

Rules of Procedure of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (16 November 1989)

Caption: Rules of Procedure of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, adopted on 16 November 1989 and last amended on 12 March 1997.

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Rules of Procedure of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (16 November 1989)

(Adopted on 16 November 1989 and amended on 8 March 1990, 11 May 1990, 9 November 1990, 31 January 1991, 20 September 1991, and 12 March 1997)

The Committee,

Having regard to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention") ;

Pursuant to Article 6, paragraph 2, of the Convention,

Adopts the present Rules :

Title I — Organisation of the Committee

Chapter I — Members of the Committee

Rule 1 — Calculation of term of office

1. The duration of the term of office of a member of the Committee shall be calculated as from his election, unless the Committee of Ministers stipulates otherwise when proceeding to the election ⁽¹⁾.
2. A member elected to replace a member whose term of office has not expired shall be elected for a four year term of office.

Rule 2 — Solemn declaration

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

"I solemnly declare that I will exercise my functions as a member of this Committee honourably, independently, impartially and conscientiously and that I will keep secret all Committee proceedings".

Rule 3 — Precedence

1. Members of the Committee shall take precedence after the President and Vice-Presidents according to the length of time they have been in office.
2. Members having the same length of time 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.

Rule 4 — Resignation

Resignation of a member of the Committee shall be notified to the President, who shall transmit it to the Secretary General of the Council of Europe.

Chapter II — Presidency of the Committee

Rule 5 — Election of the President and Vice-Presidents

1. The Committee shall elect from among its members a President and a first and second Vice-President.

2. The President and Vice-Presidents shall be elected for a term of two years. They may be re-elected. However, the term of office of the President or of a Vice-President shall end if he ceases to be a member of the Committee.
3. If the President or a Vice-President ceases to be a member of the Committee or resigns his office of President or Vice-President before its normal expiry, the Committee may elect a successor for the remainder of the term of that office.
4. The elections referred to in this Rule shall be held by secret ballot. Election shall be by a majority of the members present.
5. If no candidate is elected after the first ballot, a second ballot shall take place between the two candidates who have received most votes ; in the case of equal voting, the candidate having precedence under Rule 3 shall take part in the second ballot. If necessary, a third ballot shall take place between the two candidates concerned. The candidate who receives the most votes in such a third ballot or, in the case of equal voting, who has precedence under Rule 3, shall be declared elected.
6. If there are only two candidates for a vacant office and neither of the candidates is elected after the first ballot, a second ballot shall take place. The candidate who receives the most votes in such a second ballot or, in the case of equal voting, who has precedence under Rule 3, shall be declared elected.

Rule 6 — Functions of the President

1. The President shall chair the meetings of the Committee and shall perform all other functions conferred upon him by these Rules of Procedure and by the Committee.
2. In exercising his functions, the President shall remain under the authority of the Committee.
3. The President may delegate certain of his functions to either Vice-President.

Rule 7 — Functions of the Vice-Presidents

The first 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. The second Vice-President shall replace the first Vice-President if the latter is unable to carry out his duties or if the office of first Vice-President is vacant.

Rule 8 — Replacement of the President and Vice-Presidents

If the President and Vice-Presidents 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 3.

Rule 9 — Obstacle to the exercise of the functions of President

No member of the Committee shall preside when the report on a visit to the State Party in respect of which he was elected is being considered.

Chapter III — Bureau of the Committee

Rule 10

1. The Bureau of the Committee shall consist of the President and Vice-Presidents. 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 3.

2. 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.

Chapter IV — Secretariat of the Committee

Rule 11

The Secretariat of the Committee shall consist of a Secretary and other staff members appointed by the Secretary General of the Council of Europe.

Title II — Working Of The Committee : General Rules

Chapter I — Seat of the Committee and languages

Rule 12 — Seat of the Committee

The seat of the Committee shall be in Strasbourg.

Rule 13 — Languages

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

Chapter II — Meetings of the Committee

Rule 14 — Holding of meetings

1. The Committee and its Bureau shall hold such meetings as are required for the exercise of their functions.
2. Committee meetings shall be convened at dates decided by the Committee. The Committee shall meet at other times by decision of the Bureau, as circumstances may require. It shall also meet if at least one third of the members so request.
3. The Secretary shall notify the members of the Committee of the date, time and place of each Committee meeting. Whenever possible, such notification shall be given at least six weeks in advance.

Rule 15 — Agenda

1. Following consultation with the Bureau, the Secretary shall transmit to the members a draft agenda simultaneously with the notification of the meeting.
2. The agenda shall be adopted by the Committee at the beginning of the meeting.

Rule 16 — Meeting documentation

The Secretary shall transmit to the members of the Committee the working documents relating to the different agenda items, whenever possible at least four weeks in advance.

Rule 17 — Quorum

The quorum of the Committee shall be the majority of its members.

Rule 18 — Privacy of meetings

1. The Committee shall meet in camera. Its deliberations shall remain confidential.

2. Apart from members of the Committee, only members of the Committee's Secretariat, interpreters and persons providing technical assistance to the Committee may be present at its meetings, unless the Committee decides otherwise.

Rule 19 — Hearings

The Committee may hear any person whom it considers to be in a position to assist it in the performance of its functions under the Convention.

Chapter III — Conduct of business

Rule 20 — Proposals

A proposal must be submitted in writing if a member of the Committee so requests. In that case it shall not be discussed until it has been circulated.

Rule 21 — Order of voting on proposals and amendments

1. Where a number of proposals relate to the same subject, they shall be put to the vote in the order in which they were submitted. In case of doubt, the President shall decide.
2. Where a proposal is the subject of an amendment, the amendment shall be put to the vote first. Where two or more amendments to the same proposal are presented, the Committee shall vote first on whichever departs furthest in substance from the original proposal, and so on until all the amendments have been put to the vote. However, where the acceptance of one amendment necessarily entails rejection of another, the latter shall not be put to the vote. The final vote shall then be taken on the proposal as amended or not amended. In case of doubt as to the order of priority, the President shall decide.
3. Parts of a proposal or amendment may be put to the vote separately.
4. In the case of proposal with financial implications, the most costly shall be put to the vote first.

Rule 22 — Order of procedural motions

Procedural motions shall take precedence over all other proposals or motions except points of order. They shall be put to the vote in the following order :

- a. suspension of the meeting ;
- b. adjournment of the meeting ;
- c. adjournment of discussion on the item in hand ;
- d. closure of discussion on the item in hand.

Rule 23 — Reconsideration of a question

When a decision has been taken it is only re-examined if a member of the Committee so requests and the Committee accedes to this request.

Rule 24 — Voting

1. Subject to the provisions of Rules 44 (paragraph 1), 47, 48, 50 and 51, the decisions of the Committee shall be taken by a majority of the members present.

2. In matters other than elections, a proposal shall be regarded as rejected if the majority referred to in paragraph 1 is not obtained.

3. Subject to Rule 5, paragraph 4, the Committee shall normally vote by show of hands. However, any member may request that a vote be taken by roll-call ; in this event, the roll shall be called in the alphabetical order of the names of the Committee's members, beginning with the letter 'A'.

4. After a vote has commenced, there shall be no interruption of the voting except on a point of order by a member in connection with the actual conduct of the voting. Brief statements by members consisting solely of explanations of their votes may be permitted by the President before the voting has commenced or after the voting has been completed.

Chapter IV — Decisions and meeting reports

Rule 25 — Decisions

At the end of each meeting the Secretary shall submit to the Committee for its approval a list of the decisions adopted during the meeting.

Rule 26 — Meeting reports

1. A draft report of the Committee's deliberations at each meeting shall be prepared by the Secretary. The draft report shall be circulated as soon as possible to members of the Committee, who will be given the opportunity to submit corrections within a prescribed time-limit.

2. If no corrections are submitted, the meeting report shall be deemed to be adopted. If corrections are submitted, they shall be consolidated in a single document and circulated to all members. In this latter case, the adoption of the meeting report shall be taken up at the next meeting of the Committee.

Chapter V — Working parties

Rule 27

The Committee may set-up ad hoc working parties comprising a limited number of its members. The terms of reference of such working parties shall be defined by the Committee.

Chapter VI — Communications containing information submitted for the Committee's consideration

Rule 28

1. The Secretary shall bring to the Committee's attention communications received containing information submitted for the Committee's consideration, unless the information in question relates to matters which manifestly fall outside its field of competence.

2. Such communications received by individual members of the Committee shall be forwarded to the Secretariat.

3. The Secretary shall keep a register of all communications received.

4. The Secretary shall send an acknowledgement of receipt to the authors of such communications.

Title III — Procedure concerning visits

Chapter I — Basic rules

Rule 29 — The principle of visits

Pursuant to Article 1 and 7 of the Convention, the Committee shall organise visits to places referred to in Article 2 of the Convention to examine the treatment of persons deprived of their liberty, with a view to strengthening, if necessary, the protection of such persons from torture and from inhuman or degrading treatment or punishment.

Rule 30 (2) — Requests for information or explanations

1. Before deciding on a particular visit, the Committee or, if appropriate, the Bureau may request information or explanations as regards the general situation in the State concerned, as regards a given place, or as regards an isolated case concerning which it has received reports.

2. Following receipt of such information or explanations, details of remedial action taken by the national authorities may be requested.

Rule 31 — Periodic visits

1. The Committee shall carry out visits of a periodic nature.

2. Before the end of each calendar year, the Committee shall establish a provisional programme of periodic visits for the following calendar year. In drawing up this programme the Committee shall ensure, as far as possible, that the different States Parties to the Convention are visited on an equitable basis, regard being had to the number of relevant places in each State Party ⁽³⁾.

3. The Committee may subsequently decide to modify the above-mentioned programme in the light of circumstances.

4. The Committee shall make public the names of the countries in which periodic visits are envisaged in a given year, after having informed the authorities of each of the States concerned of the likelihood of a visit ⁽⁴⁾.

Rule 32 — Ad hoc visits

1. In addition to periodic visits, the Committee may carry out such ad hoc visits as appear to it to be required in the circumstances.

2. When the Committee is not in session, the Bureau may, in case of urgency, decide on the Committee's behalf on the carrying out of an ad hoc visit. The President shall report to the Committee at its next meeting on any action which has been taken under this paragraph.

Rule 33 — Follow-up visits

The Committee may carry out one or more follow-up visits to any place already visited in the context of a periodic or ad hoc visit.

Rule 34 — Responsibility for carrying out visits

1. As a general rule, visits shall be carried out by a delegation of the Committee consisting of at least two of its members. Exceptionally, visits may be carried out by the full Committee or by a single member thereof.

2. The members of the Committee with responsibility for carrying out a visit shall act in the name of the Committee.

Rule 35 — Notification of visits

1. The Committee or, if the Committee is not in session at the relevant time, its President shall notify the Government of the Party concerned of the intention to carry out a visit. The notification shall be sent to the authority referred to in Article 15 of the Convention.
2. The notification shall contain the names of the Committee members responsible for carrying out the visit and of all persons assisting the visiting delegation.
3. The notification shall indicate the places which the delegation intends to visit. However, this shall not prevent the visiting delegation from deciding to visit also places not indicated in the notification.
4. The notification of a visit in pursuance of paragraphs 1 to 3 may be given in stages. ⁽⁵⁾

Rule 36 — Register of visits

The Secretary shall maintain a register of all visits carried out by the Committee.

Chapter II — Visiting delegations

Rule 37 — Choice of members

1. The members of the Committee to carry out a visit shall be chosen by the Committee or, in case of urgency when the Committee is not in session, by the Bureau. Due regard shall be had to the nature of the visit in question, and in particular to the type of place or places to be visited, when the composition of the delegation is determined.
2. The member of the Committee elected in respect of the State to be visited shall not be chosen as a member of the visiting delegation ⁽⁶⁾.
3. In consultation with the Bureau, the members of the delegation shall appoint one of their number as Head of the delegation ⁽⁷⁾.

Rule 38 — Assistants

1. The Committee or, in the case of an ad hoc visit under Rule 32, paragraph 2, the Bureau may decide that a visiting delegation shall be assisted by one or more experts or interpreters.
2. As a rule, a visiting delegation shall not be assisted by an expert who is a national of the State to be visited ⁽⁸⁾.
3. At least one member of the Secretariat of the Committee shall accompany each visiting delegation.
4. All persons assisting a visiting delegation shall act on the instructions and under the authority of the Head of the delegation.

Rule 39 — Procedure for visits

1. Visiting delegations shall carry out visits in accordance with any general or specific instructions or guidelines issued by the Committee or, as the case may be, the Bureau.
2. A visiting delegation may immediately communicate observations to the authorities of the Party concerned.

Rule 40 — Visiting delegation reports

On the completion of its visit, a visiting delegation shall as soon as possible submit a report to the Committee. This report shall contain in particular :

- a description of the different stages of the visit ;
- an account of the facts found during the visit and of consultations with the authorities of the Party concerned, that are of relevance for the Committee's report ; ⁽⁹⁾
- proposals for any recommendations which the visiting delegation considers should be addressed to the Party.

Title IV — Post-Visit Procedure

Chapter I — Reports and recommendations

Rule 41 — Preparation of the Committee's report

1. After each visit the Committee shall draw up, in the light of the visiting delegation's report, a report for transmission to the Party concerned. This report shall set out the facts found during the visit and contain any recommendations which the Committee considers necessary with a view to strengthening the protection of persons deprived of their liberty.
2. When drawing up its report, the Committee shall take account of any observations which the Party concerned might submit to it following a visit. Further, the Committee may on its own initiative seek observations or additional information from the Party.
3. After its adoption, the report shall be transmitted to the Party concerned by the President.

Rule 42 — Confidential nature of the report

1. The report transmitted to a Party following a visit is and, as a rule, shall remain confidential. However, the Committee shall publish its report, together with any comments of the Party concerned, whenever requested to do so by that Party.
2. If the Party itself makes the report public, but does not do so in its entirety, the Committee may decide to publish the whole report.
3. Similarly, the Committee may decide to publish the whole report if the Party concerned makes a public statement summarising the report or commenting upon its contents.⁽¹⁰⁾
4. Publication of the report by the Committee under paragraphs 1 to 3 of this Rule shall be subject to the provisions of Rule 45, paragraph 2.⁽¹¹⁾

Rule 43 — Subsequent consultations

After transmission of the Committee's report, the Committee and the Party may hold consultations concerning in particular the implementation of any recommendations set out in the report.

Chapter II — Public statements

Rule 44

1. If a Party fails to co-operate with the Committee or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, by a majority of two-thirds of its members, to make a public statement on the matter.

2. Before a decision to make such a statement is taken, the Party concerned shall be given an opportunity to make known its views.

3. Subject to the provisions of Rule 45, paragraph 2, the Committee shall be released from the obligation of confidentiality set out under Title V when making a public statement.

Title V — Confidentiality

Rule 45

1. Subject to Rules 42 and 44, information gathered by the Committee in relation to a visit, its report on that visit, and its consultations with the Party concerned shall be and shall remain confidential. The same shall apply to all Committee meeting reports and working documents.

2. No personal data shall be published without the express consent of the person concerned.

Rule 46

1. Members of the Committee, experts and other persons assisting the Committee are required, during and after their terms of office, to maintain the confidentiality of the facts or information of which they have become aware during the discharge of their functions.

2. A provision to the above effect shall be inserted in the contracts of experts and interpreters recruited to assist the Committee.

Rule 47 (12)

If there are serious grounds for believing that a Committee member has violated the obligation of confidentiality, the Committee may, after the member concerned has had an opportunity to state his views, decide by a majority of two-thirds of its members to inform the Committee of Ministers of the matter.

Rule 48 (13)

1. If there are serious grounds for believing that a member of the Committee's Secretariat or an interpreter has violated the obligation of confidentiality, the Committee may, after the person concerned has had an opportunity to state his views, decide by a majority of its members to inform the Secretary General of the Council of Europe of the matter and request that appropriate measures be taken.

2. If there are serious grounds for believing that an expert has violated the obligation of confidentiality, the Committee shall, after the person concerned has had an opportunity to state his views, decide by a majority of its members on the measures to be taken.

Title VI — Annual General Report of the Committee

Rule 49

1. Subject to the obligation of confidentiality set out under Title V, the Committee shall every year submit to the Committee of Ministers a general report on its activities, which shall be transmitted to the Consultative Assembly and made public.

2. The report shall contain inter alia information on the organisation and internal workings of the Committee and on its activities proper, with particular mention of the States visited.

3. Whenever possible, the report shall be adopted at the first meeting of the Committee in a given calendar

year and cover the whole of the preceding calendar year. The Secretary shall submit a draft report to the Committee in good time.

Title VII — Amendments and Suspension

Rule 50 — Amendment of the Rules

These Rules of Procedure may be amended by decision taken by a majority of the members of the Committee, subject to the provisions of the Convention.

Rule 51 — Suspension of a Rule

Upon the proposal of a Committee member, the application of a Rule may be suspended by decisions taken by a majority of the members of the Committee, subject to the provisions of the Convention. The suspension of a rule shall be limited in its operation to the particular purpose for which such suspension has been sought.

(¹) Paragraph amended by the Committee on 12 March 1997.

(²) Rule inserted by the Committee on 8 March 1990.

(³) Paragraph amended by the Committee on 31 January 1991.

(⁴) Paragraph inserted by the Committee on 11 May 1990 and amended on 31 January 1991.

(⁵) Paragraph inserted by the Committee on 8 March 1990.

(⁶) Paragraph inserted by the Committee on 9 November 1990.

(⁷) Paragraph amended by the Committee on 31 January 1991.

(⁸) Paragraph inserted by the Committee on 9 November 1990.

(⁹) Indent amended by the Committee on 31 January 1991.

(¹⁰) Paragraph inserted by the Committee on 20 September 1991.

(¹¹) Paragraph amended by the Committee on 20 September 1991.

(¹²) Rule inserted by the Committee on 9 November 1990.

(¹³) Rule inserted by the Committee on 9 November 1990.