

Strasbourg, 16 December 2004

CDL-AD (2004) 050
Or.Eng.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

REVISED RULES OF PROCEDURE

**adopted by the Venice Commission
at its 50th Plenary Session
(Venice, 8-9 March 2002)**

as amended

**at its 53rd Plenary Session
(Venice, 13-14 December 2002)**

**and at its 61st Plenary Session
(Venice, 2-3 December 2004)**

The European Commission for Democracy through Law,

Having regard to the Statute of the Commission, in particular to Article 4.4,

Adopts the following Rules of Procedure:

Article 1

Appointment, Term

1. Any State which appoints a member or an associate member shall inform the Secretary of his or her name, address and working languages together with the name, address and working languages of the substitute. Not later than 6 weeks before the expiry of the term of office, the Secretary shall invite the State concerned to proceed with the appointments for the new term.
2. The term of office of a newly appointed member or associate member shall start on the day following the expiry of the term of the previous member or, if the State appoints a member for the first time, on the day of the accession of the State to the Enlarged Agreement.
3. The term of office of a member or associate member shall expire
 - a. at the end of the regular term of four years, it being understood that he or she may continue to exercise his or her functions until the appointment of the new member;
 - b. on the day a letter of resignation signed by the member is received by the Secretariat;
 - c. on the day the Commission notes, on the proposal of the Bureau, by a majority of two-thirds of its members that the member concerned is no longer able or qualified to exercise his or her functions.

Article 2

Associate members and observers

1. An associate member or an observer shall have no right to vote.
2. With the President's permission, an associate member or an observer may make oral or written statements on the subjects under discussion.
3. States authorized to appoint an observer shall inform the Secretariat of his or her name, address and working languages.

Article 3

Substitutes

1. These Rules of Procedure shall apply *mutatis mutandis* to substitutes.
2. The term of office of a substitute shall coincide with the term of office of the member. If the term of office of the member ends for the reasons set forth in Article 1.2.b) or c), the substitute shall exercise the functions of the member until the appointment of the new member.

Article 3bis

Independence and impartiality of members

1. Members shall act in a manner that is, and is seen to be, independent, impartial and objective with respect to any issue examined by the Commission.
2. Members shall provide a curriculum vitae setting forth in particular all offices and functions exercised by them which may be deemed relevant for the work of the Commission. This curriculum vitae shall be made public.
3. Members shall notify the President through the Secretary of any potential conflict of interest, i.e. any circumstance which might appear to influence their impartial and objective consideration of any issue examined by the Commission, in particular but not limited to any task, remunerated or not, entrusted to them by a government.
4. When entering into a relevant agenda item the President shall, if he or she considers that there is a potential conflict of interest, announce to the Commission that the member shall not take part in the vote. The member concerned may take part in the debate but in doing so shall declare his or her interest in the matter being discussed.
5. Members shall be prudent when commenting in public on decisions of and texts adopted by the Commission.

Article 4

Sessions

1. As a general rule, the Commission shall hold four sessions per year. The dates of the sessions shall be fixed by the Commission at the last session of the previous year.
2. The dates of the meetings of the Sub-Commissions and working groups shall be fixed by the Secretary, upon instruction from the respective Chair.

Article 5

Convocation

1. Upon instruction of the President the Secretary shall convene the session by letter addressed to the members, associate members and observers.
2. A copy of the letter of convocation addressed to the members and associate members shall be sent to the substitutes. It will be for each member or associate member to decide whether he or she will attend the meeting in person or be replaced by his or her substitute.
3. Substitutes who prepared an opinion which will be discussed at a session shall also be invited to the session.

Article 6

Bureau

1. The President, the Vice-Presidents and the other members of the Bureau shall be elected for a term of two years, by a majority of the votes cast. They shall be eligible for re-election.
2. The President shall direct the work of the Commission.
3. Whenever the President is absent or stands down, he or she shall be replaced by a Vice-President.
4. The Bureau may meet as an Enlarged Bureau together with the Presidents of the Sub-Commissions.

Article 7

Secretariat

The Commission shall have a Secretariat serving under the authority of the Commission. The Commission shall be invited to give an opinion on the appointment of the Secretary and Deputy Secretary.

Article 8

Agenda

The agenda shall be adopted at the beginning of each session on the basis of a draft prepared by the Secretariat and annexed to the letters of convocation.

Article 9

Documents

1. The Secretariat is in charge of preparing and circulating all the documents intended to be examined by the Commission. The documents should, as a general rule, be forwarded to the members, associate members, observers and substitutes at least two weeks before the opening of the session.
2. The opinions adopted by the Commission shall be public. Other documents issued by the Commission shall be public unless classified by the President "restricted" or "confidential". Documents classified "restricted" shall become public after one year, documents classified "confidential" after ten years, with effect from the first of January of the subsequent year, unless the Commission decides otherwise. The rules applicable to access to documents within the Council of Europe shall apply *mutatis mutandis* to the documents of the Commission.

Article 10

Languages

1. The working languages of the Commission shall be English and French.

2. Any member, associate member or observer may, however, use a language other than a working language, provided that he or she shall provide for interpretation into one of the working languages.
3. Any document to be considered by the Commission submitted in a language other than one of the working languages shall be addressed to the Secretariat together with a translation into one of the working languages.
4. The Commission may decide that interpretation shall be provided also in a language other than the working languages.

Article 11

Privacy of sessions

1. Sessions shall be held in private unless the Commission decides otherwise. Representatives of States or organisations co-operating with the Commission may, as appropriate, be invited to sessions. The President may invite guests to attend a session.
2. If the Commission is invited to adopt an opinion on the situation in a specific country which is a member of the Enlarged Agreement, a representative of the country concerned and/or representatives of interested institutions from that country may be invited to one of the sessions where the issue is discussed with the right to speak. The President may ask these representatives to leave the room before a vote is taken.

Article 12

Quorum

There shall be a quorum if a majority of the members are present.

Article 13

Voting

1. Subject to the provisions of Article 2.5 of the Statute each member shall have one vote. Members shall not take part in the vote on opinions specifically relating to the state having appointed them or of which they are citizens or if the President notes that there is a potential conflict in respect of a member's interest.
2. Subject to any provision of these Rules of Procedure requiring a different majority for a specific decision, the Commission shall adopt its decisions by a majority of its members.
3. Each member may request that his opinion be recorded in the session report.

Article 14¹*Rapporteurs and working groups*

1. Draft reports and draft opinions of the Commission are as a general rule prepared by one or more rapporteurs appointed by the Commission.
2. For specific issues working groups of members of the Commission may be established to which outside experts may be added as advisers. Representatives of other institutions or bodies may be invited to participate in such working groups.

Article 14.a*Urgent opinions*

1. In urgent cases, with the authorisation of the President, the opinion(s) of the rapporteur(s) may be sent on a preliminary basis before its adoption by the Commission to the government or institution which sought the opinion of the Commission.
2. Such preliminary opinions shall be submitted to the Commission at its next session. The Commission may, depending on the circumstances,
 - take note of the opinion(s) of the rapporteur(s);
 - endorse the opinions of the rapporteurs;
 - adopt a Commission opinion based on the opinion(s) of the rapporteur(s);
 - decide to adopt an opinion at a forthcoming session.

Article 15*Reconsideration of a decision*

When a decision has been taken on any particular matter, such matter shall not be re-opened except at the request of a member approved by a two-thirds majority of the votes cast.

Article 16*Session Reports*

A draft session report shall be considered adopted 30 days after its circulation, provided no objection is notified within that period.

Article 17*Meetings of Sub-Commissions*

1. The Commission shall decide every two years upon the composition and the chair of the Sub-Commissions.
2. The provisions of these Rules of Procedure shall apply, *mutatis mutandis*, to the meetings of the Sub-Commissions.

¹ Article 14 was amended at the 53rd Plenary Session of the Commission and Article 14a was added.

3. The Chair of the Sub-Commission or a person designated by him or her shall report at the subsequent plenary session on the activities of the Sub-Commission and present any proposed text for adoption.

Article 18

Joint Council on Constitutional Justice

1. The Joint Council on Constitutional Justice shall be composed of one representative (liaison officer) from each of the courts and associations of courts co-operating with the Commission and representatives whom the Commission shall appoint from among its members.

2. The Joint Council shall elect its Chair, two vice-chairs and two further members of its Bureau. The Chair shall be ex officio member of the Enlarged Bureau of the Commission.

Article 19

Amendments

Amendments to these Rules shall be adopted by a two-thirds majority of the members of the Commission.