

24 November 2020

OPINION

of the Verification and Dispute Committee on the procedure followed to amend the Rules of Procedure of the Conference of INGOs

On 10 November 2020, the President of the Conference of INGOs, Anna Rurke, asked the Verification and Dispute Committee for an opinion on the procedure followed to amend the Conference's Rules of Procedure and on the admissibility of the amendments to the draft Rules.

The Committee wishes firstly to thank the President for consulting it on a matter that is fully within the Committee's remit, as defined in Rule 6.3 of the current Rules of Procedure:

Rule 6.3

"This Committee shall be responsible for: (...)

- settling any dispute which may arise in the application of these Rules and more broadly concerning the functioning of the INGO representative bodies."

1. Process followed in amending the Rules of Procedure

As part of the wider reform being carried out at the Council of Europe, a reform of the way the Conference of INGOs operates, including changes to its Rules of Procedure, was launched by the Standing Committee (SC) in 2018.

Key stages

According to the documents and records at the Committee's disposal, the process of amending the Rules of Procedure was conducted in the following stages:

1. The SC set up a *drafting group in charge of proposals relating to the Rules of Procedure* whose terms of reference were approved at the meeting on 23 April 2018;
2. The drafting group prepared a questionnaire to consult members of the SC, the Honorary Presidents and all the INGOs belonging to the Conference (via its website) on the broad thrust of the reform. The answers obtained underlined the need for further reflection and possible reorganisation. The group prepared an interim report proposing changes to the structure of the Conference. This report was discussed by the SC at its meeting on 21 January 2019 and published on the Conference

website. Following this initial consultation and meeting, the group drafted a detailed guidance note on the rule changes. This note was adopted by the SC in June 2019. A first version of the draft amendments to the rules was proposed for consultation by the SC between June and August 2019. The terms of reference of the drafting group, which were initially due to expire in January 2020, were extended by the SC until the Conference voted on the draft.

3. A debate on the draft amendments to the Rules of Procedure took place at the plenary meeting of the Conference of INGOs on 30 October 2019. Following this meeting, a consultation of INGOs was organised, with replies to be submitted by 29 November, although this deadline was later extended until 2 December 2019. INGOs could make proposals that were general or specific, complementary or alternative in nature. The group received 42 replies, including 384 comments. On this basis, the Group prepared a second version of the draft amendments which was discussed by the SC on 27 January 2020 and again at an informal meeting on 19 April 2020. In April 2020, following the formal and informal review, a few changes were made by members of the SC.

In April 2020, the President of the Conference began a consultation exercise with all the Honorary Presidents of the Conference. Two online meetings were held, and there was also a face-to-face meeting on 7 September 2020.

4. On 4 May 2020, the SC decided that the proposed rule changes would be put to a vote at a plenary meeting of the Conference. After incorporating these changes, the SC decided, on 2 July 2020, to forward the draft to member INGOs so that they could suggest amendments if necessary. Attention was drawn to the fact that an amendment is not a new version of an article or a proposal for a new article but rather a partial change to the content of an article, by adding, altering or deleting material.

5. On 22 July 2020, the third version of the draft was sent to INGOs with the explanatory note and the amendment form, the deadline for replies being 14 September.

179 amendments were received, from 11 INGOs. Among these proposals, some:

- amounted to alternative drafts concerning entire chapters and proposing that the draft Rules of Procedure be restructured;
- were duplicates (the same amendment suggested by two or more INGOs);
- contained erroneous information about the functioning of the Council of Europe;
- contained several proposals in a single amendment, making it impossible to vote on one of them;
- had not been drafted correctly.

6. At its meeting on 21 September 2020, the SC decided that its members would vote by written procedure on the admissibility of the amendments, based on the Excel table proposed by the President. The SC formulated its opinion on each of the amendments, by means of a vote, and identified 76 as admissible.

In a second vote, members of the SC were asked to vote on whether the Committee should support each of the eligible amendments. The vote also concerned technical and methodological issues. Voting closed on 7 November 2020.

- The SC's reasoned opinion (amendment by amendment) together with the result of the vote will be presented to the INGOs, as will the rationale of the INGO proposing the amendment. Both presentations will be made in writing before the plenary meeting and orally at the plenary.

- To facilitate voting, certain amendments have been grouped together, allowing 58 votes to be held, on 76 amendments.

- In order to be adopted, an amendment must be supported by at least 2/3 of the voters, in accordance with the rule that applies when adopting draft Rules of Procedure.

2. Compliance with the existing Rules of Procedure

The Rules of Procedure state the following:

“Procedure for amendment of the Rules of Procedure of the Conference of INGOs

7.1 Any proposals for amendment of these Rules of Procedure shall be submitted in writing and sent to all the INGOs enjoying participatory status no later than sixty days before the date of the session of the Conference. They must be adopted by a two-thirds majority of the voting members.

7.2 Any Rules of Procedure duly approved by the Conference of INGOs shall supersede the previous versions.”

The Rules thus require any proposals for amendment:

- 1) to be made in a particular form (specifically, in writing) and circulated to all the INGOs not later than a certain number of days (60) before the Conference's plenary session;
- 2) to be adopted by a 2/3 majority.

► **With regard to the first point, the SC has complied with the prescribed procedure. With regard to the second point, the rule will be applied when voting on the amendments and on the draft as a whole.**

The Rules of Procedure make **no further stipulations** regarding the process for drawing up new draft rules of procedure, the arrangements for submitting and examining proposals, the consultation process relating to the draft and, in particular, requests for amendments and the admissibility of amendments to this draft.

As a result, the SC **has, of necessity, had to introduce a phased process** (see above) which began in 2018 and is still ongoing today. The SC:

- has set up a drafting group which reports to it;
- has examined and amended the texts of the successive drafts submitted by this group;
- has carried out several consultations (1 during a session, 3 in writing) of all the INGOs that are members of the Conference, affording them the opportunity to make proposals in a predefined format;
- given all INGOs the opportunity to submit proposals for amendments to the draft Rules of Procedure.

► **In proceeding as noted above, the SC has acted within its terms of reference, as defined by the Rules of Procedure and has not exceeded its authority. It has fully discharged its responsibilities in the interests of the Conference and in accordance with the principles and rules of good governance, democratic participation and transparency.**

► Following the request, on 22 July 2020, for proposals for amendments to the latest draft of the Rules of Procedure and after receiving 179 proposals from 11 INGOs, the SC, in deciding, through a vote by all its members, whether they were eligible and should be submitted to the Plenary Conference, has met the requirements for effectiveness and consistency in compliance with the rules of good governance and in the common interest of the Conference and each of its members.

Note:

On this last point concerning proposals for amendments, the Verification and Dispute Committee wishes to point out that by asking INGOs at an advanced stage of the process for written proposals for amendments, the SC set in train what might be considered a rather cumbersome exercise. While the Verification and Dispute Committee appreciates the constant attention given to consultation and interaction throughout the process, the fact is that it produced an unmanageably large number of proposals - 179 from 11 INGOs, i.e. about 3% of the Conference's members. A great deal of work has had to go into examining these proposals, and will continue to make excessive demands on the time of individual INGO representatives before the final vote.

In future, therefore, it needs to be determined whether such an exercise is really necessary when successive consultations have already been held on a regular basis. If so, it would be advisable to ascertain in advance what the exercise requires in terms of processing capabilities.

None of this in any way detracts from the fact that the SC has fully discharged its responsibilities throughout the process of amending the Regulations, which it conducted in accordance with the requirements of its mission and in compliance with the existing Rules of Procedure, as noted in the above Opinion.
