



Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Rules of procedure under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights*

* The provisional rules of procedure ([E/C.12/49/3](#)) were adopted by the Committee at its forty-ninth session (12–30 November 2012). The present rules of procedure, containing amendments to the provisional version, were adopted by the Committee at its seventy-first session (14 February–4 March 2022).



I. Procedures for the consideration of individual communications received under the Optional Protocol

A. Transmission of communications to the Committee

Rule 1

Transmission of communications

1. The Secretary-General shall bring to the attention of the Committee, in accordance with the present rules, communications that are, or appear to be, submitted for consideration by the Committee under article 2 of the Optional Protocol.
2. The Secretary-General may request clarification from the author of a communication as to whether he or she wishes to have the communication submitted to the Committee for consideration under the Optional Protocol. In case there is still doubt as to the wish of the author, the Committee shall be seized of the communication.
3. No communication shall be received by the Committee if it: (a) concerns a State that is not a party to the Optional Protocol; (b) is not in writing; or (c) is anonymous.
4. Communications shall be submitted in one of the official languages of the Committee indicated in rule 24 of the rules of procedure of the Committee, preferably the official language of the United Nations most commonly used in the State party against which the communication is lodged.

Rule 2

Record and list of communications

1. The Secretary-General shall maintain a permanent record of all communications submitted under the Optional Protocol.
2. The Secretary-General shall prepare a list of the communications registered by the Committee, together with a brief summary of their contents, and will make it public while keeping the author's name confidential.
3. The full text of any such communication may be made available, in the language of submission, to any member of the Committee upon request by that member.

Rule 3

Requests for clarification or additional information

1. The Secretary-General may request clarification or additional information from the author of a communication, including:
 - (a) The name, address, date of birth and occupation of the author and proof of the author's identity;
 - (b) The name of the State party against which the communication is directed;
 - (c) The object of the communication;
 - (d) The facts of the claim and evidence to substantiate them;
 - (e) The provision or provisions of the Covenant alleged to have been violated;
 - (f) Steps taken by the author to exhaust domestic remedies;
 - (g) The extent to which the same matter is being or has been examined under another procedure of international investigation or settlement;
 - (h) Whether the author objects to his or her identity or communication being disclosed to third parties.

2. When requesting clarification or additional information, the Secretary-General shall indicate an appropriate time limit to the author of the communication with a view to avoiding undue delays in the procedure under the Optional Protocol.
3. The Committee may approve a questionnaire for the purpose of requesting the above-mentioned information from the author of a communication.

Rule 4

Authors of communications

1. Communications may be submitted by or on behalf of individuals or groups of individuals under the jurisdiction of a State party claiming to be victims of a violation by that State party of any of the rights set forth in the Covenant.
2. Where communications are submitted on behalf of individuals or groups of individuals, this shall be with their consent, unless the author can justify acting on their behalf without such consent.

B. Registration of communications and submission of observations and comments by the parties

Rule 5

Registration and concerned parties' observations and comments

1. As soon as possible after a communication has been received, the Committee, through its working group on communications, shall decide whether the communication brought to its attention should be registered. The Committee, on the recommendation of the working group, may decide to delegate this function to the rapporteur on new communications and interim measures designated under rule 22 of the present rules.
2. After the decision to register has been taken, the communication shall be brought to the attention of the State party concerned, with a request that the State party submit a written reply within six months.
3. The working group on communications or the rapporteur on new communications and interim measures may decide that, in order to reach a determination on the admissibility of a registered communication, transmission of the communication to the State party is not required. However, the decision shall be transmitted to the Committee plenary for discussion. Only inadmissibility decisions on registered cases may be taken by the Committee without prior transmission of the communication to the State party concerned for its observations.
4. A request addressed to a State party under paragraph 2 of the present rule shall include a statement of the fact that such a request does not imply that any decision has been reached on the question of admissibility or the merits of the communication.
5. Within six months of receipt of the Committee's request under the present rule, the State party shall submit to the Committee written observations that shall relate both to the admissibility of the communication and its merits, as well as to any remedy that may have been provided in the matter. The working group on communications or the rapporteur on new communications and interim measures may decide, in view of the circumstances of the case and any remedy requested by the author, to request a written reply that relates only to the question of admissibility. Nevertheless, a State party that has been requested to submit such a reply is not precluded from submitting, within the six-month period, a written reply that relates to both the admissibility and the merits of the communication.
6. The author may submit a reply to the State party's observations and the State party a rejoinder.
7. The working group or the rapporteur on new communications and interim measures may, in exceptional circumstances, reject repetitive submissions when such submissions could unduly delay or hamper the consideration of the communication and they are considered unnecessary to reach a decision on the communication.

8. The reply and the rejoinder, and additional submissions that may be authorized by the working group or the rapporteur on new communications and interim measures, shall focus on addressing the issues still in contention.

9. Notwithstanding the six-month period for the State party's first submission, as set out in article 6 (2) of the Optional Protocol, the working group on communications or the rapporteur on new communications and interim measures will establish a definite date for the completion of further steps in the proceedings.

10. A party seeking an extension of the time limit must make a request as soon as it has become aware of the circumstances justifying such an extension and, in any event, before the expiry of the time limit. It should state the reason for the request. Requests to extend the time limit will be assessed by the working group on communications or the rapporteur on new communications and interim measures and the decisions will be taken on a case-by-case basis.

11. Before draft Views are presented to the working group on communications for discussion, the working group or the rapporteur on new communications and interim measures may request the parties to provide updates on the current status of the case.

Rule 6

Separation of admissibility and the merits

1. A State party that has received a request, under rule 5 (2), for a written reply on both the admissibility and the merits of the communication may apply in writing, within two months, for the question of admissibility to be examined separately from the merits. The Committee, through its working group on communications or the rapporteur on new communications and interim measures, will decide on the State party's request. If the working group or the rapporteur agrees to the request, the State party will not need to submit explanations or statements on the merits unless the Committee decides otherwise.

2. The author may submit a reply to the State party's objection on admissibility.

3. Upon the request of one of the parties, additional written submissions may be authorized by the working group on communications or the rapporteur on new communications and interim measures, on an exceptional basis, with due consideration for the circumstances of the case.

Rule 7

Interim measures

1. At any time after the registration of a communication and before a determination on the merits has been reached, the Committee, acting through its working group on communications or its rapporteur on new communications and interim measures, may request that the State party concerned take on an urgent basis such interim measures as may be necessary in exceptional circumstances to avoid possible irreparable damage to the victim of the alleged violations.

2. Any author who requests such interim measures must demonstrate the reality of a risk of such damage occurring and why, should the risk materialize, the damage would be irreparable.

3. The working group on communications or the rapporteur on new communications and interim measures shall not request a State party to take interim measures unless the communication appears prima facie to meet the admissibility requirements set out in article 3 of the Optional Protocol.

4. Authors who submit a request for interim measures must do so as soon as it appears that effective domestic remedies capable of averting the irreparable damage are not available. Requests for interim measures must be submitted at least four working days before the damage is expected to materialize, unless there are reasons justifying a late submission. A response to a request for interim measures submitted fewer than four working days before the damage is expected to materialize cannot be guaranteed.

5. Authors have a duty to disclose in good faith all material facts and information relevant to the request for interim measures. Failure to disclose such facts and information may result in the withdrawal of the request for interim measures.

6. In cases where the information provided by the author is insufficient, but the working group on communications or the rapporteur on new communications and interim measures has reason to believe that the risk of irreparable damage cannot be ruled out, the working group or the Committee may request interim measures for a limited time in order to allow the author a short but reasonable period in which to provide substantiating information. If the author does not provide the information within that time period, the request for interim measures shall be withdrawn automatically.

7. Requests for interim measures made under the present rule by the working group on communications or the rapporteur on new communications and interim measures will indicate that the request does not imply a determination on the admissibility or the merits of the communication, but that failure to implement such measures is incompatible with the obligation to respect in good faith the procedure for individual communications established under the Optional Protocol.

8. At any stage of the proceedings, the working group on communications or the rapporteur on new communications and interim measures shall examine any arguments presented by the State party concerned on the request to take interim measures, including reasons that would justify the lifting of the measures.

9. The working group on communications or the rapporteur on new communications and interim measures may withdraw a request for interim measures on the basis of information submitted by the State party and the author of the communication.

Rule 8

Protection measures

1. Upon receiving information from the author of the communication, the Committee may also request the State party to take protection measures in favour of individuals, including the author, his or her counsel and family members, who might be subjected to ill-treatment, intimidation or reprisals as a result of the submission of the communication to the Committee, pursuant to the Optional Protocol.

2. The Committee may seek from the State party written explanations or statements clarifying the matter and describing any action taken in that regard.

Rule 9

Third-party submissions

1. When considering communications under the Optional Protocol, the working group on communications or the rapporteur on new communications and interim measures may, pursuant to article 8 (1) of the Optional Protocol, request and/or accept information submitted by third parties which may be relevant for the proper determination of the communication.

2. The Committee may adopt guidelines on the requirements to be observed for third-party submissions.

3. The Committee shall forward third-party submissions to the parties to the communication, who are entitled to submit written observations and comments in reply.

4. Individuals or entities that are third parties shall not be considered parties to the communication.

C. Determining the admissibility and the merits of communications

Rule 10

Procedure for examining communications

1. Communications shall be examined by the Committee, as to their admissibility and/or merits, in the order in which they were received by the Secretariat, unless the Committee decides otherwise in view of the circumstances and issues involved.
2. Prior to examining the merits of a communication, the Committee shall decide whether the communication is admissible.
3. Two or more communications may be dealt with jointly, if deemed appropriate by the Committee.
4. Decisions on admissibility and the merits shall be taken by the Committee by a simple majority, in accordance with the present rules. A majority of the Committee members present and voting shall be required for finding a communication admissible and for any finding of a violation of the Covenant.
5. The Committee may decide to review communications in chambers.

Rule 11

Working group on communications

1. Prior to being examined by the Committee in plenary, communications will be examined by the working group on communications. A rapporteur from among the members of the working group will be designated to assist in the handling of each communication.
2. The rules of procedure of the Committee shall apply as relevant to the meetings of the working group on communications. Four members shall constitute a quorum for such meetings.
3. The working group on communications shall make recommendations to the Committee concerning the fulfilment of the conditions of admissibility laid down in the Optional Protocol. The working group on communications may also make recommendations to the Committee concerning the merits of the communications under examination.
4. The working group on communications may declare a communication inadmissible when all the members so agree. However, the decision will be transmitted to the Committee in plenary, which may confirm it without formal discussion. If any Committee member requests a plenary discussion, the plenary shall examine the communication and take a decision.
5. Decisions to declare a communication admissible separately from its examination on the merits may be taken by the working group on communications when all its members so agree, provided that the number of voting members is at least five. The separate finding of admissibility may be revised during the examination on the merits of the communication by the working group or by the plenary, in accordance with rule 15 (5) of the present rules.

Rule 12

Ascertaining the admissibility of communications

With a view to reaching a decision on the admissibility of a communication, the Committee or its working group on communications shall ascertain that:

- (a) The communication emanates from individuals or groups of individuals under the jurisdiction of a State party to the Optional Protocol;
- (b) If the communication is submitted on behalf of individuals or groups of individuals, it is submitted with their consent, unless the author can justify acting on their behalf without such consent;

(c) The individuals or groups of individuals claim, in a sufficiently substantiated manner, to be victims of a violation by that State party of any of the rights set forth in the Covenant;

(d) The individuals or groups of individuals have exhausted all available domestic remedies, unless the application of those remedies is demonstrated to be unduly prolonged or the remedies are demonstrated to be ineffective;

(e) The communication has been submitted within one year after the exhaustion of domestic remedies, or the author has demonstrated that it has not been possible to submit the communication within this time limit;

(f) The facts that are the subject of the communication did not occur prior to the entry into force of the Optional Protocol for the State party concerned, unless those facts continue after that date;

(g) The same matter has not already been examined by the Committee and that it has not been and is not being examined under another procedure of international investigation or settlement;

(h) The communication is not incompatible with the provisions of the Covenant;

(i) The communication is not manifestly ill-founded, that it is sufficiently substantiated and that it is not exclusively based on reports disseminated by the mass media;

(j) The communication does not constitute an abuse of the right to submit a communication;

(k) The communication is not anonymous and that it is submitted in writing.

Rule 13

Communications not revealing a clear disadvantage

1. In accordance with article 4 of the Optional Protocol, the Committee may, if necessary, decline to consider a communication that does not reveal that the author has suffered a clear disadvantage, unless the Committee considers that the communication raises a serious issue of general importance.

2. The discretion in paragraph 1 of the present rule is not an admissibility requirement, but may be exercised by the Committee taking into account, inter alia, the nature of the rights allegedly violated, the seriousness of the alleged violations, and/or the possible effects of the violation on the alleged victim's personal situation.

Rule 14

Communications declared inadmissible, and reviewing decisions of inadmissibility

1. Where the Committee decides that a communication is inadmissible under the Optional Protocol, it shall as soon as possible communicate its decision, through the Secretary-General, to the author of the communication and, where the communication has been transmitted to the State party concerned, to that State party.

2. If the Committee has declared a communication inadmissible under article 3 of the Optional Protocol, this decision may be reviewed at a later date by the Committee upon a written request submitted by or on behalf of the individual concerned containing information to the effect that the reasons for inadmissibility referred to in article 3 no longer apply.

Rule 15

Procedure for dealing with communications where a decision has been made on admissibility prior to receipt of the State party's reply on the merits

1. In those cases in which a decision has been made on admissibility prior to receipt of the State party's reply on the merits, and the Committee or the working group on communications decides that the communication is admissible, that decision shall be

transmitted, through the Secretary-General, to the author of the communication and the State party concerned.

2. Within four months, the State party concerned shall submit to the Committee its written observations on the merits and on the remedy, if any, that it may have provided.

3. Any observations submitted by a State party pursuant to the present rule shall be communicated, through the Secretary-General, to the author of the communication, who may submit any additional written information or observations within fixed time limits.

4. The Committee may decide in exceptional cases to invite the parties to comment on each other's submissions orally. The Committee shall adopt guidelines on the procedure to be followed at such oral hearings.

5. During its consideration of the merits, the Committee may review a decision that a communication is admissible in the light of any explanations or statements submitted by the State party pursuant to the present rule.

Rule 16

Adoption of the Views of the Committee

1. In those cases in which the parties have submitted information relating both to the questions of admissibility and the merits, or in which a decision on admissibility has already been taken and the parties have submitted information on the merits, the Committee shall, in accordance with article 8 (1) of the Optional Protocol, consider the communication in the light of all documentation submitted to it, provided that this documentation is transmitted to the parties concerned. Furthermore, the Committee may consult, as appropriate, the documentation referred to in article 8 (3) of the Optional Protocol. The Committee shall then formulate its Views on the communication.

2. The Committee shall not decide on the merits of the communication without having considered the applicability of all the admissibility grounds referred to in the Optional Protocol.

3. The Committee's findings on the merits, as well as any individual and general recommendations that it adopts, shall be known as "Views". The Secretary-General shall transmit the Views of the Committee to the author of the communication and to the State party concerned.

Rule 17

Separate opinions

Any member of the Committee who has participated in a decision may write a separate opinion, which should be appended to the Committee's Views. The Committee may fix time limits for the submission of such separate opinions.

Rule 18

Discontinuance

The Committee may discontinue the consideration of a communication when the reasons for its submission under the Optional Protocol have become moot, when the author of a communication has withdrawn it, when all attempts to contact the author have failed, when the author has ceased all communication with the Committee, or on other relevant grounds.

Rule 19

Repetitive communications

1. The Committee, through its working group on communications, may appoint one or two members as rapporteur(s) for repetitive communications.

2. The working group on communications or the rapporteur on new communications and interim measures may refer cases that raise facts and legal questions of substantially the same nature to those already decided by the Committee in previous cases to the rapporteur(s) for repetitive communications for an expedited resolution.

3. The rapporteur(s) for repetitive communications shall propose a draft recommendation to the working group on communications that follows the jurisprudence of the Committee. Such a draft shall include a description and analysis of the specific facts of the case. Unless a member of the working group objects, the recommendation of the rapporteur(s) for repetitive communications shall be submitted to the Committee for adoption. The working group may, if it so decides, modify or reject the recommendation.

4. Unless one or more members of the Committee object, the recommendations of the rapporteur(s) for repetitive communications shall be adopted by the plenary without formal discussion. Whenever elements that depart from the jurisprudence of the Committee are incorporated, the draft shall be discussed by the Committee in plenary.

Rule 20

Friendly settlement

1. At any time after receipt of a communication and before a determination on the merits has been reached, the Committee may, at the request of the parties or on its own initiative, make available its good offices to the parties with a view to reaching a friendly settlement of the matter pursuant to article 7 of the Optional Protocol, on the basis of respect for the obligations set forth in the Covenant.

2. The friendly settlement procedure shall be conducted on the basis of the consent of the parties.

3. The Committee may designate one or more of its members to facilitate negotiations between the parties.

4. The friendly settlement procedure shall be confidential and without prejudice to the parties' submissions to the Committee. No written or oral communication and no offer or concession made as part of the attempt to secure a friendly settlement may be used against the other party in the communication proceedings before the Committee.

5. The Committee may terminate its facilitation of the friendly settlement procedure if it concludes that the matter is not likely to reach a resolution or if any of the parties does not consent to its application, decides to discontinue it, or does not display the requisite good will to reach a friendly settlement based on respect for the obligations set forth in the Covenant.

6. Once both parties have expressly agreed to a friendly settlement, the Committee shall adopt a decision with a statement of the facts and of the solution reached. The decision will be transmitted to the parties concerned and published in the Committee's annual report. Prior to adopting the decision, the Committee shall ascertain whether the victim of the alleged violation has consented to the friendly settlement. In all cases, the friendly settlement must be based on respect for the obligations set forth in the Covenant.

7. A friendly settlement closes consideration of the communication under the Optional Protocol. If no friendly settlement is reached, the Committee shall continue the examination of the communication in accordance with the present rules of procedure.

Rule 21

Follow-up to Views and to friendly settlements

1. Within six months of the Committee's transmittal of its Views on a communication or a decision that a friendly settlement has closed its consideration of a communication, the State party concerned shall, pursuant to article 9 (2) of the Optional Protocol, submit to the Committee a written response, including information on any action taken in the light of the Views and recommendations of the Committee.

2. Pursuant to article 9 (3) of the Optional Protocol, after the six-month period referred to in paragraph 1 of the present rule, the Committee may invite the State party concerned to submit further information about any measures it has taken in response to the Committee's Views or recommendations or in response to a friendly settlement.
3. The Committee shall, through the Secretary-General, transmit the information received from the State party to the author of the communication, who may submit written observations and comments in reply.
4. The Committee may request the State party to include information on any action taken in response to its Views, recommendations or decisions closing the consideration of a communication following a friendly settlement in its subsequent reports under articles 16 and 17 of the Covenant.
5. The Committee, acting through its working group on communications, may designate a rapporteur for follow-up to Views it has adopted, pursuant to article 9 of the Optional Protocol, for the purpose of ascertaining the measures taken by States parties to give effect to the Views, recommendations or friendly settlements reached under rule 20 of the present rules.
6. The working group on communications or the rapporteur for follow-up to Views may make such contacts and take such action as appropriate for the performance of the follow-up mandate, and shall make such recommendations for further action by the Committee as may be necessary.
7. In addition to written representations and meetings with duly accredited representatives of the State party, the working group on communications or the rapporteur for follow-up to Views may seek information from the author and the victim of a given communication, and from other relevant sources.
8. The working group on communications or the rapporteur for follow-up to Views shall report to the Committee on follow-up activities at each session of the Committee.
9. The Committee may adopt guidelines on the procedures to be followed with regard to follow-up to its Views, recommendations and friendly settlements.
10. The Committee shall issue a report on follow-up to Views at least once a year.

D. General provisions regarding the consideration of communications by the Committee or its subsidiary bodies

Rule 22

Appointment of a working group and rapporteurs

1. The Committee will establish a working group on communications received under the Optional Protocol. The working group shall consist of at least five members.
2. In addition, the Committee may designate one or two rapporteur(s) on new communications and interim measures to perform the functions relating to communications under the Optional Protocol established in rule 5 (1), (3), (5) and (7) to (11); rule 6 (1) and (3); rule 7 (1), (8) and (9); rule 9 (1); and rule 19 (2) of the present rules. Whenever the Committee does not designate a rapporteur on new communications and interim measures, the working group will perform those functions. The rapporteur(s) on new communications and interim measures cannot replace the working group on communications, unless specifically established in the present rules of procedure. In particular, the rapporteur(s) on new communications and interim measures may not perform the functions of the working group established in rules 11 or 19 (3) of the present rules.
3. The working group and the rapporteur(s) established under the present rule shall be bound by the present rules and the rules of procedure of the Committee, where applicable.
4. In any matter relating to communications under the Optional Protocol, the Committee, acting through its working group on communications, may designate rapporteurs for repetitive communications and for follow-up to Views to perform the functions set out in the

present rules. It may designate further rapporteurs to assist in any manner the working group on communications decides, and to deal with other procedural matters relating to the Optional Protocol.

5. The Committee may adopt guidelines to supplement any aspect of the present rules and the exercise of its mandate under the Optional Protocol. All guidelines adopted under the present rule shall be published on the Committee's web page.

Rule 23

Non-participation by members in the examination of communications

1. A member shall not take part in the examination of a communication by the Committee:

(a) If he or she is a national of the State party concerned, has the same nationality as the alleged victim or, in the case of a member holding dual nationality, if either nationality is that of the State party concerned or the alleged victim;

(b) If he or she has any personal or professional conflict of interest in the case;

(c) If he or she has participated in any capacity in the making of any decision relating to the facts or law on which the communication is based prior to it being submitted to the Committee for consideration under the Optional Protocol.

2. Any question which may arise under paragraph 1 of the present rule shall be decided by the Committee. The member concerned shall not take part in the decision.

3. If, for any reason, a member considers that he or she should not take part or continue to take part in the examination of a communication, the member shall inform the Chair of his or her withdrawal.

Rule 24

Closed meetings of the Committee

Meetings of the Committee and its working group on communications during which communications under the Optional Protocol will be examined shall be closed. Meetings during which the Committee may consider general issues, such as procedures for the application of the Optional Protocol, may be public if the Committee or the working group so decides.

Rule 25

Confidentiality and making decisions public

1. Communications under the Optional Protocol shall be examined by the Committee and its working group on communications in closed session. Oral deliberations and summary records shall remain confidential.

2. The Committee may decide *ex officio* or upon request of the author or the alleged victim to keep the names of the author or the alleged victim confidential in the final decision of the Committee disposing of the communication.

3. All working documents issued by the Secretariat for the Committee, the working group on communications or any rapporteur designated pursuant to rule 22 of the present rules shall remain confidential, unless the Committee decides otherwise.

4. Paragraph 1 of the present rule shall not affect the right of the author of a communication or the State party concerned to make public any submissions or information bearing on the proceedings. However, the Committee, the working group on communications or a rapporteur designated pursuant to rule 22 may, as deemed appropriate, request the author of a communication, the State party concerned or any third party to keep confidential the whole or part of any such submissions or information.

5. When a decision has been taken on confidentiality, pursuant to paragraph 4 of the present rule, the Committee may decide that all or part of the submissions shall remain confidential after its decision on admissibility, the merits or discontinuance has been adopted.

6. The Secretariat shall prepare a list of all registered communications, the subject matter and the State party concerned, and publish it on the web page of the Committee for the information of the general public and potential third parties, pursuant to article 8 (1) of the Optional Protocol and rule 9 of the present rules. However, pursuant to article 6 (1) of the Optional Protocol, the Committee will not provide third parties with the identity of the author of a communication, or his or her contact details, without the author's prior consent. When a communication is submitted by two or more authors, the consent of all the authors will be required. Similarly, the Committee cannot provide third parties with access to the case file or any documentation therein. Third parties must obtain access to documentation relating to the communication directly from the author, with his or her consent.

7. The Committee's decisions on admissibility, the merits and discontinuance shall be made public after having been brought to the attention of the author and the State party concerned. Decisions taken under rules 7 and 11 (5) of the present rules shall be made public if the Committee or the working group on communications considers it appropriate.

8. The Secretariat is responsible for the distribution of the Committee's final decisions. The Secretariat shall not be responsible for the reproduction and distribution of submissions concerning communications.

Rule 26

Confidentiality in the follow-up procedure

Information furnished by the parties as part of the follow-up to the Committee's Views is not subject to confidentiality, unless the Committee decides otherwise. Decisions of the Committee relating to follow-up activities are equally not subject to confidentiality, unless the Committee decides otherwise.

Rule 27

Communiqués

The Committee may issue communiqués, through the Secretary-General, for the use of the media and the general public regarding the activities of the Committee at its closed meetings.

II. Proceedings under the inquiry procedure of the Optional Protocol

Rule 28

Applicability

Rules 28 to 41 of the present rules apply only to States parties that have made the declaration under article 11 (1) of the Optional Protocol.

Rule 29

Transmission of information to the Committee

In accordance with the present rules, the Secretary-General shall bring to the attention of the Committee reliable information that is received for the Committee's consideration indicating grave or systematic violations by a State party of any of the rights set forth in the Covenant.

Rule 30

Record of information

The Secretary-General shall maintain a permanent record of information brought to the attention of the Committee in accordance with rule 29 of the present rules and shall make the information available to any member of the Committee upon request.

Rule 31**Summary of information**

The Secretary-General, as appropriate, shall prepare and circulate to members of the Committee a brief summary of the information received in accordance with rule 29 of the present rules.

Rule 32**Confidentiality**

1. All documents and proceedings of the Committee relating to the conduct of the inquiry shall remain confidential, without prejudice to the provisions of article 11 (7) of the Optional Protocol.
2. Meetings of the Committee during which inquiries under article 11 of the Optional Protocol are considered shall be closed.

Rule 33**Preliminary consideration of information by the Committee**

1. The Committee may, through the Secretary-General, ascertain the reliability of the information and/or the sources of the information brought to its attention under article 11 of the Optional Protocol. It may seek to obtain additional relevant information substantiating the facts of the situation.
2. The Committee shall determine whether the information received contains reliable information indicating grave or systematic violations by the State party concerned of rights set forth in the Covenant.
3. The Committee may designate one or more of its members to assist it in discharging its duties under the present rule.

Rule 34**Examination of information**

1. If the Committee considers that the information received and/or compiled on its own initiative is reliable and appears to indicate grave or systematic violations by the State party concerned of rights set forth in the Covenant, the Committee, through the Secretary-General, shall invite the State party to submit observations with regard to that information within a fixed time limit.
2. The Committee shall take into account any observations submitted by the State party concerned, as well as any other relevant information.
3. The Committee may seek to obtain additional information from, inter alia, the following:
 - (a) Representatives of the State party concerned;
 - (b) Governmental organizations;
 - (c) United Nations bodies, specialized agencies, funds, programmes and mechanisms;
 - (d) International organizations, including regional human rights systems;
 - (e) National human rights institutions;
 - (f) Non-governmental organizations.

Rule 35**Establishment of an inquiry**

1. Taking into account any observations that may have been submitted by the State party concerned, as well as other reliable information, the Committee may designate one or more of its members to conduct an inquiry and to make a report within an appropriate time limit.

2. An inquiry shall be conducted confidentially and in accordance with any modalities determined by the Committee.
3. The member or members designated by the Committee to conduct the inquiry shall determine their own methods of work, taking into account the Covenant, the Optional Protocol and the present rules.
4. During the period of the inquiry, the Committee may defer the consideration of any report that the State party concerned may have submitted pursuant to articles 16 and 17 of the Covenant.

Rule 36

Cooperation of the State party concerned

1. The Committee shall seek the cooperation of the State party concerned at all stages of an inquiry.
2. The Committee may request the State party concerned to nominate a representative to meet with the member or members designated by the Committee.
3. The Committee may request the State party concerned to provide the member or members designated by the Committee with any information that they or the State party may consider relevant to the inquiry.

Rule 37

Visits

1. Where the Committee deems it warranted, the inquiry may include a visit to the territory of the State party concerned.
2. Where the Committee decides, as a part of its inquiry, that there should be a visit to the State party concerned, it shall, through the Secretary-General, request the consent of the State party to such a visit.
3. The Committee shall inform the State party concerned of its wishes regarding the timing of the visit and the facilities required to allow the member or members designated by the Committee to conduct the inquiry to carry out their task.

Rule 38

Hearings

1. Visits may include hearings to enable the designated member or members of the Committee to determine facts or issues relevant to the inquiry.
2. The conditions and guarantees concerning any hearings held in accordance with paragraph 1 of the present rule shall be established by the designated member or members of the Committee visiting the State party in connection with an inquiry.
3. Any person appearing before the designated member or members of the Committee for the purpose of giving testimony shall make a solemn declaration as to the veracity of his or her testimony and the confidentiality of the procedure.
4. The Committee shall request that the State party take all appropriate steps to ensure that individuals under its jurisdiction are not subjected to reprisals as a consequence of providing information or participating in any hearings or meetings in connection with an inquiry.

Rule 39

Assistance during an inquiry

1. In addition to the staff and facilities that shall be provided by the Secretary-General in connection with an inquiry, including during a visit to the State party concerned, the designated member or members of the Committee may, through the Secretary-General, invite

interpreters and/or such persons with special competence in the fields covered by the Covenant, as are deemed necessary by the Committee, to provide assistance at all stages of the inquiry.

2. Where such interpreters or other persons of special competence are not bound by the oath of allegiance to the United Nations, they shall be required to declare solemnly that they will perform their duties honestly, faithfully and impartially, and that they will respect the confidentiality of the proceedings.

Rule 40

Transmission of findings, comments or suggestions

1. After examining the findings of the designated member or members submitted in accordance with rule 35 of the present rules, the Committee shall transmit the findings, through the Secretary-General, to the State party concerned, together with any comments and recommendations.

2. Such transmission of findings, comments and recommendations is without prejudice to article 11 (7) of the Optional Protocol.

3. The State party concerned shall submit its observations on the findings, comments and recommendations to the Committee, through the Secretary-General, within six months of their receipt.

Rule 41

Follow-up action by the State party

1. The Committee may, after the end of the six-month period referred to in rule 40 (3) of the present rules, invite the State party concerned to provide it with additional information on measures taken in response to an inquiry.

2. The Committee may request a State party that has been the subject of an inquiry to include, in its report under articles 16 and 17 of the Covenant, details of any measures taken in response to the Committee's findings, comments and recommendations.

III. Proceedings under the inter-State communications procedure of the Optional Protocol

Rule 42

Declarations by States parties

1. Rules 42 to 52 of the present rules apply only to States parties that have made the declaration under article 10 (1) of the Optional Protocol.

2. The withdrawal of a declaration made under article 10 of the Optional Protocol shall not prejudice the consideration of any matter that is the subject of a communication already transmitted under that article; no further communication by any State party shall be received under that article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State party has made a new declaration.

Rule 43

Notification by the States parties concerned

1. A communication under article 10 of the Optional Protocol may be referred to the Committee by either State party concerned by notice given in accordance with paragraph 1 (b) of that article.

2. The notice referred to in paragraph 1 of the present rule shall contain or be accompanied by information regarding:

- (a) Steps taken to seek adjustment of the matter in accordance with article 10 (1)
- (a) and (b) of the Optional Protocol, including the text of the initial communication and of

any subsequent written explanations or statements by the States parties concerned which are pertinent to the matter;

(b) Steps taken to exhaust domestic remedies;

(c) Any other procedure of international investigation or settlement resorted to by the States parties concerned.

Rule 44

Record of communications

The Secretary-General shall maintain a record of all communications received by the Committee pursuant to article 10 of the Optional Protocol.

Rule 45

Transmitting information to the members of the Committee

The Secretary-General shall inform the members of the Committee without delay of any notice given under rule 43 of the present rules and shall transmit to them as soon as possible copies of the notice and relevant information.

Rule 46

Meetings

The Committee shall examine communications under article 10 of the Optional Protocol in closed meetings.

Rule 47

Issuance of communiqués concerning closed meetings

The Committee may, after consultation with the States parties concerned, issue communiqués, through the Secretary-General, for the use of the media and the general public, regarding the activities of the Committee under article 10 of the Optional Protocol.

Rule 48

Requirements in order for communications to be considered

A communication shall not be considered by the Committee unless:

(a) Both States parties concerned have made declarations under article 10 (1) of the Optional Protocol;

(b) The time limit prescribed in article 10 (1) of the Optional Protocol has expired;

(c) The Committee has ascertained that all available and effective domestic remedies have been invoked and exhausted in the matter, or that the application of such remedies has been unreasonably prolonged.

Rule 49

Good offices

1. Subject to the provisions of rule 48 of the present rules, the Committee shall proceed to make its good offices available to the States parties concerned with a view to reaching a friendly solution of the matter on the basis of respect for the obligations provided for in the Covenant.

2. For the purpose indicated in paragraph 1 of the present rule, the Committee may, as appropriate, establish an ad hoc conciliation commission.

Rule 50**Additional information**

The Committee may, through the Secretary-General, request the States parties concerned or either of them to submit additional information or observations orally or in writing. The Committee shall set a time limit for the submission of such written information or observations.

Rule 51**Attendance by the States parties concerned**

1. The States parties concerned shall be entitled to representation when the matter is considered by the Committee and to make submissions orally and/or in writing.
2. The Committee shall, through the Secretary-General, notify the States parties concerned as early as possible of the opening date, duration and place of the session at which the matter will be examined.
3. The procedure for making oral and/or written submissions shall be decided by the Committee, after consultation with the States parties concerned.

Rule 52**Report of the Committee**

1. The Committee shall adopt a report in accordance with article 10 (1) (h) of the Optional Protocol with due expediency after the date of receipt of notice under article 10 (1) (b) of the Optional Protocol.
2. The provisions of rule 51 (1) of the present rules shall not apply to the Committee's deliberations concerning the adoption of the report.
3. The Committee's report shall be communicated, through the Secretary-General, to the States parties concerned.

IV. Amendments**Rule 53**

The present rules of procedures may be amended by a decision of the Committee, without prejudice to the relevant provisions of the Covenant and the Optional Protocol.
