



## INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

### MODIFICATIONS TO THE RULES OF PROCEDURE

This document includes the Articles of the Rules of Procedure that have been modified as part of the reform that entered into force on August 1<sup>st</sup> 2013. The modified or added text of the Rules is highlighted in yellow, and the text that was eliminated is indicated with a double strikethrough.

The full text of the Rules of Procedure in force since August 1st 2013 is available [here](#). This reform was approved by the Inter-American Commission on Human Rights by [Resolution 1/2013](#) dated March 18, 2013, and published on March 19, 2013 by [press release 19/13](#).

#### Article 25 – Precautionary Measures

1. In accordance with Articles 106 of the Charter of the Organization of American States, 41.b of the American Convention on Human Rights, 18.b of the Statute of the Commission and XIII of the American Convention on Forced Disappearance of Persons, the Commission may, on its own initiative or at the request of a party, request that a State adopt precautionary measures. Such measures, whether related to a petition or not, shall concern serious and urgent situations presenting a risk of irreparable harm to persons or to the subject matter of ~~the proceedings in connection with~~ a pending petition or case before the organs of the inter-American system.

2. For the purpose of taking the decision referred to in paragraph 1, the Commission shall consider that:

- a. “serious situation” refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the inter-American system;
- b. “urgent situation” refers to risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and
- c. “irreparable harm” refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

3. Precautionary measures may protect persons or groups of persons, as long as the beneficiary or beneficiaries may be determined or determinable through their geographic location or membership in or association with a group, people, community or organization.

4. Requests for precautionary measures addressed to the Commission shall contain, inter alia:

- a. identifying information for the persons proposed as beneficiaries or information that allows them to be determined;
- b. a detailed and chronological description of the facts that motivate the request and any other available information; and
- c. the description of the measures of protection requested.

5. Prior to the adoption of precautionary measures, the Commission shall request relevant information to the State concerned, except where the immediacy of the threatened harm admits of no delay. In that circumstance, the Commission shall review that decision as soon as possible, or at the latest during its next period of sessions, taking into account the information received from the parties.

6. In considering the request the Commission shall take into account its context and the following elements:

- a. whether the situation ~~of risk~~ has been brought to the attention of the pertinent authorities or the reasons why it **would** not have been possible to do so;
- b. the individual identification of the potential beneficiaries of the precautionary measures or the **determination** of the group to which they belong **or are associated with**; and
- c. the consent of the potential beneficiaries ~~whenever~~ the request is **presented before the Commission** by a third party unless the absence of consent is ~~duly~~ justified.

7. The decisions granting, extending, modifying or lifting precautionary measures shall be adopted through reasoned resolutions that include, among others, the following elements:

- a. a description of the alleged situation and of the beneficiaries;
- b. the information presented by the State, if available;
- c. the considerations by the Commission concerning the requirements of seriousness, urgency, and irreparability;
- d. if applicable, the time period for which the measures will be in effect; and

- e. the votes of the members of the Commission.
8. The granting of such measures and their adoption by the State shall not constitute a prejudgment on the violation of any right protected by the American Convention on Human Rights or other applicable instruments.
9. The Commission shall evaluate periodically, at its own initiative or at the request of either party, whether to maintain, modify or lift the precautionary measures in force. At any time, the State may file a duly grounded petition that the Commission lift the precautionary measures in force. Prior to taking a decision on such a request, the Commission shall request observations from the beneficiaries ~~or their representatives~~. The presentation of such a request shall not suspend the precautionary measures in force.
10. The Commission shall take appropriate follow-up measures, such as requesting relevant information from the interested parties on any matter related to the granting, observance and maintenance of precautionary measures. These measures may include, as appropriate, timetables for implementation, hearings, working meetings, and visits for follow-up and review.
11. In addition to the terms of subparagraph 9 above, the Commission may lift or review a precautionary measure when the beneficiaries or their representatives, without justification, fail to provide a satisfactory reply to the Commission on the requirements presented by the State for their implementation.
12. The Commission may present a request for provisional measures to the Inter-American Court in accordance with the conditions established in Article 76 of these Rules. Any precautionary measures issued with respect to the matter shall remain in effect until the Court notifies the parties of its resolution of the request.
13. In the case of a decision of the Inter-American Court dismissing an application for provisional measures, the Commission shall not consider a new request for precautionary measures unless there are new facts that justify it. In any case, the Commission may consider the use of other mechanisms to monitor the situation.

#### **Article 28. Requirements for the Consideration of Petitions**

Petitions addressed to the Commission shall contain the following information:

1. the name, ~~nationality and signature~~ of the ~~person or~~ person or persons making the denunciation; or in cases where the petitioner is a nongovernmental entity, ~~the name and signature of~~ its legal representative(s) and the Member State in which it is legally recognized;
2. whether the petitioner wishes that his or her identity be withheld from the State, and the respective reasons;

3. the e-mail address for receiving correspondence from the Commission and, if available, a telephone number, facsimile number, and postal address;
4. an account of the fact or situation that is denounced, specifying the place and date of the alleged violations;
5. if possible, the name of the victim and of any public authority who has taken cognizance of the fact or situation alleged;
6. the State the petitioner considers responsible, by act or omission, for the violation of any of the human rights recognized in the American Convention on Human Rights and other applicable instruments, even if no specific reference is made to the article(s) alleged to have been violated;
7. compliance with the time period provided for in Article 32 of these Rules of Procedure;
8. any steps taken to exhaust domestic remedies, or the impossibility of doing so as provided in Article 31 of these Rules of Procedure; and
9. an indication of whether the complaint has been submitted to another international settlement proceeding as provided in Article 33 of these Rules of Procedure.

#### **Article 29. Initial Processing**

1. The Commission, acting initially through the Executive Secretariat, shall receive and carry out the initial processing of the petitions presented. Each petition shall be registered, the date of receipt shall be recorded on the petition itself and an acknowledgement of receipt shall be sent to the petitioner.
2. The petition shall be studied in the order it was received; however, the Commission may expedite the evaluation of a petition in situations such as the following:
  - a. when the passage of time would deprive the petition of its effectiveness, in particular:
    - i. when the alleged victim is an older person or a child;
    - ii. when the alleged victim is terminally ill;
    - iii. when it is alleged that the death penalty could be applied to the presumed victim; or
    - iv. when the object of the petition is connected to a precautionary or provisional measure in effect;

- b. when the alleged victims are persons deprived of liberty;
- c. when the State formally expresses its intention to enter into a friendly settlement process in the matter; or
- d. when any of the following circumstances are present:
  - i. the decision could have the effect of repairing serious structural situations that would have an impact in the enjoyment of human rights; or
  - ii. the decision could promote changes in legislation or state practices and avoid the reception of multiple petitions on the same matter.

3. If the petition does not meet the requirements of these Rules of Procedure, the Commission may request that the petitioner or his or her representative complete them in accordance with Article 26.2 of these Rules.

4. If the petition sets forth distinct facts, or if it refers to more than one person or to alleged violations not interconnected in time and place, the Commission may divide it and process the files separately, so long as all the requirements of Article 28 of these Rules of Procedure are met.

5. If two or more petitions address similar facts, involve the same persons, or reveal the same pattern of conduct, the Commission may join them and process them together in the same file.

6. In the situations provided for in subparagraphs 4 and 5, the Commission shall give written notification to petitioners.

7. In serious or urgent cases, the Executive Secretariat shall immediately notify the Commission.

### **Article 30. Admissibility Procedure**

1. The Commission, through its Executive Secretariat, shall process the petitions that meet the requirements set forth in Article 28 of these Rules of Procedure.

2. For this purpose, it shall forward the relevant parts of the petition to the State in question. ~~The identity of the petitioner shall not be revealed without his or her express authorization.~~ The request for information made to the State shall not constitute a prejudgment with regard to any decision the Commission may adopt on the admissibility of the petition.

3. The State shall submit its response within **three** months from the date the request is transmitted. The Executive Secretariat shall evaluate requests for extensions of this period that are duly founded. However, it shall not grant extensions that exceed **four** months from the date **of transmission** of the first request for information sent to the State.

4. In serious and urgent cases, or when it is believed that the life or personal integrity of a person is in real and imminent danger, the Commission shall request the promptest reply from the State, using for this purpose the means it considers most expeditious.

5. Prior to deciding upon the admissibility of the petition, the Commission may invite the parties to submit additional observations, either in writing or in a hearing, as provided for in Chapter VI of these Rules of Procedure.

6. **The** considerations on or challenges to the admissibility of the petition shall be submitted **as** from the time that the relevant parts of the petition are forwarded to the State and prior to the Commission's decision on admissibility.

7. In the cases **referred to** in paragraph 4, the Commission may request that the State presents its response and observations on the admissibility and the merits of the matter. The response and observations of the State shall be submitted within a reasonable period, to be determined by the Commission in accordance with the circumstances of each case.

### **Article 36. Decision on Admissibility**

1. Once it has considered the positions of the parties, the Commission shall make a decision on the admissibility of the matter. The reports on admissibility and inadmissibility shall be public and the Commission shall include them in its Annual Report to the General Assembly of the OAS.

2. When an admissibility report is adopted, the petition shall be registered as a case and the proceedings on the merits shall be initiated. The adoption of an admissibility report does not constitute a prejudgment as to the merits of the matter.

3. In exceptional circumstances, and after having requested information from the parties in **accordance** with the provisions of Article 30 of these Rules of Procedure, the Commission may open a case but defer its treatment of admissibility until the debate and decision on the merits. **The decision shall be adopted by a reasoned resolution of the Commission, which will include an analysis of those exceptional circumstances. The exceptional circumstances that the Commission shall take into account will include the following:**

- a. **when the consideration of the applicability of a possible exception to the requirement of exhaustion of domestic remedies would be inextricably tied to the merits of the matter;**

- b. in cases of seriousness and urgency, or when the Commission considers that the life or personal integrity of a person may be in imminent danger; or
- c. when the passage of time may prevent the useful effect of the decision by the Commission.

4. When the Commission proceeds in accordance with Article 30.7 of these Rules of Procedure, it shall open a case and inform the parties in writing that it has deferred its treatment of admissibility until the debate and decision on the merits.

### **Article 37. Procedure on the Merits**

1. Upon opening the case, the Commission shall set a period of **four** months for the petitioners to submit additional observations on the merits. The pertinent parts of those observations shall be transmitted to the State in question so that it may submit its observations within **four** months.

2. The Executive Secretariat shall evaluate requests for an extension of the time periods established in the preceding subparagraph that are duly founded. However, it shall not grant extensions that exceed **six** months from the date the initial request for observations was sent to each party.

3. In serious and urgent cases, or when it is believed that the life or personal integrity of a person is in real and imminent danger, and once the case has been opened, the Commission shall request that the **parties** forward **their** additional observations on the merits within a reasonable time period, established by the Commission taking into account the circumstances of each case.

4. Prior to making its decision on the merits of the case, the Commission shall set a time period for the parties to express whether they have an interest in initiating the friendly settlement procedure provided for in Article 40 of these Rules of Procedure. In the cases provided for in **Article 30.7** and in the preceding subparagraph, the Commission shall request the parties to respond in a more expeditious manner. The Commission may also invite the parties to submit additional observations in writing.

5. If it deems it necessary in order to advance in its consideration of the case, the Commission may convene the parties for a hearing, as provided for in Chapter VI of these Rules of Procedure.

### **Article 42. Archiving of Petitions and Cases**

1. At any time during the proceedings, the Commission may decide to archive the file ~~whenever a~~ **it verifies that** the grounds for the petition or case do not exist or subsist. **The Commission may also decide to archive the case when:**

- a. the information necessary for the adoption of a decision is unavailable, despite attempts to secure such information; or
- b. the unjustified procedural inactivity of the petitioner constitutes a serious indication of lack of interest in the processing of petition.

2. Before considering the archiving of a petition or case, it shall request that the petitioners submit the necessary information and notify the possibility of a decision to archive. Once the time limit specified for that purpose has expired, the Commission shall proceed to adopt the corresponding decision.

3. The decision to archive shall be final, except in the following cases:

- a. material error;
- b. supervening facts;
- c. new information that would have affected the decision of the Commission; or
- d. fraud.

#### **Article 44. Report on the Merits**

After the deliberation and vote on the merits of the case, the Commission shall proceed as follows:

1. If it establishes that there was no violation in a given case, it shall so state in its report on the merits. The report shall be transmitted to the parties, and shall be published and included in the Commission's Annual Report to the OAS General Assembly.

2. If it establishes one or more violations, it shall prepare a preliminary report with the proposals and recommendations it deems pertinent and shall transmit it to the State in question. In so doing, it shall set a deadline by which the State in question must report on the measures adopted to comply with the recommendations. The State shall not be authorized to publish the report until the Commission adopts a decision in this respect.

3. It shall notify the petitioner of the adoption of the report and its transmittal to the State. In the case of States Parties to the American Convention that have accepted the contentious jurisdiction of the Inter-American Court, upon notifying the petitioner, the Commission shall give him or her one month to present his or her position as to whether the case should be submitted to the Court. When the petitioner is interested in the submission of the case, he or she should present the following:



- a. the position of the victim or the victim's family members, if different from that of the petitioner;
- ~~b. the personal data relative to the victim and the victim's family members;~~
- b. the reasons he or she considers that the case should be referred to the Court; and
- c. the claims concerning reparations and costs.

**Article 46. Suspension of Time Limit to Refer the Case to the Court**

1. The Commission may consider, at the request of the State concerned, the suspension of the time limit established in Article 51.1 of the American Convention for the referral of the case to the Court, pursuant to the following conditions:

- a. that the State shows its willingness and ability to implement the recommendations included in the merits report through the adoption of concrete and adequate measures of compliance. To this end, the Commission may take into account the existence of domestic legislation that establishes a mechanism for compliance with its recommendations; and
- b. that in its request the State expressly and irrevocably accepts the suspension of the time limit established in Article 51.1 of the American Convention for the submission of the case to the Court and consequently expressly waives the right to file preliminary objections regarding compliance with the aforementioned time limit in the event that the matter is later referred to the Court.

2. In establishing the period for the suspension of the time limit, the Commission may take into account the following factors:

- a. The complexity of the matter and of the measures necessary to comply with the recommendations of the Commission, in particular, when it implies the involvement of different branches of the government or coordination between the central and regional governments, among others;
- b. The measures toward compliance with the recommendations, which were adopted by the State prior to the extension request; and
- c. The position of the petitioner.

### Article 59. Annual Report

1. The Annual Report presented by the Commission to the General Assembly of the **Organization** shall **be comprised of two volumes.**

2. **The first volume shall include the following:**

a. **An Introduction with** the progress made in attaining the objectives set forth in the American Declaration ~~of the Rights and Duties of Man~~, the American Convention ~~on Human Rights~~ and all other **Inter-American human rights** instruments, and the status of **their** ratification, an account of the origin, legal bases, structure and purposes of the Commission; ~~a summary of the mandates and recommendations conferred upon the Commission by inter-American human rights instruments, the General Assembly of the Organization and the other competent organs, and of the status of implementation of such mandates and recommendations.~~

b. **In Chapter I,**

i. a list of the periods of sessions held during the time period covered by the report and of other activities carried out by the Commission to achieve its purposes, objectives and mandates; **and**

ii. a summary of the activities ~~of the Commission~~ carried out **by the Commission** ~~in cooperation with the Court~~, other organs of the OAS and ~~with~~ regional or universal organs of the same type, and the results achieved.

c. **In Chapter II, a presentation of the status of the petition and case system, with the following information:**

i. **petitions under initial study;**

ii. **petitions declared admissible and inadmissible and the respective reports;**

iii. **merits reports issued;**

iv. **friendly settlements approved during the period;**

v. **archive reports adopted;**

vi. **precautionary measures granted; and**

vii. **status of compliance with recommendations in individual cases.**

d. In Chapter III, an account of the activities of its Rapporteurships, Special Rapporteurships and Thematic Units, including reference to each report they produced, as well as other promotional activities.

e. In Chapter IV,

i. section A) will include an annual overview of the human rights situation in the hemisphere, derived from its monitoring work, which shall identify the main tendencies, problems, challenges, progress and best practices of civil and political rights, and social, economic and cultural rights;

ii. section B) will include the ~~any general or~~ special reports that the Commission considers necessary regarding the situation of human rights in Member States, pursuant to the criteria, methodology and procedure provided for in the following subparagraphs.

f. In Chapter V, follow-up reports, highlighting the progress reached and the difficulties ~~that have existed with respect to~~ for the effective observance of human rights.

g. In Chapter VI, an account of institutional development activities, which shall include information on financial resources and the execution of the Commission's budget.

3. In a second volume of the Annual Report, the Commission shall incorporate country, thematic or regional reports adopted or published during the year, including those prepared by Rapporteurships, Special Rapporteurships and Thematic Units.

4. The Commission will apply the rules established in subsections 5 to 9 of this Article in the preparation of Chapters IV and V of its Annual Report, in the exercise of its mandate to promote and protect human rights and, in particular, its duty to inform the OAS Member States about human rights situations that may require a response from the political organs and priority attention from the Commission.

5. The Commission will utilize reliable and credible information from:

a. official acts of all levels and branches of government, including constitutional amendments, legislation, decrees, judicial decisions, policy statements, official communications to the Commission and to other human rights organs, as well as any other statement or action attributable to the Government;

b. information available in cases, petitions and precautionary and provisional measures in the inter-American system, as well as

information on compliance by the State with recommendations of the Commission and judgments of the Inter-American Court;

- c. information gathered in the course of on-site visits by the Commission, its Rapporteurs and members of its staff;
- d. information obtained during hearings held by the Commission as part of its sessions;
- e. conclusions of other international human rights bodies, including UN treaty bodies, UN Rapporteurs and working groups, the Human Rights Council, and other UN specialized agencies;
- f. human rights reports issued by governments and regional organs;
- g. reports by civil society organizations, as well as information presented by such organizations and private persons; and
- h. public information that is widely disseminated in the media.

6. The criteria for including a Member State in Chapter IV.B of the Annual Report are the following:

- a. a serious breach of the core requirements and institutions of representative democracy mentioned in the Inter-American Democratic Charter, which are essential means of achieving human rights, including:
  - i. there is discriminatory access to or abusive exercise of power that undermines or denies the rule of law, such as systematic infringement of the independence of the judiciary or lack of subordination of State institutions to the legally constituted civilian authority;
  - ii. there has been an unconstitutional alteration of the constitutional regime that seriously impairs the democratic order; or
  - iii. the democratically-constituted government has been overthrown by force or the existing government has otherwise come to power through means other than free and fair election, based on universal and secret ballot, pursuant to internationally accepted norms and principles reflected in the Inter-American Democratic Charter.
- b. The free exercise of the rights guaranteed in the American Declaration or the American Convention has been unlawfully suspended, totally or partially, by virtue of the imposition of exceptional measures such as a

declaration of a state of emergency, state of siege, suspension of constitutional guarantees, or exceptional security measures.

- c. There State has committed or is committing massive, serious and widespread violations of human rights guaranteed in the American Declaration, the American Convention, or the other applicable human rights instruments.
- d. The presence of other structural situations that seriously affect the use and enjoyment of fundamental rights recognized in the American Declaration, the American Convention or other applicable instruments. Factors to be considered shall include the following, among others:
  - i. serious institutional crises that infringe the enjoyment of human rights;
  - ii. systematic noncompliance of the State with its obligation to combat impunity, attributable to a manifest lack of will;
  - iii. serious omissions in the adoption of the necessary measures to make fundamental rights effective, or in complying with the decisions of the Commission and the Inter-American Court; and
  - iv. systematic violations of human rights attributable to the State in the framework of an internal armed conflict.

7. The decision on the specific countries to include in Chapter IV.B shall be adopted by the Commission each year, in accordance with the special quorum set forth in Article 18 of the present Rules of Procedure. The inclusion of a State in that chapter in a particular year does not create a presumption that it will be included in it the next year. When the Commission receives information from the concerned state that leads to the conclusion that the conditions that gave rise to its inclusion have been overcome, it will not include the country in that chapter unless new reasons demand it.

8. When a State included in Chapter IV.B of the Annual Report has been the subject of an on-site visit, it will not be included in that Chapter of the Annual Report for the year corresponding to the visit. The monitoring of the situation of human rights for that year in that State will be carried out by means of the country report prepared in relation to the on site visit. Once the country report has been published, the Commission will follow up on compliance with the respective recommendations by means of Chapter V of its Annual Report. Thereafter, the Commission shall decide, in accordance with the present Rules of Procedure, if the monitoring of the situation of human rights in the respective country should be included in any of the aforementioned chapters of the Annual Report.

9. By means of Chapter V of its Annual Report, the Commission shall follow-up on measures adopted to comply with the recommendations issued in its country reports, thematic reports, or in reports previously published in Chapter IV.B.

10. Prior to its publication of Chapters IV.B and V of the Annual Report, the Commission will transmit a preliminary copy of the Report to the State concerned. That State may send a reply within a maximum timeframe of a month from the date of transmission of the Report. This reply will be made available through a link on the Commission's website, unless the State requests otherwise.

11. The Commission shall include in its Annual Report any other information, observation or recommendation that it considers pertinent to present to the General Assembly.

#### **Article 72. Witnesses and Experts**

1. The Commission may also request the Court to summon other persons as witnesses or experts witnesses.

2. The presentation of such witnesses or experts shall be done in accordance with the Rules of Procedure of the Court.

#### **Article 76. Provisional measures**

1. The Commission may request that the Court adopt provisional measures in cases of extreme seriousness and urgency, and when it becomes necessary to avoid irreparable damage to persons in a matter that has not yet been submitted to the Court for consideration. In taking its decision, the Commission shall take into account the position of the beneficiaries and their representatives.

2. The Commission shall consider the following criteria to present a request for provisional measures:

- a. when the State concerned has not implemented the precautionary measures granted by the Commission;
- b. when the precautionary measures have not been effective;
- c. when there is a precautionary measure connected to a case submitted to the jurisdiction of the Court; or
- d. when the Commission considers it pertinent for the efficacy of the requested measures, to which end it shall provide its reasons.

#### **Article 79. Amendment of the Rules of Procedure**

The Rules of Procedure may be amended, after a public consultation, by an absolute majority of the members of the Commission.