



Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

22 February
2013

Original: English

Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Rules of procedure

In accordance with article 10, paragraph 2, of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter “the Optional Protocol”), the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter “the SPT”) adopted the following rules of procedure at its eighteenth session held in Geneva from 12 to 16 November 2012.

Part one General rules

I. Sessions

Rule 1 Dates of sessions

1. Regular sessions of the SPT shall be convened at dates decided by the SPT, in consultation with the Secretary-General of the United Nations (hereinafter “the Secretary-General”), taking into account the calendar of conferences as approved by the General Assembly.
2. The SPT shall set the dates of future regular sessions in advance on an ongoing basis, in consultation with the Secretary-General. Amendments to the agreed dates of future regular sessions shall be possible only after consultation with members at least six months in advance of the set date.
3. The SPT and the Committee against Torture shall hold at least one session a year simultaneously, in accordance with article 10, paragraph 3, of the Optional Protocol.
4. In addition to regular sessions, special sessions shall be held at dates agreed by the SPT, in consultation with the Secretary-General.

Rule 2 Place of sessions

Sessions of the SPT shall normally be held at the United Nations Office at Geneva. Another venue for a session may be designated by the SPT, in consultation with the Secretary-General, taking into account the calendar of conferences approved by the General Assembly and rule 16 of the SPT rules of procedure.

Rule 3 Notification of sessions

The Secretary-General shall notify the members of the SPT of the date, duration and place of each session as early as possible, but no later than two months prior to the beginning of the session concerned, such date being in accordance with the dates agreed in advance by the SPT (see rule 1).

Rule 4 Provisional agenda and draft order of business

1. The provisional agenda and the draft order of business for a session shall be prepared by the secretariat of the SPT (hereinafter “the Secretariat”), in consultation with the Bureau of the SPT, no later than one month prior to the beginning of the session. They shall be transmitted in the working languages of the SPT at least two weeks prior to the opening of the session, and shall contain the issues agreed for discussion by the SPT at the previous session, as well as other issues proposed by the Chairperson, the Bureau or the Secretariat.
2. The first item on the provisional agenda and draft order of business of any session shall be amendments to and adoption of the agenda and order of business.
3. The agenda and order of business may be revised by the SPT in the course of the session in the light of the emerging needs.

Rule 5 Transmission of documentation

The Secretariat shall transmit documents other than the provisional agenda and draft order of business to the members of the SPT in the working languages of the SPT as early as possible. All working documents prepared or other documents received by the Secretariat in advance of the session shall be transmitted forthwith to the SPT (including in electronic form, if available and appropriate, taking into account the requirements for confidentiality) in the original language of the document and, as soon as possible thereafter, in translation into the other working languages of the SPT.

II. Members of the SPT

Rule 6 Election of members of the SPT

1. Members of the SPT shall be the 25 experts elected in accordance with article 5 of the Optional Protocol.
2. Members shall be eligible for re-election once, if renominated.
3. Members of the SPT shall serve in their individual capacity and may not be represented by alternates.

Rule 7 Term of office

1. The term of office of the members of the SPT shall begin on 1 January of the year after the date of their election by the meeting of the States parties. The term of office shall expire on 31 December four years later, except for those members chosen by lot to serve for two years, whose terms shall expire on 31 December two years after their election.
2. In accordance with article 8 of the Optional Protocol, the term of the member appointed to fill a casual vacancy begins on the date of her or his approval, and shall end on the date of expiration of the term of office of the member being replaced.

Rule 8 Casual vacancies

1. In accordance with article 8 of the Optional Protocol, if a member of the SPT dies or resigns, or for any cause can no longer perform her or his duties, the Secretary-General shall immediately declare the seat vacant and inform the State party that nominated the member, which shall nominate, within two months, another eligible candidate subject to the approval of the majority of the States parties. Approval shall be considered given unless half or more of the States parties respond negatively within six weeks of having been informed of the proposed nominee.
2. When a member of the SPT is consistently unable to carry out her or his duties for any cause other than absence of a temporary nature, said member shall resign. Written notification of such resignation shall be submitted to the SPT and the Secretary-General. The Secretary-General shall inform the State party which nominated the member so that action can be taken in accordance with article 8 of the Optional Protocol.
3. The Secretary-General shall inform the States parties of the name of the member filling the casual vacancy as soon as possible after approval.
4. Where approval of a replacement under paragraph 1 of this rule is declined, the State party that nominated the member shall be invited to nominate another eligible candidate, meeting the requirements of article 5 of the Optional Protocol.

Rule 9 Solemn declaration

Before assuming her or his duties, each member of the SPT shall, at the first meeting of the SPT at which she or he is present following election, make the following solemn declaration:

“I solemnly declare that I will perform my duties and exercise my powers as a member of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment impartially, independently and efficiently.”

III. Bureau of the SPT

Rule 10 Election of the Bureau

1. The SPT shall elect from among its members a Chairperson and four Vice-Chairpersons who shall constitute the Bureau of the SPT. The Bureau shall select one of its Vice-Chairpersons to act as Rapporteur. Three members of the Bureau shall constitute a quorum.
2. Members of the Bureau shall be elected for a term of two years and be eligible for re-election.
3. Where there is only one candidate for election as one of its officers, the SPT may decide to elect that person by consensus. Where there are two or more candidates for election as one of its officers, or where the SPT otherwise decides to proceed with a ballot, the person who obtains a simple majority of votes shall be elected. If no single candidate receives a majority of votes, the members of the SPT shall endeavour to reach a consensus before holding another ballot. Elections shall be by secret ballot.

Rule 11 Functions of the Bureau

1. The Bureau shall direct the work of the SPT and shall perform all other functions conferred upon it by these rules of procedure and

by the SPT. In particular, when the SPT is not in session, the Bureau may make decisions on urgent or delegated matters on its behalf. Members shall be consulted on such decisions whenever time and circumstances permit and each such decision shall be communicated to all members as soon as possible, account being taken of the requirements for confidentiality. The Bureau shall report to the SPT at each session on any decisions or actions of an urgent or delegated nature which have been taken on behalf of the SPT since the previous session.

2. The Bureau shall meet as required during regular sessions and in special sessions as necessary to fulfil its obligations and the mandate of the SPT.

Rule 12 Powers of the Chairperson and Vice-Chairpersons

1. The Chairperson shall exercise her or his functions under the authority of the SPT.

2. In accordance with these rules of procedure, the Chairperson shall ensure the orderly conduct of the proceedings of the SPT, including observance of these rules.

3. The Chairperson shall represent the SPT at the United Nations and other meetings. If the Chairperson is unable to represent the SPT at such meetings, she or he may designate one of the Vice-Chairpersons. If no Vice-Chairperson is available, with the permission of the SPT, the Chairperson may designate a member of the SPT, to attend such meetings on behalf of the SPT.

Rule 13 Acting Chairperson

1. If, during a session, the Chairperson is unable to be present at a meeting or any part thereof, she or he shall designate a Vice-Chairperson to act in her or his place.

2. If the Chairperson and the Vice-Chairpersons are simultaneously unable to carry out their duties, or if none has been elected, the SPT shall entrust such duties to any member of the SPT until such time as the Chairperson or Vice-Chairpersons assume their functions or are elected. The Secretariat may, if necessary and in consultation with the SPT, call a meeting of the SPT for that purpose.

3. Any member acting as Chairperson shall have the same powers and duties as the Chairperson.

IV. Secretariat of the SPT

Rule 14 Provision of the SPT secretariat

In accordance with article 25, paragraph 2, of the Optional Protocol, the Secretary-General shall provide the necessary staff and facilities for the effective performance of the functions of the Subcommittee. As such, the SPT shall be provided with a dedicated secretariat, including a secretary and a team of staff with the capacity to engage in SPT fieldwork.

Rule 15 Duties of the SPT secretariat

1. The SPT secretariat shall be responsible for all the necessary arrangements for sessions of the SPT.

2. The Secretariat shall attend all sessions of the SPT and may make oral or written statements at those sessions.

3. The Secretariat shall provide working documents in advance of the sessions to enable the SPT to address all the items on its draft agenda and to carry out its fieldwork effectively. The Secretariat shall provide the SPT during sessions with all information which the SPT considers necessary in order for the SPT to fulfil its mandate effectively.

4. The Secretariat shall respond as early as possible to requests made by the Bureau for information, and shall provide draft correspondence and draft documents upon request as soon as possible.

Rule 16 Financial implications of proposals

1. The expenditure incurred by the SPT in the implementation of the Optional Protocol shall be borne by the United Nations.

2. Before any proposal involving additional expenditure to that already approved by the General Assembly is approved by the SPT, the Secretariat shall prepare and circulate to the members of the SPT, as early as possible, an estimate of the cost involved in the proposal indicating the additional expenditure is involved. It shall be the duty of the Chairperson to draw the members' attention to this estimate and the additional expenditure involved prior to a decision being taken on the proposal.

V. Communications

Rule 17 Incoming and outgoing communications

1. The Secretariat shall bring to the attention of the SPT all communications received containing information submitted for consideration by the SPT.

2. Communications received by individual members of the SPT which relate to the mandate of the SPT shall be forwarded to the Secretariat.

3. The Secretariat shall keep a record of all communications received and shall, where appropriate, send an acknowledgement of receipt to the authors of such communications.

4. All correspondence sent by the SPT or on behalf of the SPT shall be agreed in advance by the Bureau. The Secretariat shall provide the Bureau with copies of all such correspondence sent out with the date of transmission.

5. The Secretariat shall be responsible for informing the SPT of any issues that may be brought before it for consideration or of any other developments that may be of relevance to it. The Secretariat shall transmit to the SPT information on all correspondence and other communications addressed to it or relevant to its mandate.

Rule 18 Meetings with States parties

The Secretariat shall be responsible for informing the SPT in advance of all meetings with States parties at which the SPT is the subject of discussion, and shall consult with the SPT in advance as to any input concerning the SPT at such meetings. The Secretariat shall also ensure that the SPT has the opportunity to be represented at such meetings in person, or by contributing to and agreeing information to be provided about the SPT.

VI. Languages

Rule 19 Official and working languages

1. Arabic, Chinese, English, French, Russian and Spanish shall be the official languages of the SPT. Statements made in an official language shall be interpreted into the other official languages.

2. English, Spanish and French shall be the working languages of the SPT. The working languages of the SPT may be changed by its decision. All formal decisions and official documents of the SPT shall be issued in the working languages.

VII. Confidentiality

Rule 20 In camera sessions

1. The meetings of the SPT shall be held in camera. Its deliberations shall remain confidential.

2. The SPT may hear any person whom it considers to be in a position to assist it in the performance of its functions under the Optional Protocol. Such persons shall attend a meeting by invitation of the SPT only, in consultation with the Secretariat, and shall be bound by strict confidentiality.

3. The SPT may decide on an ad hoc basis that a meeting shall be public.

VIII. Documents of the SPT

Rule 21 Confidentiality

All documentation and information of the SPT shall be kept strictly confidential, unless the SPT decides otherwise in relation to a particular document.

Rule 22 Summary reports

1. The Secretariat shall produce a draft summary report of each session in a working language of the SPT, including the main observations, issues addressed and decisions taken. The draft summary report shall be analytically structured in accordance with the items of the agenda, and shall be transmitted to the SPT for comments and amendments within one month of the end of the session concerned. A revised version of the summary report, incorporating the amendments suggested by the SPT, shall be circulated to the SPT at least three weeks prior to the next session, in the working languages of the SPT.

Rule 23 List of decisions

A draft list of decisions taken by the SPT during each session shall be prepared by the Secretariat, in consultation with the Bureau, and adopted by the SPT.

Rule 24 Annual report

In accordance with article 16, paragraph 3, of the Optional Protocol, the SPT shall prepare a public annual report on its activities. The SPT shall present its public annual report to the Committee against Torture.

IX. Conduct of business

Rule 25 Quorum

Fourteen (14) members of the SPT shall constitute a quorum.

Rule 26 Adoption of decisions

1. The SPT shall endeavour to reach all of its decisions by consensus. If a consensus cannot be reached, decisions of the SPT shall be put to a vote and made by a simple majority vote of the members present and voting.
2. Each member of the SPT shall have one vote.
3. The SPT may adopt decisions by e-mail in accordance with the established set of procedures.

Rule 27 Working groups and Rapporteurs

The SPT may appoint Rapporteurs and set up ad hoc working groups comprising a limited number of its members. The terms of reference of such rapporteurships and working groups shall be defined by the SPT.

Rule 28 Independence of members

1. The members of the SPT shall serve in their personal capacity and shall not only be independent and impartial, but shall also be seen to be so by a reasonable observer. To this end, SPT members shall conduct themselves in accordance with the Guidelines on the independence and impartiality of members of the human rights treaty bodies (“the Addis Ababa guidelines”), in particular:

(a) No member of the SPT shall participate in activities which may imply, or may be seen to imply, a conflict of interest with her or his capacity as an independent and impartial member of the SPT;

(b) Members of the SPT shall avoid any action which might give the impression that any given State is receiving treatment which is more favourable or less favourable than that accorded to other States;

(c) Members of the SPT holding multiple nationalities shall inform, on their own initiative, the Chairperson of the SPT and its secretariat thereof.

2. (a) No member of the SPT shall participate in the conduct of a visit or involve themselves in the consideration of the report on the visit to the State party in respect of the nationality of which she or he was elected, of the State party which nominated her or him, or of any other nationality which she or he holds;

(b) No member of the SPT shall participate in the preparation of or follow-up to a country visit or inquiry or the consideration of ensuing reports, if any real or perceived conflict of interest is present.

3. If for any reason a member of the SPT considers that she or he is facing a potential conflict of interest, she or he shall promptly inform the Chairperson of the SPT who shall advise on the potential conflict of interest taking into account the Addis Ababa guidelines. Ultimately, the SPT as a whole shall take all measures necessary to safeguard the requirements of independence and impartiality of its members.

X. Co-operation with United Nations organs and mechanisms and other international, regional and national institutions or organizations

Rule 29 Consultation with other bodies

1. The SPT may invite relevant bodies to submit, or may receive, for consideration information, documentation and written statements on such matters as covered by the Optional Protocol that fall within the scope of its activities.

2. In accordance with article 31 of the Optional Protocol, the SPT may consult with bodies established under regional conventions with a view to cooperating with them and avoiding duplication, in order to promote effectively the objectives of the Optional Protocol.

Part two Rules concerning national preventive mechanisms

Rule 30 Relationship with national preventive mechanisms

1. The SPT shall advise and assist States parties, when necessary, in the establishment of national preventive mechanisms. It shall maintain direct, and if necessary confidential, contact with them, which includes the right to receive information from and meet with them, in accordance with articles 11 and 20 (f) of the Optional Protocol.

2. The SPT shall offer the national preventive mechanisms training and technical assistance with a view to strengthening their capacities.

3. The SPT shall advise and assist the national preventive mechanisms in the evaluation of their needs and the means necessary to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment.

4. The SPT shall make recommendations and observations to the States parties with a view to strengthening the capacity and the mandate of the national preventive mechanisms for the prevention against torture and other cruel, inhuman or degrading treatment or punishment of persons deprived of their liberty.

5. In its relations with the national preventive mechanisms, the SPT shall give due consideration to the Principles relating to the Status of National Institutions (the Paris Principles).

6. The SPT has adopted a separate set of guidelines on national preventive mechanisms (CAT/OP/12/5).

Part three Rule relating to interpretation

Rule 31 Interpretation

For the purpose of interpreting the present rules, the headings, which are inserted for reference purposes only, shall be disregarded.

Part four Rules relating to suspension and amendment of these rules

Rule 32 Suspension

Any of the present rules may be suspended by a decision of the SPT, provided such suspension is not inconsistent with the provisions of the Optional Protocol.

Rule 33 Amendments

The present rules may be amended by a decision of the SPT, at least twenty-four (24) hours after the proposal for the amendment has been circulated, provided that the amendment is not inconsistent with the provisions of the Optional Protocol.

Rule 34 Additions

The SPT may decide to add to the present rules at any time. An additional rule may be adopted by a decision of the SPT, at least twenty-four (24) hours after the proposal for the additional rule has been circulated, provided that the additional rule is not inconsistent with the provisions of the Optional Protocol.