of the Committee or not.
- B. The Secretary's opinion as to whether the application is urgent or not.
- C. Determining whether the application was submitted within the accepted time limit, and whether the subject matter of the application is being heard by any competent judicial, arbitral or investigative body.

Article (6): Inviting the Committee to Convene

The Head of the Committee, or his deputy thereof in his absence, shall invite the Committee immediately after the application is received from the Committee's Secretary. The Committee shall, within two (2) working days of the receipt of the application and its attachments, determine whether the application is urgent or not. The application is considered urgent in any of the following cases:

- A. If the nature of the procedure or decision against which the grievance is brought greatly affects the operation or productivity of the economic activity or causes the interruption of business.
- B. If the legislation of the Government Entity stipulates specific periods for the investor to appeal before the competent court, and it is feared that such periods may be missed.

Article (7): The Committee's Decision

- A. The Committee shall issue, within two (2) working days of the receipt of the application and its attachments if the application is urgent or within ten (10) working days if the application is not, any of the following decisions:
 1. Announcing the dismissal of the application if it appears to it that the application is not a grievance application.
 2. Announcing the dismissal of the grievance application if it appears to it that the applicant has exceeded the legal period stipulated in the legislation of the relevant Government Entity or because the application has been considered by a competent judicial, arbitral or investigative body.
 3. Directing the applicant to submit the objection in accordance with the procedures stipulated in the legislation of the Government Entity, indicating the necessity to exhaust all means of objections before it, in case the legislation of this Government Entity provides an opportunity for the applicant to submit the objection before it.
 4. Accepting the application and initiating the procedures for considering it in accordance with the provisions and periods stipulated in these Instructions.

- B. The Committee may, in order to issue its decisions in accordance with paragraph (A) of this Article, seek clarification from the Government Entity and the Investor about any matter related to the application. The Government Entity and the Investor must reply to this clarification within five working days from the date of its receipt, and if the Investor does not reply to the request for clarification during the aforementioned period, then his application shall be considered invalid, provided that he/she is informed of this decision and documented in the Register. If the Government Entity does not answer the clarification during the same period, its refusal shall be documented within the recommendations of the Committee. In all cases, the period specified in this paragraph is not counted within the periods stipulated in Paragraph (A) of this Article.
- C. The Committee's Secretary shall inform the applicant of the decisions taken in accordance with Paragraph (A) of this Article and document the same in the Register.
- D. If the Committee finds that the application is an urgent grievance application and decides to accept it, it shall refer the application to the relevant Government Entity. The said Government Entity shall respond to the application within three (3) working days from the date of receiving the application. In the event that the Government Entity fails to respond within this period, the Committee shall document this within its recommendations.

Article (8): Grievance Application Hearing Procedures

- A. The Head of the Committee shall, after the end of all periods stipulated in Article (7) of these Instructions, invite the Committee to a meeting. The Committee shall perform the following:
 - 1. Review all documents, including files, records and correspondence attached to the application; and it may request the Government Entity or the applicant to provide it with any documents and data necessary for the determination of the application.
 - 2. Invite any persons, it deems appropriate, with expertise and experience in relation to the subject of the application to consult them, without having the right to vote.
 - 3. Conduct the legal, financial and technical analyses necessary for the grievance, investigate the validity of the measures taken and decisions issued by the Government Entity and verify that it has properly implemented the legislation governing its work and that it has not violated the international investment treaties to which the Kingdom is a party and the contracts concluded between these entities and Investors.
 - 4. Asking for clarification from the Government Entity or the Investor about any matter or information related to the grievance application. in accordance with the provisions specified in Paragraph (B) of Article (7) of these instructions. In all cases, the period specified to respond to the clarification request from the Government Entity or the Investor is not counted within the periods stipulated in Article (10) of these instructions.
 - 5. Hold the necessary meetings to bring the views of the Investor and the Government Entity closer together.
 - 6. Determine the findings it has reached regarding the subject matter of the application.
- B. After performing the tasks specified in Paragraph (A) of this Article, the Committee, if it confirms the legality of the procedures or decisions taken by the Government Entity, shall decide to dismiss the application. The Committee's Secretary shall notify the Chairman, the Government Entity and the applicant of that, and duly keep the application in the Register.

Article (9):

- A. Upon completion of the Committee's work, in accordance with the provisions of Article (8/A) of these Instructions, the Committee's Secretary shall notify the Government Entity of the results reached by the Committee.
- B. If the results reached by the Committee indicate that the procedures and decisions taken by the Government Entity have been based on the wrong application of the relevant legislation, international investment treaties to which the Kingdom is a party, or the contracts concluded with the Investor, and the Government Entity is satisfied with these results, the Committee shall prepare its recommendations accordingly and the Committee's Secretary shall perform the following according to the order specified below:
 1. Notify the Committee's recommendation to the Government Entity for action.
 2. Submit the application and its attachments to the Chairman, together with the Committee's recommendations and a statement of the Government Entity's acceptance of these recommendations.
 3. Notify the recommendation to the applicant by all available means of communication.
 4. Follow up on the implementation of the Committee's recommendations with the Government Entity.
- C. If the results reached by the Committee indicate that the procedures and decisions taken by the Government Entity have been based on the wrong application of the relevant legislation, international investment treaties to which the Kingdom is a party, or the contracts concluded with the Investor, and the Government Entity is not satisfied with these results or fails to express its opinion within five (5) days of being notified of the results, the Committee shall prepare its recommendations accordingly and the Committee's Secretary shall perform the following according to the order specified below:
 1. Notify the Committee's recommendations to the Government Entity.
 2. Submit the application and its attachments to the Chairman, together with the Committee's recommendations and a statement of the Government Entity's rejection of these recommendations.
 3. Notify the decision and recommendation to the applicant by all available means of communication.
- D. The Chairman shall submit to the Prime Minister the grievance applications referred to him in accordance with Paragraph (C) of this Article, and which the Chairman considers necessary to be presented to the Council of Ministers to decide thereon. The applicant shall be notified of that.

Article (10): Prescribed Periods

Subject to Article (8/A/4) of these Instructions, the Committee shall complete the procedures for considering the applications submitted to it and issue its decisions or recommendations under Articles (8) and (9) within the following periods:

- 1- Within fifteen (15) working days from the date of referring the completed application to it if it is urgent, provided that the time limits set for appeal before the competent court are observed in accordance with the legislation of the Government Entity.
- 2- Within thirty (30) working days from the date of referring the completed application to it if it is not urgent.
- 3- Fifteen (15) days before the expiry of the time limits specified for amicable dispute settlement stipulated in the international investment treaties to which the Kingdom is a party or stipulated in the contracts concluded with the Investor.

Article (11): Computerized Grievance System

The Commission shall, in coordination with the Ministry of Digital Economy and Entrepreneurship and the National Information Technology Center, and within a year of the entry into force of these Instructions, develop software to computerize the processes of application submission and examination, responding to the applicant, and documentation of all data and documents related to the grievance.

Chairman of the Investment Commission

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