



**Meeting of chairpersons
of the human rights treaty bodies****Twenty-fourth meeting**

Addis Ababa, 25 to 29 June 2012

Item 4 (a) of the provisional agenda

Enhancing the effectiveness of the treaty bodies:**a coordinated approach to the work of the treaty bodies:****Discussion and adoption of draft guidelines on independence
and impartiality of members of the human rights treaty bodies
in the exercise of their functions****Background information on enhancing and strengthening the
expertise and independence of treaty body members****Note by the Secretariat*****I. Introduction**

1. At their twenty-third annual meeting, the chairpersons of the human rights treaty bodies referred to articles 19 and 20 of the Poznan Statement and reiterated the recommendation that guarantees for independence, availability and competence be strengthened in the context of the election and terms of appointment of treaty body members.

2. In that respect, the chairpersons requested the Secretariat to prepare a draft working paper, including initial draft proposals, on enhancing and strengthening the expertise and independence of treaty body members. They agreed that such a working paper could be discussed intersessionally by e-mail and be presented to them at their twenty-fourth meeting. They also agreed that the working paper should include:

(a) A compilation of disaggregated data on the current composition of the treaty bodies, including on the current position of the various members;

(b) The rules and regulations on enhancing and strengthening the expertise and independence of treaty body members existing in the respective committees;

* Late submission.

(c) Comparative information, including on the relevant rules and regulations in the context of the regional human rights systems.

3. The current note contains the background information requested by the chairpersons. The twenty-fourth meeting of chairpersons will also consider the draft guidelines on independence and impartiality of members of the human rights treaty bodies in the exercise of their functions.

II. Disaggregated data on the current composition of the human rights treaty bodies

All Committees

Distribution of members by gender	Distribution of members by region	States parties to all treaty bodies by region	Working languages	Current position
Female: 65	Africa: 42 (25%)	Africa: 362 (28%)	Arabic: 20	Academic: 49 (28.7%)
Male: 106	Asia: 29 (17%)	Asia: 306 (24%)	Chinese: 5	Consultant/Advisor: 19 (11.1%)
	Eastern Europe: 22 (13%)	Eastern Europe: 171 (13%)	English: 152	Diplomat/Government official: 31 (18.1%)
	GRULAC*: 34 (20%)	GRULAC: 240 (19%)	French: 81	Judge/Lawyer: 25 (14.6%)
	WEOG**: 44 (26%)	WEOG: 202 (16%)	Russian: 15	Member of Parliament (MP): 3 (1.8%)
			Spanish: 52	Non-governmental organization (NGO): 15 (8.8%)
				National human rights institution (NHRI): 13 (7.6%)
				Retired United Nations staff: 1 (0.6%)
				Retired diplomat/Government official: 11 (6.4%)
				Retired judge/lawyer: 3 (1.8%)
				Retired academic: 1 (0.6%)

* GRULAC: Latin American and Caribbean Group.

** WEOG: Western Europe and Others Group.

Human Rights Committee

Distribution of members by gender	Distribution of members by region	States parties to the Covenant by region	Working languages	Current position
Female: 4	Africa: 4 (23.5%)	Africa: 50 (29.9%)	Arabic: 2	Academic: 9 (53%)
Male: 13	Asia: 2 (11.7%)	Asia: 38 (22.8%)	Chinese: 0	Diplomat/ Government official: 2 (12%)
	Eastern Europe: 1 (5.9%)	Eastern Europe: 22 (13.1%)	English: 16	Judge/Lawyer: 4 (24%)
	GRULAC: 3 (17.6%)	GRULAC: 29 (17.4%)	French: 12	MP: 1 (6%)
	WEOG: 7 (41.2%)	WEOG: 28 (16.8%)	Russian: 2	Retired diplomat: 1 (6%)
			Spanish: 2	

Committee on Economic, Social and Cultural Rights

Distribution of members by gender	Distribution of members by region	States parties to the Covenant by region	Working languages	Current position
Female: 3	Africa: 5 (28%)	Africa: 48 (30%)	Arabic: 3	Academic: 7 (39%)
Male: 15	Asia: 3 (17%)	Asia: 37 (23%)	Chinese: 0	Diplomat/ Government official: 4 (22%)
	Eastern Europe: 3 (17%)	Eastern Europe: 22 (14%)	English: 16	Judge/Lawyer: 1 (6%)
	GRULAC: 4 (22%)	GRULAC: 27 (17%)	French: 9	NGO: 1 (6%)
	WEOG: 3 (17%)	WEOG: 26 (16%)	Russian: 3	Retired diplomat: 3 (17%)
			Spanish: 5	Retired judge/lawyer: 2 (11%)

Committee on the Elimination of Racial Discrimination

Distribution of members by gender	Distribution of members by region	States parties to the Convention by region	Working languages	Current position
Female: 2	Africa: 5 (28%)	Africa: 52 (30%)	Arabic: 1	Academic: 5 (28%)
Male: 16	Asia: 3 (17%)	Asia: 41 (23%)	Chinese: 2	Consultant/Advisor: 2 (11%)
	Eastern Europe: 2 (11%)	Eastern Europe: 22 (13%)	English: 16	Diplomat/ Government official: 3 (17%)
	GRULAC: 3	GRULAC: 31	French: 11	Judge/Lawyer: 1 (6%)

Committee on the Elimination of Racial Discrimination

(17%)	(18%)			
WEOG: 5 (28%)	WEOG: 29 (17%)	Russian: 2	NHRI: 3 (17%)	
		Spanish: 9	Retired academic: 1 (6%)	
			Retired diplomat: 3 (17%)	

Committee on the Elimination of Discrimination against Women

Distribution of members by gender	Distribution of members by region	States parties to the Convention by region	Working languages	Current position
Female: 22	Africa: 4 (17%)	Africa: 51 (27%)	Arabic: 1	Academic: 7 (30%)
Male: 1	Asia: 6 (26%)	Asia: 54 (29%)	Chinese: 1	Consultant/Advisor: 2 (9%)
	Eastern Europe: 2 (9%)	Eastern Europe: 22 (12%)	English: 23	Diplomat/Government official: 5 (22%)
	GRULAC: 4 (17%)	GRULAC: 32 (17%)	French: 8	Judge/Lawyer: 4 (17%)
	WEOG: 7 (30%)	WEOG: 28 (15%)	Russian: 1	MP: 1 (4%)
			Spanish: 5	NGO: 1 (4%)
				Retired diplomat/Government official: 3 (13%)

Committee against Torture

Distribution of members by gender	Distribution of members by region	States parties to the Convention by region	Working languages	Current position
Female: 3	Africa: 3 (30%)	Africa: 44 (29%)	Arabic: 1	Academic: 3 (30%)
Male: 7	Asia: 1 (10%)	Asia: 31 (21%)	Chinese: 1	Consultant/Advisor: 1 (10%)
	Eastern Europe: 1 (10%)	Eastern Europe: 23 (15%)	English: 8	Diplomat/Government official: 1 (10%)
	GRULAC: 1 (10%)	GRULAC: 23 (15%)	French: 6	Retired United Nations staff: 1 (10%)
	WEOG: 4 (40%)	WEOG: 29 (19%)	Russian: 1	Judge/Lawyer: 2 (20%)
			Spanish: 4	NHRI: 1 (10%)
				NGO: 1 (10%)

Subcommittee on Prevention of Torture

Distribution of members by	Distribution of members by	States parties to the Optional Protocol	Working languages	Current position
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Subcommittee on Prevention of Torture

gender	region	by region		
Female: 8	Africa: 4 (16%)	Africa: 12 (19%)	Arabic: 1	Academic: 5 (20%)
Male: 17	Asia: 0 (0%)	Asia: 8 (13%)	Chinese: 0	Diplomat/Government official: 2 (8%)
	Eastern Europe: 7 (28%)	Eastern Europe: 16 (26%)	English: 23	Consultant/Advisor: 6 (24%)
	GRULAC: 7 (28%)	GRULAC: 14 (23%)	French: 7	Judge/Lawyer: 8 (32%)
	WEOG: 7 (28%)	WEOG: 12 (19%)	Russian: 3	NGO: 3 (12%)
			Spanish: 9	NHRI: 1 (4%)

Committee on the Rights of the Child

Distribution of members by gender	Distribution of members by region	States parties to the Convention by region	Working languages	Current position
Female: 10	Africa: 6 (33%)	Africa: 53 (27%)	Arabic 4	Academic: 5 (28%)
Male: 8	Asia: 4 (22%)	Asia: 57 (30%)	Chinese: 0	Consultant/Advisor: 2 (11%)
	Eastern Europe: 2 (11%)	Eastern Europe: 22 (11%)	English 18	Diplomat/Government official: 3 (17%)
	GRULAC: 2 (11%)	GRULAC: 33 (17%)	French: 10	Judge/Lawyer: 2 (11%)
	WEOG: 4 (22%)	WEOG: 28 (15%)	Russian: 1	NGO: 4 (22%)
			Spanish 5	NHRI: 1 (6%)
				Retired judge/lawyer: 1 (6%)

Committee on Migrant Workers

Distribution of members by gender	Distribution of members by region	States parties to the Convention by region	Working languages	Current position
Female: 4	Africa: 6 (43%)	Africa: 17 (38%)	Arabic: 2	Academic: 2 (14%)
Male: 10	Asia: 3 (21%)	Asia: 9 (20%)	Chinese: 0	Consultant/Advisor: 2 (14%)
	Eastern Europe: 1 (7%)	Eastern Europe: 4 (4%)	English: 8	Diplomat/Government official: 8 (57%)
	GRULAC: 4 (29%)	GRULAC: 17 (38%)	French: 7	Judge/Lawyer: 1 (7%)
	WEOG: 0 (0%)	WEOG: 0 (0%)	Russian: 1	Retired diplomat/Government official: 1 (7%)
			Spanish 4	

Committee on the Rights of Persons with Disabilities

Distribution of members by gender	Distribution of members by region	States parties to the Convention by region	Working languages	Current position
Female: 8	Africa: 3 (17%)	Africa: 28 (25%)	Arabic 4	Academic: 5 (28%)
Male: 10	Asia: 5 (28%)	Asia: 28 (25%)	Chinese: 1	Consultant/Advisor: 4 (22%)
	Eastern Europe: 2 (11%)	Eastern Europe: 16 (14%)	English 17	Diplomat/Government official: 1 (6%)
	GRULAC: 4 (22%)	GRULAC: 22 (20%)	French: 6	MP: 1 (6%)
	WEOG: 4 (22%)	WEOG: 17 (15%)	Russian 1	NGO: 4 (22%)
			Spanish 5	NHRI: 3 (17%)

Committee on Enforced Disappearance

Distribution of members by gender	Distribution of members by region	States parties to the Convention by region	Working languages	Current position
Female: 1	Africa: 2 (20%)	Africa: 7 (23%)	Arabic: 1	Academic: 1 (10%)
Male: 9	Asia: 2 (20%)	Asia: 3 (10%)	Chinese: 0	Diplomat/Government official: 2 (20%)
	Eastern Europe: 1 (10%)	Eastern Europe: 4 (13%)	English: 7	Judge/Lawyer: 2 (20%)
	GRULAC: 2 (20%)	GRULAC: 12 (39%)	French: 5	NGO: 1 (10%)
	WEOG: 3 (30%)	WEOG: 5 (16%)	Russian: 0	NHRI: 4 (40%)
			Spanish: 4	

III. Existing rules and regulations on enhancing and strengthening the expertise and independence of treaty body members in the respective committees

A. Committee on Migrant Workers

Rule 32

No member of the Committee shall participate in the examination of State party reports or the discussion and adoption of concluding observations if they involve the State party in respect of which she or he was elected to the Committee.

B. Committee on the Rights of Persons with Disabilities

Rule 43

1. A member shall not participate in any part of the consideration of a report submitted by a State party if she or he is a national of the State party concerned.

2. Any question which may arise under paragraph 1 above shall be decided by the Committee without the participation of the member concerned.

Rule 60

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

- (a) The member has any personal interest in the case;
- (b) The member has participated in the making of any decision on the case covered by the communication in any capacity other than under the procedures established under the Optional Protocol;
- (c) The member is a national of the State party against which the communication is directed.

2. Any question which may arise under paragraph 1 above shall be decided by the Committee without the participation of the member concerned.

Rule 61

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

Rule 62

Members participating in a decision should sign an attendance sheet acknowledging their participation or indicating their inability to take part or withdrawal from the examination of a communication. The information on the attendance sheet should be reflected in the decision.

C. Committee on Enforced Disappearance

Rule 10 - Members of the Committee

1. Members of the Committee shall be the 10 experts elected in accordance with article 26 of the Convention, who will be independent and impartial.

2. The independence of the members requires that they serve in their personal capacity and shall neither seek nor accept instructions from anyone concerning the performance of their duties. Members are accountable only to the Committee and their own conscience.

3. In their duties under the Convention, members of the Committee shall proceed in a victim-oriented and timely manner and maintain the highest standards of impartiality and integrity, and apply the standards of the Convention equally to all States and all individuals, independently, objectively, honourably, faithfully, conscientiously and without prejudice.

Rule 47 - Conflicts of interest

Obligatory non-participation or non-presence of a member in the exercise of the functions of the Committee

1. A member shall not take part in the consideration of a report, a request for urgent action, an individual communication, an inter-State communication, a request for a visit or the information with indications of widespread or systematic enforced disappearances by the Committee or its subsidiary bodies if the member:

- a) Is a national of the State party concerned;
- b) Is employed by the State party concerned;
- c) Has a personal interest in the case or situation under consideration;
- d) Has directly participated in the drafting and adoption of any decision on the case or situation concerned in any capacity other than under the procedures under the Convention; or if any other conflict of interest is present.

2. Such a member shall not be present during any non-public consultations or meetings between the Committee and the National Human Rights Institutions, non-governmental organizations, or any other entities referred to in rule 44, as well as during the discussion and adoption of the respective concluding observations, views or any other decisions.

3. Any question that may arise under paragraph 1 above shall be decided by the Committee without the participation of the member concerned.

Rule 67 - Withdrawal of a member

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

D. Committee against Torture

Rule 15 - Independence of members

1. The independence of the members of the Committee is essential for the performance of their duties and requires that they serve in their personal capacity and shall neither seek nor accept instructions from anyone concerning the performance of their duties. Members are accountable only to the Committee and their own conscience.

Rule 73 - Obligatory non-participation or non-presence of a member in the consideration of a report

1. A member shall not take part in the consideration of a report by the Committee or its subsidiary bodies if he/she is a national of the State party concerned, is employed by that State, or if any other conflict of interest is present.

2. Such a member shall not be present during any non-public consultations or meetings between the Committee and National Human Rights Institutions, non-governmental organizations, or any other entities referred to in rule 63, as well as during the discussion and adoption of the respective concluding observations.

Rule 79

1. Meetings of the Committee concerning its proceedings under article 20 of the Convention shall be closed. A member shall neither take part in nor be present at any proceedings under article 20 of the Convention if he/she is a national of the State party concerned, is employed by that State, or if any other conflict of interest is present.

Rule 109 - Obligatory non-participation of a member in the examination of a complaint

1. A member shall not take part in the examination of a complaint by the Committee or its subsidiary body:

- (a) If he/she has any personal interest in the case; or

- (b) If he/she has participated in any capacity, other than as a member of the Committee, in the making of any decision; or
- (c) If he/she is a national of the State party concerned or is employed by that country.

Rule 110 - Optional non-participation of a member in the examination of a complaint

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

E. Human Rights Committee

Rule 90

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

- (a) If the State party in respect of which he or she was elected to the Committee is a party to the case;
- (b) If the member has any personal interest in the case; or
- (c) If the member has participated in any capacity in the making of any decision on the case covered by the communication.

Rule 91

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 Chairperson of his or her withdrawal.

Guidelines for the exercise of their functions by members of the Human Rights Committee (A/53/40, vol I, annex III)

1. The independence of members of the Committee is essential. The principle of independence requires that the members are not removable during their term of office and are not subject to direction or influence of any kind or to pressure from the State or its agencies in regard to the performance of their duties. The independence of the members is underlined by articles 28 and 38 of the Covenant and, consequently, they are not accountable to their State, but are accountable only to the Committee and their own conscience.
2. In their work under the Covenant and the Optional Protocol, members of the Committee are expected to maintain the highest standards of impartiality and integrity, and apply the standards of the Covenant equally to all States and all individuals, without fear or favour and without discrimination of any kind. They should not only be impartial, but should also appear to be so.
3. Members should avoid any action in relation to the work of the Committee which might lead to or might be seen to lead to unequal treatment between States. In particular, members should avoid any action which might give the impression that their own State was receiving treatment which was more favourable than that accorded to other States. Considering that members of the Committee can only be from a small number of States, it is important that the election of one of its nationals to the Committee should not result in, or thought to result in, either more favourable or less favourable treatment for the nominating State.

Application of these principles

1. Participation in consideration of State report

4. It is the practice of the Committee that a member does not participate in the examination of the reports presented by his or her country by asking questions, making observations or in any other manner. He or she may be present during the dialogue, and should, as a member, receive all the relevant documents.

5. Other practices which should be observed by members are the following:

(a) A member should not participate in any way in discussing or drafting the concluding observations for his or her own country;

(b) A member should not participate in consultations between the Committee and non-governmental organizations or specialized agencies when the report of his or her own country is being discussed.

2. Participation in communications

6. The participation of members in communications is partly covered by rule 84. However, that rule does not cover all the situations where a State might be seen to have an advantage or a disadvantage by reason of the fact that one of its nationals has been elected to the Committee. The principle of impartiality would require that a member take no part whatsoever, formally or informally, in the discussion of communications from his or her own country, either at the admissibility or merits stage. Nor should a member pass on information about the case, since to do so might result in inequality between States and also, possibly, a violation of natural justice, in the sense that the Committee might act on information not available to and not disclosed to the parties, particularly having regard to article 5, paragraph 1, of the Optional Protocol.

3. Relationship with non-governmental organizations

7. If a member of the Committee is a member of a national non-governmental, he or she should observe neutrality and not play any active part in the preparation or submission of information to the Committee.

8. It is desirable for a member of the Committee to abstain from being on the Board of Directors or the Executive Committee of an international non-governmental organization which regularly submits reports and information to the Committee, so as to avoid the appearance of any conflict in their respective capacities.

4. Relationship with Governments

9. The appearance of impartiality of members of the Committee should not be affected by their connection with Governments. They should abstain from engaging in any functions or activities which may appear to be not readily reconcilable with the obligations of an independent expert under the Covenant. Members should abstain from participation in any political body of the United Nations or of any other intergovernmental organization concerned with human rights. They should also abstain from acting as experts, consultants or counsels for any Government in a matter that might come up for consideration before the Committee.

5. Other responsibilities concerning human rights

10. (a) A member of the Committee may act as an independent Rapporteur, expert or member of an independent Working Group, as that would not be incompatible with his or her obligations as an independent expert under the Covenant.

(b) A member of the Committee who is a Special Rapporteur in respect of a State whose report is to be presented to the Committee should not participate in the

dialogue with that State. Thematic Rapporteurs, however, should not automatically abstain from such participation, unless there is a situation of possible conflict.

(c) When members of the Committee participate in other human rights activities of intergovernmental organizations such as training courses and seminars, they should make it clear that the views they are expressing are their own and not the views of the Committee.

F. Committee on the Elimination of Racial Discrimination

Rule 89 - Inability of a member to take part in the examination of a communication

1 A member of the Committee shall not take part in the examination of a communication by the Committee or its Working Group:

- (a) If he has any personal interest in the case; or
- (b) If he has participated in any capacity in the making of any decision on the case covered by the communication

Rule 90 - Withdrawal of a member

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

G. Committee on the Elimination of Discrimination against Women

Rule 60 - Inability of a member to take part in the examination of a communication

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

- (a) The member has a personal interest in the case;
- (b) The member has participated in the making of any decision on the case covered by the communication in any capacity other than under the procedures applicable to this Optional Protocol;
- (c) The member is a national of the State party concerned.

Rule 61 - Withdrawal of a member

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

CEDAW Decision 44/I - Scope of Committee members acting in their personal capacities

The Committee decided that experts from individual States parties may advise their Governments during the reporting process, including in the preparation of the report under article 18 of the Convention, but should not lead or write the report.

H. Subcommittee on Prevention of Torture

Rule 28 - Conflict of interest

No member of the SPT shall participate either in the conduct of a visit or 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 or of the State Party which nominated her or him. No member of the SPT shall participate in activities which may imply, or may be seen to imply, a conflict of interest with their capacity as independent and impartial SPT members.

IV. Comparative information, including on the relevant rules and regulations in the context of the regional human rights systems

<i>International Courts and Tribunals</i>	<i>Independence and impartiality</i>
International Criminal Court	<p><u>Rome Statute, art. 41.2. (a)</u></p> <p>A judge shall not participate in any case in which his or her impartiality might reasonably be doubted on any ground. A judge shall be disqualified from a case in accordance with this paragraph if, <u>inter alia</u>, that judge has previously been involved in any capacity in that case before the Court or in a related criminal case at the national level involving the person being investigated or prosecuted. A judge shall also be disqualified on such other grounds as may be provided for in the Rules of Procedure and Evidence</p>
International Criminal Tribunal for the former Yugoslavia	<p><u>Rules of procedure, rule 15 (A)</u></p> <p>A Judge may not sit on a trial or appeal in any case in which the Judge has a personal interest or concerning which the Judge has or has had any association which might affect his or her impartiality. The Judge shall in any such circumstance withdraw, and the President shall assign another Judge to the case.</p>
International Court of Justice	<p><u>Statute, art. 16.1</u></p> <p>No member of the Court may exercise any political or administrative function, or engage in any other occupation of a professional nature.</p> <p><u>art. 17</u></p> <p>1. No member of the Court may act as agent, counsel, or advocate in any case.</p> <p>2. No member may participate in the decision of any case in which he has previously taken part as agent, counsel, or advocate for one of the parties, or as a member of a national or international court, or of a commission of enquiry, or in any other capacity.</p> <p><u>art. 24</u></p> <p>1. If, for some special reason, a member of the Court considers that he should not take part in the decision of a particular case, he shall so inform the</p>

President.

2. If the President considers that for some special reason one of the members of the Court should not sit in a particular case, he shall give him notice accordingly.

3. If in any such case the member of the Court and the President disagree, the matter shall be settled by the decision of the Court.

art. 31.1

Judges of the nationality of each of the parties shall retain their right to sit in the case before the Court.

Rules of Court, art. 32.1

If the President of the Court is a national of one of the parties in a case he shall not exercise the functions of the presidency in respect of that case. The same rule applies to the Vice-President, or to the senior judge, when called on to act as President.

**International Tribunal for the
Law of the Sea**

Statute, art. 7

1. No member of the Tribunal may exercise any political or administrative function, or associate actively with or be financially interested in any of the operations of any enterprise concerned with the exploration for or exploitation of the resources of the sea or the seabed or other commercial use of the sea or the seabed.

2. No member of the Tribunal may act as agent, counsel or advocate in any case.

3. Any doubt on these points shall be resolved by decision of the majority of the other members of the Tribunal present.

art. 8

1. No member of the Tribunal may participate in the decision of any case in which he has previously taken part as agent, counsel or advocate for one of the parties, or as a member of a national or international court or tribunal, or in any other capacity.

2. If, for some special reason, a member of the Tribunal considers that he should not take part in the decision of a particular case, he shall so inform the President of the Tribunal.

3. If the President considers that for some special reason one of the members of the Tribunal should not sit in a particular case, he shall give him notice accordingly.

4. Any doubt on these points shall be resolved by decision of the majority of the other members of the Tribunal present.

art. 17.1

Members of the Tribunal of the nationality of any of the parties to a dispute shall retain their right to participate as members of the Tribunal.

Rules of the Tribunal, art. 16.1

No Member who is a national of a party in a case, a national of a State member of an international organization which is a party in a case or a national of a sponsoring State of an entity other than a State which is a party in a case, shall exercise the functions of the presidency in respect of the case.

Regional Courts and Tribunals

Independence and impartiality

1. European System

1.1. European Court of Justice

Statute, art. 4 (see also Rules of procedure, art. 3)

The Judges may not hold any political or administrative office.

They may not engage in any occupation, whether gainful or not, unless exemption is exceptionally granted by the Council, acting by a simple majority.

When taking up their duties, they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom, in particular the duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.

art. 18

No Judge or Advocate-General may take part in the disposal of any case in which he has previously taken part as agent or adviser or has acted for one of the parties, or in which he has been called upon to pronounce as a member of a court or tribunal, of a commission of inquiry or in any other capacity.

1.2. European Court of Human Rights

Rules of Court, rule 4

1. In accordance with Article 21 § 3 of the Convention, the judges shall not during their term of office engage in any political or administrative activity or any professional activity which is incompatible with their independence or impartiality or with the demands of a full-time office. Each judge shall declare to the President of the Court any additional activity. In the event of a disagreement between the President and the judge concerned, any question arising shall be decided by the plenary Court.

2. A former judge shall not represent a party or third party in any capacity in proceedings before the Court relating to an application lodged before the date on which he or she ceased to hold office. As regards applications lodged subsequently, a former judge may not represent a party or third party in any capacity in proceedings before the Court until a period of two years from the date on which he or she ceased to hold office has elapsed.

rule 28.2

A judge may not take part in the consideration of any case if

- (a) he or she has a personal interest in the case, including a spousal, parental or other close family, personal or professional relationship, or a subordinate relationship, with any of the parties;
- (b) he or she has previously acted in the case, whether as the Agent, advocate or adviser of a party or of a person having an interest in the case, or as a member of another national or international tribunal or commission of inquiry, or in any other capacity;
- (c) he or she, being an *ad hoc* judge or a former elected judge continuing to sit by virtue of Rule 26 § 3, engages in any political or administrative activity or any professional activity which is incompatible with his or her independence or impartiality;
- (d) he or she has expressed opinions publicly, through the communications media, in writing, through his or her public actions or otherwise, that are objectively capable of adversely affecting his or her impartiality;
- (e) for any other reason, his or her independence or impartiality may legitimately be called into doubt.

1.3. European Committee of Social Rights

Rules of procedure, rule 3

Members shall perform their duties in conformity with the requirements of independence, impartiality and availability inherent in their office and shall keep secret the Committee's deliberations.

rule 5

1. Members of the Committee shall not during their term of office perform any function which is incompatible with the requirements of independence, impartiality or availability inherent in their office.
2. If it appears that a member of the Committee has agreed to undertake functions which may be regarded as incompatible with the provisions of paragraph 1, he/she is obliged to draw the consequences thereof. Failing this, as well as in cases of a violation of the provisions of Rule 3, the Committee is, on the basis of a report by the President, required to take a decision on the situation

1.4. European Committee for the Prevention of Torture

Rules of procedure, rule 8

No member of the Committee shall preside when a draft report on a visit, or any other question of substance, concerning the State Party in respect of which he/she was elected is being considered.

2. Inter-American System

2.1. Inter-American Commission on Human Rights

Statute, art. 8

1. Membership on the Inter-American Commission on Human Rights is incompatible with engaging in other functions that might affect the
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independence or impartiality of the member or the dignity or prestige of his post on the Commission.

2. The Commission shall consider any case that may arise regarding incompatibility in accordance with the provisions of the first paragraph of this Article, and in accordance with the procedures provided by its Regulations. If the Commission decides, by an affirmative vote of a least five of its members, that a case of incompatibility exists, it will submit the case, with its background, to the General Assembly for decision.

3. A declaration of incompatibility by the General Assembly shall be adopted by a majority of two thirds of the member states of the Organization and shall occasion the immediate removal of the member of the Commission from his post, but it shall not invalidate any action in which he may have participated.

Rules of procedure, art. 4.1

The position of member of the Inter-American Commission on Human Rights is incompatible with the exercise of activities which could affect the independence or impartiality of the member, or the dignity or prestige of the office. Upon taking office, members shall undertake not to represent victims or their relatives, or States, in precautionary measures, petitions and individual cases before the IACHR for a period of two years, counted from the date of the end of their term as members of the Commission.

2.2. Inter-American Court on Human Rights

Statute, art. 18.1

The position of judge of the Inter-American Court of Human Rights is incompatible with the following positions and activities:

- a. Members or high-ranking officials of the executive branch of government, except for those who hold positions that do not place them under the direct control of the executive branch and those of diplomatic agents who are not Chiefs of Missions to the OAS or to any of its member states;
- b. Officials of international organizations;
- c. Any others that might prevent the judges from discharging their duties, or that might affect their independence or impartiality, or the dignity and prestige of the office.

art. 19.1

Judges may not take part in matters in which, in the opinion of the Court, they or members of their family have a direct interest or in which they have previously taken part as agents, counsel or advocates, or as members of a national or international court or an investigatory committee, or in any other capacity.

art. 20.1

In the performance of their duties and at all other times, the judges and staff of the Court shall conduct themselves in a manner that is in keeping with the

office of those who perform an international judicial function. They shall be answerable to the Court for their conduct, as well as for any violation, act of negligence or omission committed in the exercise of their functions.

Rules of procedure, art. 19

1. In the cases referred to in Article 44 of the Convention, a Judge who is a national of the respondent State shall not be able to participate in the hearing and deliberation of the case.
2. In the cases referred to in Article 45 of the Convention, national Judges will be able to participate in the hearing and deliberation of the case. If the President is a national of one of the parties to the case, he or she will cede the exercise of his or her functions.

3. African System

3.1. African Commission on Human and Peoples' Rights

Rules of procedure, rule 109

1. No member shall take part in the consideration of a communication by the Commission:
 - a) If he/she has any personal interest in the case, or
 - b) If he/she has participated, in any capacity, in the adoption of any decision relating to the case which is the subject of the communication.
2. Any issue relating to the application of paragraph 1 above shall be resolved by the Commission.

rule 110

If, for any reason, a member considers that he/she should not take part or continue to take part in the consideration of a communication, he/she shall inform the Chairman of his/her decision to withdraw.

3.2. African Court on Human and Peoples' Rights

Rules of procedure, rule 5

1. In accordance with the terms of Article 18 of the Protocol, during their term in office, no Members of the Court shall participate in any other activity of a nature that will compromise the independence and impartiality of such a Judge or the demands of the office.
2. In particular, the Members of the Court may not hold political, diplomatic or administrative positions or function as government legal advisers at the national level.
3. Each Member of the Court shall declare any other activities to the Court.

rule 8

2. In accordance with Article 22 of the Protocol, any Member of the Court who is a national of a State that is party to a case shall abstain from hearing
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that case.

3. A Member of the Court shall also abstain from hearing cases in which the State by virtue of which he/she was elected is a party.

4. No Member of the Court shall take part in the consideration of any case if:

a) he/she has previously acted, in relation to the case, as agent, counsel or advocate for one of the parties, or as a member of a national or international court or a commission of inquiry or in any other capacity;

b) he/she has a personal interest in the case, including a spousal, parental or other close family, personal or professional relationship, or a subordinate relationship with any of the parties;

c) he/she has expressed opinions publicly, through the communications media, in writing, through his or her public actions or otherwise, that may, objectively adversely affect his or her impartiality;

d) for any other reason, his/her independence or impartiality may, legitimately, be called into doubt;

3.3. African Committee on the Rights and Welfare of the Child

Rules of procedure, rule 11.2

The position of a member of the Committee is incompatible with any activity that might interfere with the independence or impartiality of such a member or the demands of the office such as working in any intergovernmental organisation, UN Agencies, or a Cabinet Minister or Deputy Minister, member of parliament, Ambassador, or any other politically binding function.
