

Use of hearings in the proceedings of international human rights bodies
Note by the secretariat for the Committee's 61st meeting

This note provides a brief overview of the practices of various international human rights bodies with respect to the use of hearings in their proceedings.

1. United Nations human rights bodies

(a) Human Rights Committee¹

Submissions about communications are initially made in writing.² Each party to a communication may be afforded an opportunity to comment on submissions made by the other party.³ In appropriate cases raising complex issues of fact or domestic law or important questions of interpretation of the International Covenant on Civil and Political Rights, the Committee will consider inviting the parties to provide their comments orally before the Committee. The Committee may decide, if it deems it necessary, to invite the parties to provide additional information orally and to answer questions on the admissibility or merits of the communication. The meeting at which the oral comments are to be presented will be closed.⁴

(b) Human Rights Council⁵

Generally, complaints are considered on the papers by the Working Group on Communications⁶ and the Working Group on Situations.⁷ Special procedures involve country visits and expert consultations.⁸

(c) Other UN human rights committees

Individual complaints are considered by the Committees in closed session. Although some Committees have provisions for oral components of proceedings in their rules of procedure (Committee Against Torture and Committee on the Elimination of Racial Discrimination), the practice has been to consider complaints only on the basis of the written information supplied by the complainant and the State party. Accordingly, it has not been the practice to receive oral submissions from the parties or audio or audio-visual evidence (such as audio and video files). Nor do the Committees go beyond the information provided by the parties to seek independent verification of the facts.⁹

(i) Committee on the Elimination of Discrimination against Women

Generally, communications are considered on the papers. In cases indicating grave or systematic violations, the Committee may conduct an inquiry, which may, with the consent of the State Party, involve a visit to the latter's territory.¹⁰

(ii) Committee Against Torture

When examining a case, the Committee may, on the basis of its rules of procedure, invite the parties to be present at specified closed meetings of the Committee in order to provide further clarification or to answer questions on the merits of the complaint. However, such instances are exceptional rather than routine and a case will not be prejudiced should the complainant fail to attend in person.¹¹

¹ Established pursuant to article 28 International Covenant on Civil and Political Rights, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>.

² Optional Protocol to the International Covenant on Civil and Political Rights <https://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCCPR1.aspx> article 2.

³ Human Rights Committee, Rules of procedure of the Human Rights Committee, CCPR/C/3/Rev.10, 11 January 2012 https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f3%2fREV.10&Lang=en Rule 97.

⁴ Human Rights Committee, 'Guidelines on making oral comments concerning communications' (21 December 2017, CCPR/C/159 <https://www.ohchr.org/Documents/HRBodies/CCPR/GuidelinesOralHearings.pdf>. Guidelines 1 – 3.

⁵ Established as a subsidiary organ of the General Assembly by the United Nations General Assembly on 15 March 2006 by resolution 60/251, UN Doc A/RES/60/251, 3 April 2006, .

⁶ <https://www.ohchr.org/EN/HRBodies/HRC/ComplaintProcedure/Pages/HRCCComplaintProcedureIndex.aspx>; <https://www.ohchr.org/EN/HRBodies/HRC/ComplaintProcedure/Pages/WGCommunications.aspx>.

⁷ <https://www.ohchr.org/EN/HRBodies/HRC/ComplaintProcedure/Pages/WGSituations.aspx>.

⁸ <https://www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx>.

⁹ <https://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/IndividualCommunications.aspx#theprocedure>

¹⁰ Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, UN Doc A/RES/54/4 15, October 1999, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/774/73/PDF/N9977473.pdf?OpenElement>, article 8.

¹¹ <https://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/IndividualCommunications.aspx#procedureCAT>.

(iii) Committee on the Elimination of Racial Discrimination

The rules of procedure (rule 94, paragraph 5) of the Committee on the Elimination of Racial Discrimination authorize it to invite the person filing the complaint (or his/her representative) and State party representatives to attend the proceedings in order to provide additional information or to answer questions on the merits of the case. However, such instances are exceptional rather than routine and a case will not be prejudiced should the complainant fail to attend in person.¹²

2. European Court of Human Rights (European Convention on Human Rights)

Proceedings in the European Court of Human Rights are conducted in writing. Applicants are informed in writing of any decision taken by the Court. Public hearings are exceptional.¹³

3. European Committee of Social Rights (European Social Charter)

(a) Admissibility

Before the Committee decides on admissibility, the President may ask the respondent State for written observations, within a time limit that he or she decides, on the admissibility of the complaint. The President may also ask the organisation that lodged the complaint to respond, on the same conditions, to the observations made by the respondent State. The Committee has the possibility of declaring any complaint either admissible or inadmissible, without having invited the government concerned to submit observations, when it considers that the admissibility conditions are either manifestly fulfilled or manifestly unfulfilled¹⁴

(b) Merits

If a complaint has been declared admissible, the Committee asks the respondent State to make written submissions on the merits of the complaint within a time limit which it fixes. The President then invites the organisation that lodged the complaint to submit, on the same conditions, a response to these submissions.¹⁵ Other specified States Parties and international organisations shall also be invited to make comments,¹⁶ and other observations may be sought from other organisations and individuals on a proposal by the Rapporteur.¹⁷

In the course of the examination of the complaint, the Committee of Independent Experts may organise a hearing with the representatives of the parties.¹⁸ Hearings 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. The respondent State and the organisation that lodged the complaint shall be invited to the hearing. The hearing shall be public unless the President decides otherwise. Specified States and organisations who have indicated that they wish to intervene in support of the complaint or for its rejection are invited to take part in the hearing.¹⁹ Applications regarding immediate measures are decided on the papers.²⁰

¹² <https://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/IndividualCommunications.aspx#procedureCAT>.

¹³ European Court of Human Rights, 'Questions and Answers'
https://www.echr.coe.int/Documents/Questions_Answers_ENG.pdf

¹⁴ Rule 29. <https://rm.coe.int/rules-of-the-european-committee-of-social-rights-rev-2-bil/1680788a3d>

¹⁵ Rule 31. <https://rm.coe.int/rules-of-the-european-committee-of-social-rights-rev-2-bil/1680788a3d>

¹⁶ Rule 32. <https://rm.coe.int/rules-of-the-european-committee-of-social-rights-rev-2-bil/1680788a3d>

¹⁷ Rule 32A. <https://rm.coe.int/rules-of-the-european-committee-of-social-rights-rev-2-bil/1680788a3d>

¹⁸ European Social Charter Additional Protocol of 1995 providing for a system of collective complaints Art. 7
<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168048b059>.

¹⁹ Rule 33. <https://rm.coe.int/rules-of-the-european-committee-of-social-rights-rev-2-bil/1680788a3d>

²⁰ Rule 36. <https://rm.coe.int/rules-of-the-european-committee-of-social-rights-rev-2-bil/1680788a3d>