



OPCW

Conference of the States Parties

Twenty-Seventh Session
28 November – 2 December 2022

C-27/DEC.12
30 November 2022
Original: ENGLISH

DECISION

**AMENDMENTS TO THE OPERATING PROCEDURES
OF THE CONFIDENTIALITY COMMISSION**

The Conference of the States Parties,

Recalling its decision approving the Operating Procedures of the Commission for the Settlement of Disputes Related to Confidentiality (hereinafter “the Confidentiality Commission”) (C-III/DEC.10/Rev.1, dated 2 December 2004);

Recalling also its decision approving amendments to the Operating Procedures of the Confidentiality Commission (C-III/DEC.10/Rev.2, dated 4 December 2013);

Recalling further Rule 47 of those Operating Procedures (Annex to C-III/DEC.10/Rev.2), which states that decisions on proposals for amendments shall be treated as decisions on matters of substance, and that proposals agreed to shall be recommended to the Conference of the States Parties (hereinafter “the Conference”) for adoption; and

Bearing in mind the recommendation in the report of the Twenty-Fourth Meeting of the Confidentiality Commission that the Conference adopt the amendments proposed in that report (paragraphs 8.1 to 8.3 of CC-24/1, dated 9 September 2022);

Hereby:

Approves the amendments to the Operating Procedures of the Confidentiality Commission annexed hereto.

Annex:

Amendments to the Operating Procedures of the Confidentiality Commission



Annex

AMENDMENTS TO THE OPERATING PROCEDURES OF THE CONFIDENTIALITY COMMISSION

Previous Text	New Text	Justification
<p>Rule 2 – Appointment of members</p> <p>(b) In accordance with Confidentiality Policy Rules 1.1 and 1.2, the States Parties belonging to each of the five regions specified in paragraph 23 of Article VIII of the Convention (hereinafter referred to as the “regional groups”) shall select four candidates from among the persons nominated by the States Parties in their region, to serve in a personal capacity. The States Parties in each of the regional groups shall do their utmost, through the process of consultation, to reach consensus on their selection. A list of 20 candidates reflecting the selection of the regional groups shall be submitted to the Conference for appointment. The decision on appointment shall be taken by the Conference as a matter of substance, in accordance with paragraph 18 of Article VIII of the Convention.</p>	<p>Rule 2 – Appointment of members</p> <p>(b) In accordance with Confidentiality Policy Rules 1.1 and 1.2, the States Parties belonging to each of the five regions specified in paragraph 23 of Article VIII of the Convention (hereinafter referred to as the “regional groups”) shall select four candidates from among the persons nominated by the States Parties in their region, to serve in a personal capacity. The States Parties in each of the regional groups shall do their utmost, through the process of consultation, to reach consensus on their selection. A list of 20 candidates reflecting the selection of the regional groups shall be submitted to the Conference for appointment. The decision on appointment shall be taken by the Conference as a matter of substance, in accordance with paragraph 18 of Article VIII of the Convention.</p>	<p>The cross-references to the Confidentiality Policy Rules have been updated to refer to the current version of the Confidentiality Policy Rules, amended in 2017 (C-I/DEC.13/Rev.2, dated 30 November 2017).</p>
<p>Rule 4 – Vacancy</p> <p>In the event of a vacancy on the Confidentiality Commission prior to the expiration of the term of office of a member, the Chair of the Conference, after consultation with the regional group concerned, shall appoint a person from</p>	<p>Rule 4 – Vacancy</p> <p>In the event of a vacancy on the Confidentiality Commission prior to the expiration of the term of office of a member, the Chair of the Conference, after consultation with the regional group concerned, shall appoint a person from</p>	<p>The cross-reference to the Confidentiality Policy Rules has been updated to refer to the current version of the Confidentiality Policy Rules, amended in 2017 (C-I/DEC.13/Rev.2).</p>

<p>that regional group who meets the qualifications set forth in Confidentiality Policy Rule 1.3, to fill the vacancy for the remainder of the term of office concerned.</p>	<p>that regional group who meets the qualifications set forth in Confidentiality Policy Rule 42.3, to fill the vacancy for the remainder of the term of office concerned.</p>	
<p>Rule 26 – Mediation</p> <p>(a) As soon as practicable after the proceedings have been initiated, but no later than 21 days after the date of service of the statement of defence, mediation shall immediately be offered to the parties by the Chair. On acceptance of mediation by the parties to the dispute, the mediator appointed pursuant to Rule 23 shall formulate proposals on a mediation process in accordance with the principles set out in Confidentiality Policy Rules 3.2 and 3.3. Such proposals shall be communicated to the parties to the dispute, each of which shall inform the mediator of whether or not it agrees with the proposals.</p>	<p>Rule 26 – Mediation</p> <p>(a) As soon as practicable after the proceedings have been initiated, but no later than 21 days after the date of service of the statement of defence, mediation shall immediately be offered to the parties by the Chair. On acceptance of mediation by the parties to the dispute, the mediator appointed pursuant to Rule 23 shall formulate proposals on a mediation process in accordance with the principles set out in Confidentiality Policy Rules 3-22.8 and 3-32.9. Such proposals shall be communicated to the parties to the dispute, each of which shall inform the mediator of whether or not it agrees with the proposals.</p>	<p>The cross-references to the Confidentiality Policy Rules have been updated to refer to the current version of the Confidentiality Policy Rules, amended in 2017 (C-I/DEC.13/Rev.2).</p>
<p>Rule 36 – Final report of the Confidentiality Commission</p> <p>(a) Within 30 days of the end of the fact-finding or the conciliation hearing, the Confidentiality Commission shall issue the final report on its findings and recommendations, which shall include, in accordance with Confidentiality Policy Rule 3.5:</p> <p>(i) a description of facts relating to the dispute;</p>	<p>Rule 36 – Final report of the Confidentiality Commission</p> <p>(a) Within 30 days of the end of the fact-finding or the conciliation hearing, the Confidentiality Commission shall issue the final report on its findings and recommendations, which shall include, in accordance with Confidentiality Policy Rule 3-5.1.1:</p> <p>(i) a description of facts relating to the dispute;</p>	<p>The cross-reference to the Confidentiality Policy Rules has been updated to refer to the current version of the Confidentiality Policy Rules, amended in 2017 (C-I/DEC.13/Rev.2).</p>

<p>(ii) the findings and conclusions with respect to the dispute, as reflected in the panel report if confirmed, including: whether a breach of confidentiality has occurred; the responsibility for that breach; the nature and amount of the damage caused by the breach; observations on reasons and circumstances which led to the occurrence of the breach; and</p> <p>(iii) recommendations concerning the remedy for the situation and the prevention of the occurrence of similar events, as well as time limits within which each party shall inform the Confidentiality Commission of its decision concerning the recommendations made.</p>	<p>(ii) the findings and conclusions with respect to the dispute, as reflected in the panel report if confirmed, including: whether a breach of confidentiality has occurred; the responsibility for that breach; the nature and amount of the damage caused by the breach; observations on reasons and circumstances which led to the occurrence of the breach; and</p> <p>(iii) recommendations concerning the remedy for the situation and the prevention of the occurrence of similar events, as well as time limits within which each party shall inform the Confidentiality Commission of its decision concerning the recommendations made.</p>	<p>Rule 49 – Annual reporting to the Conference</p> <p>At its regular annual meeting, the Confidentiality Commission shall report to the Conference on its activities in the preceding year. In accordance with Confidentiality Policy Rules 3.8 and 3.11(b), its annual report shall include the categories of disputes considered, and details of the outcomes consistent with the continuing protection of confidentiality. In accordance with Confidentiality Policy Rules 3.8, 3.11(c) and 3.12(j), the report shall also include a review of</p>	<p>Rule 49 – Annual reporting to the Conference</p> <p>At its regular annual meeting, the Confidentiality Commission shall report to the Conference on its activities in the preceding year. In accordance with Confidentiality Policy Rules 3.8<u>3.14</u> and 3.11<u>3.17</u>(b), its annual report shall include the categories of disputes considered, the outcomes reached, and details of the outcomes consistent with the continuing protection of confidentiality. In accordance with Confidentiality Policy Rules 3.8<u>3.14</u>, 3.11<u>3.17</u>(c) and 3.12<u>3.18</u>(j), the report shall also</p>	<p>The cross-references to the Confidentiality Policy Rules have been updated to refer to the current version of the Confidentiality Policy Rules, amended in 2017 (C-I/DEC.13/Rev.2).</p>
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<p>the efficiency of the Confidentiality Commission's operations, taking into account factors such as the number of disputes brought to it, the number of disputes resolved by mediation, conciliation or arbitration, and the length of time taken to issue its reports. On the basis of this review, the Confidentiality Commission may, if it deems this necessary, recommend measures for the improvement of efficiency.</p>	<p>include a review of the efficiency of the Confidentiality Commission's operations, taking into account factors such as the number of disputes brought to it, the number of disputes resolved by mediation, conciliation or arbitration, and the length of time taken to issue its reports. On the basis of this review, the Confidentiality Commission may, if it deems this necessary, recommend measures for the improvement of efficiency.</p>	
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