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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**COMMONWEALTH INDEPENDENT STATES
CONVENTION ON HUMAN RIGHTS AND
FUNDAMENTAL FREEDOMS***
(Minsk, 26 May 1995)

and

**REGULATIONS ON THE HUMAN RIGHTS
COMMISSION OF THE COMMONWEALTH OF
INDEPENDENT STATES***
(Moscow, 24 September 1993)

June 1995

* Translation of the original Russian texts.

COMMONWEALTH OF INDEPENDENT STATES CONVENTION ON HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

The Participant States of the Commonwealth of Independent States, hereinafter referred to as the Contracting Parties,

Having regard to the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol thereto, as well as to the international obligations concerning human rights entered into within the framework of the OSCE (CSCE);

Considering that the above-mentioned instruments are aimed at securing the universal and effective recognition and observance of the rights enshrined therein;

Having regard to the Declaration of the Heads of Participating States of the Commonwealth of Independent States on international obligations in the field of human rights and fundamental freedoms;

Considering that the observance of international standards in the field of human rights by all Member States of the Commonwealth of Independent States, and the development and fostering of respect for human rights and fundamental freedoms for all, irrespective of race, sex, language, political beliefs, religion and social origin, contribute to the deepening of democratic reforms, economic and social growth and the strengthening of law and order;

Striving for the effective fulfilment of their obligations to protect human rights and fundamental freedoms, in the spirit of the concerting of the efforts of the Contracting Parties for the purpose of asserting the ideals of freedom and the rule of law, preventing violations of human rights and fundamental freedoms, upholding the traditions of tolerance and friendship between peoples, and reinforcing civil peace and accord;

Assuming that such efforts will foster universal respect for and observance of human rights and fundamental freedoms in accordance with the basic instruments of international law in the field of human rights;

Have agreed as follows:

Article 1

The Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms set out in the present Convention.

Article 2

1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally. Until abolished, the death penalty may be applied only in pursuance of a judicial sentence for particularly grave offences.

2. As a rule, women may not be sentenced to the death penalty. The death penalty may not be imposed on women who are pregnant at the time of sentencing, nor may it be executed in the case of women who are pregnant when the sentence is to be carried out.

3. The death penalty may not be imposed on persons for crimes committed by them before they attained the age of eighteen years.

4. Deprivation of life shall not be regarded as inflicted in contravention of the provisions of this Article when it results from the use of force solely in such cases of extreme necessity and necessary defence as are provided for in national legislation.

Article 3

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. No one shall be subjected to medical or scientific experiments without his free consent.

Article 4

1. No one shall be held in slavery or servitude.
2. No one shall be constrained to perform forced or compulsory labour.
3. The term "forced or compulsory labour" as used in the present Article shall not include:
 - a. any work required to be done in the ordinary course of detention imposed in accordance with the provisions of Article 5 of this Convention or during conditional release from such detention;
 - b. any service of a military character or, in the case of Contracting Parties recognising the right of conscientious objection on political or religious/ethical grounds, service exacted instead of compulsory military service;
 - c. any service exacted in the case of an emergency or calamity threatening the life or well-being of the community;
 - d. any work or service which forms part of normal civic obligations;
 - e. the fulfilment by parents of their duty to create the necessary conditions for their children, and by children who have reached the age of majority of their duty to support parents unable to work and requiring assistance.

Article 5

1. Everyone shall have the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure established by national legislation:

- a. the lawful detention of a person after conviction by a competent court;
- b. the lawful arrest or detention of a person;
- c. the lawful detention of a minor for the purpose of referring his case for investigation, sentencing or trial.

2. Everyone who is arrested shall be informed, at the time of his arrest, in a language which he understands, of the reasons for his arrest.

3. Everyone who is deprived of his liberty by arrest or detention, in accordance with national legislation, shall be entitled to have the lawfulness of his arrest or detention examined by a court.

4. Everyone who is deprived of his liberty shall be entitled to humane treatment and to respect for his dignity as a human being.

Persons who have been subjected to unlawful arrest or detention shall be entitled, in accordance with national legislation, to compensation for the damage caused.

Article 6

1. All persons shall be equal before the judicial system.

In the determination of any charge against him, everyone shall be entitled to a fair and public hearing within a reasonable time by an independent and impartial court. The decisions of the court or the sentence shall be pronounced publicly, but all or part of the trial may take place *in camera* for reasons of public order or state secrecy or where the interests of juveniles or the protection of the private life of the parties so require.

2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

3. Everyone charged with a criminal offence shall have the following minimum rights:

- a. to be informed promptly and in detail, in a language which he understands, of the nature and cause of the accusation against him;
- b. to have adequate time and facilities for the preparation of his defence;
- c. to defend himself in person or through legal assistance of his own choosing or to have legal assistance assigned to him whenever the interests of justice so require, as well as to be provided with legal assistance free of charge in cases specified in national legislation;
- d. to make applications to the court concerning the examination of witnesses, the carrying out of investigations, the obtaining of documents, the commissioning of expert appraisals and other procedural acts;
- e. to have the free assistance of an interpreter if he cannot understand or speak the language used in court;
- f. not to be forced to testify against himself or plead guilty.

Article 7

1. No one shall be held liable for an act which did not constitute an offence under national legislation or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the offence was committed. If, after an offence is committed, a law establishes a lesser punishment for it or eliminates liability for it, the new law shall be applicable.

2. No one shall be convicted or punished a second time for an offence for which he has already been convicted or punished in accordance with national legislation. Every convicted person shall be entitled, in accordance with the law, to have the judgment of the court reviewed by a higher judicial body as well as apply for a pardon or request a lighter sentence.

Article 8

No one shall be deprived of his liberty merely on the ground of his inability to fulfil a contractual obligation of any kind.

Article 9

1. Everyone shall have the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety, public order, public health and morals or for the protection of the rights and freedoms of others.

Article 10

1. Everyone shall have the right to freedom of thought, conscience and faith. This right shall include freedom to choose one's religion or belief and freedom, either alone or in community with others, to engage in religion worship, attend and perform religious and ritual ceremonies and act in accordance with them.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of national security, public safety, public order, public health or morals or for the protection of the rights and freedoms of others.

Article 11

1. Everyone shall have the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas by any legal means without interference by a public authority and regardless of frontiers.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions and restrictions as are prescribed by law and are necessary in a democratic society, in the interests of national security, public safety or public order or for the protection of the rights and freedoms of others.

Article 12

1. Everyone shall have the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, public order, public health or morals or for the protection of the rights and freedoms of others. This Article shall not preclude the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or by members of the law-enforcement or administrative organs of the State.

Article 13

1. Men and women of marriageable age shall have the right to marry and to found a family, according to the national legislation governing the exercise of that right.

2. No marriage shall be entered into without the free and full consent of the intending spouses.

3. For the purpose of creating the necessary conditions for the full development of the family, which is the fundamental unit of society, the Contracting Parties shall contribute to the economic, legal and social protection of family life by such means as social and family allowances, tax relief, the provision of accommodation for families, grants for newly-married couples and other appropriate measures.

Article 14

1. Everyone shall have the right to work and to protection from unemployment, as well as to equal remuneration for equal work, including work-related benefits, to identical conditions in respect of work of equal value and to equal treatment in the assessment of the quality of his work.

2. For the purpose of ensuring that working women may effectively exercise their rights, the Contracting Parties shall:

- a. grant leave with pay, adequate social security benefits, or allowances from public funds for women taking leave before and after childbirth within the period of time prescribed by national legislation;
- b. regard as unlawful any notice of dismissal served by an employer on a woman during her absence on maternity leave or at such time that the period of notice would expire during her absence;
- c. ensure that mothers who nurse their children have sufficient free time for that purpose;
- d. regulate the employment of women for work on night shifts in industry;
- e. regulate the employment of women for underground mining activities as well as for other types of work that are unsuitable for women because of their dangerousness, harmfulness to health or arduousness.

Article 15

For the purpose of ensuring that the right to health protection may be effectively exercised, the Contracting Parties shall, either directly or in conjunction with public or private bodies, take the appropriate measures, aimed *inter alia* at:

- a. eliminating the causes of health deterioration as far as possible;
- b. providing advisory services and an instructional scheme for the fortification of health and the encouragement of personal responsibility in health matters;
- c. creating sanitary and hygienic conditions calculated to prevent, as far as possible, outbreaks of epidemic, endemic and other diseases.

Article 16

1. Everyone shall have the right to social security, including social insurance, according to his age, in cases of illness, invalidity, loss of bread-winner and upbringing of children as well as in other cases provided for in national legislation.

2. For the purpose of ensuring that the right to social and medical assistance may be effectively exercised, the Contracting Parties shall ensure that any person lacking sufficient means and unable to obtain such means through his own efforts or from other sources, particularly in the form of benefits under a social security system, receives the necessary assistance and, in the case of illness, such care as is required by his condition.

3. For the purpose of ensuring that the right of mothers and children to social and economic protection may be effectively exercised, the Contracting Parties shall take all appropriate and necessary measures to that end, including the establishment and maintenance of suitable institutions or services.

Article 17

Every minor child shall have the right to such special protective measures as his particular situation requires on the part of the family, society and the state.

Article 18

For the purpose of ensuring that persons who are physically or mentally unfit for work may effectively exercise their right to occupational rehabilitation, vocational training and social reintegration facilities, the Contracting Parties shall:

- a. take appropriate measures to provide educational establishments, including, where necessary, public or private specialised institutions;
- b. take appropriate measures for the occupational rehabilitation of persons unfit for work, including the setting up of specialised occupational rehabilitation services and establishments with special working conditions, as well as measures to encourage employers to engage disabled persons.

Article 19

Everyone whose rights and freedoms are violated shall be entitled to be effectively restored to his rights and freedoms in accordance with national legislation.

Article 20

1. All shall be equal before the law and shall be entitled, without any discrimination, to equal protection of the law.

2. The enjoyment of the rights and freedoms set forth in this Convention shall be guaranteed without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property or official capacity, place of birth or other status.

Article 21

Persons belonging to national minorities shall not be denied the right, either individually or collectively, to express, preserve and develop, without hindrance, their ethnic, linguistic, cultural or religious identity.

Article 22

1. Everyone who is lawfully within the territory of any Contracting Party shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

2. Everyone shall be free to leave any country, including his own.

3. No restrictions shall be placed on the exercise of the rights set out in paragraphs 1 and 2 of this Article other than such as are prescribed by the law in the interests of national security or public safety, public order, public health or morals or for the protection of the rights and freedoms of others.

4. The rights set forth in paragraph 1 of this Article may also be subject, in particular areas, to restrictions imposed in accordance with law and justified by the public interest.

Article 23

Everyone, regardless of where he may be, shall have the right to recognition of his legal capacity.

Article 24

1. Everyone shall have the right to citizenship.

2. No one shall be arbitrarily deprived of his citizenship or of the right to change it.

Article 25

1. No one shall be expelled, under an individual procedure or as a result of a collective measure, from the territory of the State of which he is a citizen.

2. No one shall be deprived of the right to enter the territory of the State of which he is a citizen.

3. Aliens who are lawfully in the territory of any Contracting Party may be expelled only in application of a lawful decision, and they shall have the opportunity of appealing against their expulsion.

4. Collective expulsion of aliens shall be prohibited.

Article 26

1. Every natural and legal person shall have the right to own property. No one shall be deprived of his property except in the public interest, under a judicial procedure and in accordance with the conditions laid down in national legislation and the generally recognised principles of international law.

2. However, the foregoing provisions shall in no way affect the right of the Contracting Parties to adopt such laws as they deem necessary to control the use of items withdrawn from general circulation in the national or public interest.

Article 27

1. No person shall be denied the right to education. In the exercise of any functions which the Contracting Parties assume in relation to education and to teaching, they shall respect the right of parents to ensure for their children such education and teaching as corresponds with their own convictions and national traditions.

2. Elementary and fundamental education of a general kind shall be compulsory and free of charge.

3. Each Contracting Party shall set a minimum age up to which secondary education shall be compulsory and which may not be lower than the minimum age for employment established by law in accordance with internationally recognised standards.

Article 28

For the purpose of ensuring that the right to vocational training may be effectively exercised, the Contracting Parties shall:

1. provide or encourage, as far as necessary, technical or vocational training for all, including disabled persons, in agreement with trade union organisations, as well as offer the opportunity to receive higher education exclusively on the basis of personal abilities;

2. establish or help to establish, as far as necessary:

- a. an appropriate, widely available training system for workers;
- b. special centres for such vocational retraining of workers as is called for by technical progress or by new trends in the occupational field;

3. foster the full exercise of such advantages as are available under the relevant measures, including those aimed at:

- a. reducing or abolishing dues and extra charges;
- b. providing material help where appropriate;
- c. incorporating into the normal working day, at the request of employers, the time spent on the further training of workers during work;
- d. guaranteeing, with appropriate supervision and in agreement with trade union organisations, the effectiveness of apprenticeships and other training measures for young workers, as well as the proper protection of young workers' interests as a whole.

Article 29

In accordance with national legislation, everyone shall have the right and opportunity and in the State of which he is a citizen:

- a. to take part in the management and conduct of public affairs, either directly or through freely chosen representatives;
- b. to vote and to be elected at elections held on the basis of universal and equal suffrage by secret ballot, that guarantees the free expression of the will of voters;
- c. to have access, on general conditions of equality, to the public service of his country.

Article 30

Nothing in Articles 11, 21 and 20 shall be regarded as preventing the Contracting Parties from imposing restrictions on the political activity of aliens citizens and stateless persons.

Article 31

Nothing in this present Convention may be interpreted as implying for any Contracting Party, group or individual any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth in the Convention.

Article 32

The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed.

Article 33

Nothing in this Convention may be interpreted as limiting or detracting from any of the human rights and fundamental freedoms recognised and guaranteed under the legislation of the Contracting Party concerned or under a fundamental international instrument in the human rights field to which it has acceded.

Article 34

Monitoring of the execution of this Convention shall be effected by the Human Rights Commission of the Commonwealth of Independent States (HRC CIS), whose Regulations form a separate section of the Convention.

Article 35

1. In time of war or other emergency situation threatening the higher interests of any Contracting Party, that Party may take measures derogating from its obligations under this Convention to the extent strictly required by the gravity of the situation, provided that such measures are not inconsistent with other obligations under international law and do not entail discrimination on the grounds set out in Article 20 of the Convention.

2. No derogation from Article 2 of this Convention, except in respect of deaths resulting from lawful military action, or from Articles 3, 4 (paragraph 1) and 7 shall be made under paragraph 1 of the present Article.

3. Any Contracting Party availing itself of this right of derogation shall keep the depositary of this Convention informed of the measures it has taken and of the reasons therefor. It shall also inform the depositary when such measures have ceased to operate and the provisions of the Convention are again being fully executed.

Article 36

1. Any Contracting Party may, when signing this Convention or when depositing its instrument of ratification, make a reservation in respect of any particular provision of the Convention concerning the fact that any law then in force in its territory is not in conformity with that provision. Reservations of a general character shall not be permitted under this Article.

2. Any reservation made under this Article shall contain a brief statement of the law concerned.

Article 37

1. Any Contracting Party may denounce this Convention after six months' notice contained in a notification addressed to the depositary, who shall inform the other Contracting Parties.

2. Such denunciation shall not have the effect of releasing the Contracting Party concerned from its obligations under this Convention in respect of any act which, being capable of constituting a violation of such obligations, may have been performed by it before the date on which the denunciation became effective.

Article 38

1. This Convention, including the Regulations of the Human Rights Commission of the Commonwealth of Independent States, shall enter into force from the date of deposit of the third notification confirming that a Contracting Party has implemented the internal procedures necessary for its entry into force.

2. For the other Contracting Parties, this Convention shall enter into force from the date of receipt by the depositary of a notification confirming that they have implemented the internal procedures referred to in paragraph 1 of the present Article.

Article 39

After this Convention has entered into force, it shall be open to accession by other States sharing its aims and principles, by means of a notification delivered to the depositary confirming that they have implemented the internal procedures referred to in Article 38, paragraph 1, of the Convention. The date of receipt by the depositary of such notification shall be the date of entry into force of the Convention for the State concerned.

Done in Minsk on 26 May 1995 in Russian in a single authentic copy, to be kept in the Executive Secretariat of the Commonwealth of Independent States, which shall transmit certified copies thereof to each of the States signatories to the Convention.

For the Azerbaijani Republic

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For the Republic of Armenia
(signature)

For the Republic of Belarus
(signature)

For the Republic of Georgia
(signature)

For the Republic of Kazakhstan

.....

For the Kyrgyz Republic
(signature)

For the Republic of Moldova
(signature)

For the Russian Federation
(signature)

For the Republic of Tajikistan
(signature)

For Turkmenistan

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For the Republic of Uzbekistan

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For Ukraine

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Adopted by a Decision of the Council of Heads of State of the Commonwealth of Independent States, laying down the Regulations on the Human Rights Commission of the Commonwealth of Independent States of 24 September 1993

REGULATIONS ON THE HUMAN RIGHTS COMMISSION OF THE COMMONWEALTH OF INDEPENDENT STATES

The present Regulations govern the activity of the Human Rights Commission of the Commonwealth of Independent States (hereinafter referred to as "the Commission") as provided for in Article 33 of the Statute of the Commonwealth of Independent States with a view to monitoring the fulfilment of the human rights obligations entered into by the Member States (hereinafter referred to as "the Parties") within the framework of the Commonwealth.

Section I - Membership of the Commission and organisation of its work

1. The Commission shall be constituted of citizens of the Parties possessing high moral qualities as well as recognised expertise in the human rights field. The utility of having members with legal experience shall be taken into consideration.
2. Each of the Parties shall appoint its representative and deputy representative on the Commission, whose names shall be communicated to the Executive Secretariat of the Commonwealth within thirty days from the adoption of these Regulations. The Executive Secretariat shall notify the Parties of the receipt of such communications.
3. Each of the Parties may be represented at sessions of the Commission by persons substituting for their representatives and deputy representatives, as well as by advisers and experts.
4. The Executive Secretary of the Commonwealth of Independent States shall convene the first session of the Commission by sending notification thereof to the Parties. The following sessions shall be convened in accordance with the rules of procedure, but at least once every six months, irrespectively of the number of items on the agenda. The Parties may agree on a procedure for convening special sessions of the Commission.
5. The Commission shall as a rule hold its sessions *in camera*, unless the Parties' representatives on the Commission decide otherwise by a majority of those present and participating in the vote.
6. The sessions of the Commission shall be chaired by the Parties' representatives in rotation, following the order of Member States' names in the Russian alphabet. In the period between sessions the Chairman of the Commission's most recent session shall continue to act on behalf of the Commission in connection with ongoing matters, within the limits of his powers, until the following Chairman takes up his duties.
7. The working language of the Commission shall be Russian.
8. The Commission shall be entitled to set up working groups to examine specific questions. Experts appointed with the agreement of the Parties may be invited to participate in the proceedings of these groups, in addition to the persons referred to in paragraph 2 of the present Section.

Where necessary, the Commission and, with its approval, the working groups may seek information and advice from the relevant international and national organisations.

9. The Commission shall adopt its rules of procedure, which shall include the following provisions:

- a. a quorum shall be two-thirds of the Parties' representatives on the Commission or their substitutes;
- b. decisions of the Commission shall require a two-thirds majority of the Parties' representatives on the Commission, or their substitutes, who are present and who participate in the vote.

10. The decisions of the Commission shall take the form of understandings, conclusions and recommendations set out in the appropriate Russian-language documents, certified copies of which shall be delivered to each of the Parties by the Executive Secretariat of the Commonwealth. These documents shall be of a public nature unless decided otherwise by the Parties.

11. The Commission shall submit an annual activity report to the Council of Heads of State of the Commonwealth.

Section II - Procedure for examination by the Commission of applications from Parties

1. Each of the Parties shall be entitled to submit to any other Party written enquiries concerning matters connected with human rights violations by any of the Parties and falling within the competence of the Commission.

2. If a matter concerning which an enquiry is submitted under paragraph 1 of the present Section is not resolved to the satisfaction of the enquiring Party within six months of receipt of the enquiry, the enquiring Party shall be entitled to refer the matter to the Commission, after informing the other interested Party concerned of this fact.

3. The Commission may only deal with the merits of the matter referred to it after it has ascertained that all available domestic legal remedies have been exhausted and provided that no more than six months have elapsed since then.

4. For any matter referred to it for examination, the Commission shall be entitled to request the interested Parties to provide any relevant information. The interested Parties must provide such information to the Commission or, if they refuse to do so, give grounds for their refusal.

The interested Parties may make their submissions either orally or in writing during the examination of the matter by the Commission.

5. If a matter referred to the Commission is not resolved to the satisfaction of the interested Parties, the Commission may, with their agreement, appoint a special conciliatory sub-commission from among the representatives of any of the Parties, but no citizens of the interested Parties may be members of this sub-commission.

The sub-commission shall be entitled to request any relevant information from the interested Parties. Grounds for any refusal to give such information must be given.

When the sub-commission has completed its examination of the matter, it shall submit its conclusions to the Commission for transmission to the interested Parties.

Section III - Procedure for examination by the Commission of applications from individuals and non-governmental organisations

1. The Commission shall examine individual and collective applications submitted by any person or non-governmental organisation concerning matters connected with human rights violations by any of the Parties and falling within the competence of the Commission, in accordance with its rules of procedure.
2. The Commission shall not examine the benefits of any application before ascertaining:
 - a. that the matter to which the application relates is not being examined under another procedure of international investigation or settlement;
 - b. that the applicant has exhausted all available domestic legal remedies and that no more than six months have elapsed since then;
 - c. that the application is not anonymous.
3. In examining any question, the Commission may hear, at its sessions, those whose applications are under consideration or their representatives.

Section IV - Agendas of Commission sessions

1. The agenda of a Commission session shall comprise any of the matters referred to in paragraph 2 of Section II and paragraph 1 of Section III of these Regulations.
2. Each of the Parties shall be entitled to raise at a Commission session any matters that come to light either before or during the session, on condition that all the interested States agree to the examination of such matters at the session.
3. At each of its sessions the Commission shall also hear reports on the measures taken by the Parties in pursuance of the conclusions and recommendations of its previous sessions.

Section V - Costs

1. Each of the Parties shall bear the costs pertaining to its participation in the work of the Commission.
2. The funding of the Commission's activity shall be regulated in a separate Agreement.

Final Section

1. These Regulations shall not affect the procedures laid down for the human rights field in the Statute and conventions of the United Nations and its specialised agencies; nor shall they prevent the Parties from resorting to other procedures for settling disputes on the basis of international agreements applying to them.
2. The seat of the Commission shall be in Minsk. Its legal address shall be:
Human Rights Commission of the Commonwealth of Independent States, 17 Kirov Street,
220000 MINSK.
3. With the agreement of the Parties, these Regulations may be supplemented or amended provided that such modifications do not affect the substance of the rights and obligations deriving from the Statute of the Commonwealth.