

Rules of Procedure of the European Committee of Social Rights (9 September 1999)

Caption: Rules of Procedure of the European Committee of Social Rights, the monitoring body established under the European Social Charter and responsible for monitoring observance of the rights guaranteed under the Charter by the States party to it. Adopted on 9 September 1999, these rules replace those adopted on 4 July 1983 and the Rules of Procedure for collective complaints adopted on 21 March 1997.

Source: Rules of Procedure of the European Committee of Social Rights (9 September 1999). [ON-LINE]. [s.l.]: Council of Europe, [31.09.2003]. Available on http://www.coe.int/T/E/Human_Rights/Esc/3_European_Committee_of_Social_Rights/Rules_of_procedure.asp#TopOfPage.

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URL: http://www.cvce.eu/obj/rules_of_procedure_of_the_european_committee_of_social_rights_9_september_1999-en-2cb25954-fd37-4f4d-8cd9-38f8d8b2bac7.html

Publication date: 21/10/2012

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The European Committee of Social Rights, committee of independent experts established pursuant to the European Social Charter;

- whereas it is a body entrusted, on the basis of Articles 24 and 25 of the Charter as modified in the Amending Protocol (1991), with the independent assessment of the conformity of the situation in each Contracting Party with the obligations arising under the Charter, the 1988 Additional Protocol to the Charter and the 1996 revised European Social Charter and with examining collective complaints as provided for in the 1995 Additional Protocol providing for a system of collective complaints;
- considering that to carry out its work it is desirable to formally set down its Rules of Procedure;

Hereby, on 9 September 1999, adopts the following Rules of Procedure which enter into force on this same date and replace the Rules of Procedure adopted on 4 July 1983 and the Rules of Procedure for the collective complaints adopted on 21 March 1997:

Part I: Members of the Committee

Rule 1: Duties of Committee members

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

Rule 2: Incompatibility

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.

Rule 3: Solemn declaration

Before taking up duties, each member of the Committee shall, at the first meeting of the Committee at which the member is present after election, take the following declaration:

"I solemnly declare that I will exercise my functions as a member of this Committee with the requirements of independence, impartiality and availability inherent in my office and that I will keep secret the Committee's deliberations."

Rule 4: Terms of Office – Resignation

1. The duration of the term of office of members of the Committee shall be calculated as from the date fixed by the Committee of Ministers.

A member's resignation shall be notified in writing to the President of the Committee who shall transmit it to the Secretary General of the Council of Europe.

Rule 5: Order of precedence

1. Members of the Committee shall take precedence after the President, the Vice-President(s) and General Rapporteur according to the length of time they have been in office.
2. Members having the same length in office shall take precedence according to age.
3. Re-elected members shall take precedence having regard to the duration of their previous term of office.

Part II: President and Bureau of the Committee

Rule 6: Elections

1. The Committee shall elect the President, one or more Vice-Presidents and a General Rapporteur, who shall together constitute the Bureau of the Committee. The members of the Bureau shall be elected for a period of two years. Until such time as the President is elected, the meeting shall be chaired by the oldest member of the Committee present.

The members of the Bureau are eligible for re-election.

2. If a member of the Bureau withdraws from office before his term of office in the Bureau has expired, the Committee shall elect a successor for the remainder of that term.

3. Elections shall be held for each position by secret ballot, unless the Committee unanimously agrees otherwise in a particular case. Only the members present shall take part. The member who has obtained an absolute majority of the votes cast shall be elected. If no member receives such majority, a second ballot shall take place. The member receiving the most votes shall then be elected. In the event of a tie, the longest serving member shall be elected. If the members concerned have the same length of time in office, the oldest of them shall be elected.

Rule 7: President and Vice-Presidents

1. The President shall direct the work and chair the sessions of the Committee. He or she retains all his voting and other rights as a member of the Committee. He or she fulfils all other functions bestowed on him by these Rules and by the Committee.

2. In these Rules, the term "President" shall refer to any member fulfilling the office of President.

3. The Vice-President shall take the place of the President if the latter is unable to carry out his duties or if the office of President is vacant. If the Committee has elected another or several other Vice-Presidents, each of them shall replace the other Vice-Presidents if they are unable to carry out their duties or if their offices are vacant according to the order of precedence laid down in Rule 5. If the President and Vice-President(s) are at the same time unable to carry out their duties or if their offices are at the same time vacant, the duties of President shall be carried out by another member of the Committee according to the order of precedence laid down in Rule 5.

4. The President may delegate certain of his duties to the Vice-President(s).

Rule 8: Role of the General Rapporteur

The General Rapporteur co-ordinates the work of the Rapporteurs. In particular he or she supervises the coherence of the conclusions on the various articles and states the case law before the Committee if necessary.

Rule 9: Role of the Bureau

1. The Bureau shall direct the work of the Committee and shall perform all other functions conferred upon it by these Rules of Procedure and by the Committee.

2. If one or more members of the Bureau are unable to carry out their duties, they shall be replaced by other members of the Committee in accordance with the rules of precedence laid down in Rule 5.

Part III: Representative of the International Labour Organisation

Rule 10: Participation

1. With a view to enabling the representative of the International Labour Organisation to participate in the deliberations of the Committee, as provided for in Article 26 of the European Social Charter, the working documents of the Committee shall be communicated to the International Labour Office.
2. The representative from the International Labour Organisation is invited to participate in the plenary sessions of the Committee as well as in the meetings of the working groups.

Part IV: Secretariat**Rule 11: Staff**

The Secretary General shall provide the Committee with the necessary staff, including the Secretary to the Committee, as well as with the administrative and other services required for the fulfilment of its duties.

Part V: Working of the Committee**Rule 12: Sessions**

1. The Committee shall fix the numbers and dates of its sessions, taking into account existing budgetary allocations. The sessions shall be convened in accordance with the President's instructions.
2. The draft agenda is prepared in agreement with the President.
3. The notice of each session shall indicate its place, date and starting time and its probable duration, and be accompanied by the draft agenda and the provisional list of working papers and related documents. Except in cases of emergency, the notice shall be sent to the members at least one month before the starting date.
4. Members who are unable to attend a meeting shall give notice thereof, as soon as possible, to the Secretary to the Committee, who shall inform the President.
5. Sessions and deliberations of the Committee shall be held in private. All working documents shall be confidential.

Rule 13: Quorum and voting

1. A majority of members entitled to sit shall constitute a quorum for holding a session of the Committee. Each member shall have one vote. The decisions of the Committee shall be taken by a majority of those present.
2. When a decision has been taken by the Committee on a particular question, consideration of that question shall be resumed only if a member of the Committee so requests and if that request is approved by a two-thirds majority of votes cast.

Rule 14: Minutes and Conclusions

1. After each meeting, the Secretary to the Committee shall prepare draft minutes for submission to the members of the Committee, which shall approve the final text.
2. The Committee's conclusions shall also contain any dissenting opinions on particular questions of substance at the request of their authors.

Rule 15: Working languages

The working languages of the Committee shall be English and French.

Part VI: Procedure for examination of reports

Rule 16: Rapporteurs

The Committee shall designate a Rapporteur for each provision of the Charter, the 1988 Additional Protocol to the Charter and the revised Charter.

Rule 17: Working groups

1. The Committee may form working groups, composed of four or five members of the Committee, with a view to preparing its decisions.
2. The meetings of the working groups are chaired by a member of the Bureau or by default by another member chosen by the group.
3. A group will function when at least three members of the Committee are present.

Rule 18: Meetings with States

1. The Committee may decide to organise meetings with representatives of a State, as provided for in Article 24 paragraph 3 of the Charter as amended by the 1991 Amending Protocol, either on its own initiative or at the request of the State concerned. The Committee shall decide whether or not to act upon a request made by a State.
2. The international organisations of employers and trade unions referred to in Article 27 paragraph 2 of the Charter shall be invited to participate in these meetings. These organisations shall inform their national member organisations.
3. The meetings shall be public unless the President decides otherwise.

Part VII: Collective complaints procedure

Rule 19: Lodging of complaints

Collective complaints submitted under the 1995 Additional Protocol providing for a system of collective complaints shall be addressed to the Secretary to the Committee acting on behalf of the Secretary General of the Council of Europe.

Rule 20: Signature

Complaints shall be signed by the person(s) with the competence to represent the complainant organisation. The Committee decides on any questions concerning this matter.

Rule 21: Languages

1. Complaints made by the organisations listed in Article 1 paragraphs a and b of the Protocol shall be submitted in one of the official languages of the Council of Europe.
2. Complaints made by organisations listed in Article 1 paragraph c and Article 2 paragraph 1 of the Protocol may be submitted in a language other than one of the official languages of the Council of Europe. For these complaints, the Secretary to the Committee is authorised in his correspondence with the complainants to use a language other than one of the official languages of the Council of Europe.

Rule 22: Representatives of the States and of the complainant organisation

1. The states shall be represented before the Committee by the agents they appoint. These may have the assistance of advisers.
2. The organisations referred to in paragraphs 2 and 3 of the Protocol shall be represented by a person appointed by the organisation to this end. They may have the assistance of advisers.
3. The names and titles of the representatives and of any advisers shall be notified to the Committee.

Rule 23: Order in which to handle a complaint

Complaints shall be registered with the Secretariat of the Committee in chronological order. The Committee shall deal with complaints in the order in which they become ready for examination. It may, however, decide to give precedence to a particular complaint.

Rule 24: Rapporteurs

1. For each complaint a member of the Committee shall be appointed by the President to act as Rapporteur.
2. The Rapporteur shall follow the proceedings. He or she shall inform the Committee at each of its sessions of the progress of the proceedings and of the procedural decisions taken by the President since the previous session.
3. The Rapporteur shall elaborate a draft decision on admissibility of the complaint for adoption by the Committee, followed by, as the case may be, a draft report for the Committee of Ministers as provided for in Article 8 of the Protocol.

Rule 25: Role of the President

1. The President shall take the decisions provided for in Rules 26 to 29.
2. The President shall set the time limits mentioned under Article 6 and under Article 7 paragraphs 1, 2 and 3 of the Protocol. He or she may grant, in exceptional cases and following a well-founded request, an extension of these time limits.
3. The President may, in the name of the Committee, take any necessary measures in order that the procedure may be correctly carried out.
4. The President may especially, in order to respect a reasonable time limit for dealing with complaints, decide to convene additional sessions of the Committee.

Rule 26: Observations on the admissibility

1. Before the Committee decides on admissibility, the President of the Committee may ask the State concerned for written information and observations, within a time limit that he or she decides, on the admissibility of the complaint.
2. The President may also ask the organisation that lodged the complaint to respond, on the same conditions, to the observations made by the State concerned.

Rule 27: Admissibility assessment

1. The Rapporteur shall within the shortest possible time limit elaborate a draft decision on admissibility. It shall contain:

- a. a statement of the relevant facts;
 - b. an indication of the issues arising under the Charter in the complaint;
 - c. a proposal on the admissibility of the complaint.
2. The Committee's decision on admissibility of the complaint shall be accompanied by reasons and be signed by the President, the Rapporteur and the Secretary to the Committee.
 3. The Committee's decision on admissibility of the complaint shall be made public.
 4. The States party to the Charter or the revised Charter shall be notified about the decision.
 5. If the complaint is declared admissible, copies of the complaint and the observations of the parties shall be transmitted, upon request, to States party to the Protocol and to the international organisations of employers and trade unions referred to in paragraph 2 of Article 27 of the Charter. They shall also have the possibility to consult the appendices to the complaint at the Secretariat.

Rule 28: Assessment of the merits of the complaint – written procedure

1. If a complaint has been declared admissible, the Committee asks the State concerned to make its observations on the merits of the complaint within a time limit that it decides.
2. The President then invites the organisation that lodged the complaint to respond, on the same conditions, to these observations and to submit all relevant written explanations or information to the Committee.
3. The States party to the Protocol as well as the States having ratified the revised Social Charter and having made a declaration under Article D paragraph 2 shall be invited to make comments within the same time limit as that decided above under paragraph 1.
4. The international organisations of employers and trade unions referred to in Article 27 paragraph 2 of the Charter shall be invited to make observations on complaints lodged by national organisations of employers and trade unions and by non-governmental organisations.
5. The observations submitted in application of paragraphs 3 and 4 shall be transmitted to the organisation that lodged the complaint and to the State concerned.
6. Any information received by the Committee in application of Article 7 paragraphs 1, 2 and 3 of the Protocol shall be transmitted to the State concerned and to the complainant organisation.

Rule 29: Hearing

1. The hearing provided for under Article 7 paragraph 4 of the Protocol may be held at the request of one of the parties or on the Committee's initiative. The Committee shall decide whether or not to act upon a request made by one of the parties.
2. The State concerned and the complainant organisation as well as the States and organisations referred to under Article 7 of the Protocol that have submitted written observations during the proceedings shall be invited to the hearing.
3. The hearing shall be public unless the President decides otherwise.

Rule 30: The Committee's decision on the merits

1. The Committee's decision on the merits of the complaint contained in the report provided for in Article 8 of the Protocol shall be accompanied by reasons and be signed by the President, the Rapporteur and the Secretary to the Committee. Any dissenting opinions shall be appended to the Committee's decision at the request of their authors.
2. The report containing the decision in question shall be transmitted to the Committee of Ministers and to the Parliamentary Assembly.
3. The Committee's decision on the merits of the complaint shall be made public at the moment of the adoption of a resolution by the Committee of Ministers in conformity with Article 9 of the Protocol or at the latest four months after the report was transmitted to the Committee of Ministers.
4. When the Committee's decision has become public, all documents registered with the Secretariat shall be accessible to the public unless the Committee decides otherwise following a proposal by the Rapporteur.

Part VIII: Amendment to the Rules of Procedure

Rule 31: Amendments

Any rule may be amended upon motion made after notice by one of its members when such motion is carried, at a session of the Committee, by a majority of all its members. Notice of such a motion shall be delivered in writing at least two months before the session at which it is to be discussed. Such notice of motion shall be communicated to all members of the Committee at the earliest possible moment.