

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

T-PD(2017)Rules

Strasbourg, 21 June 2017

**CONSULTATIVE COMMITTEE OF THE CONVENTION
FOR THE PROTECTION OF INDIVIDUALS
WITH REGARD TO AUTOMATIC PROCESSING OF PERSONAL DATA**

RULES OF PROCEDURE

Directorate General of Human Rights and Rule of Law

Rules of procedure of the Consultative Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No.108) ^(VIII).

The Consultative Committee,

Having regard to the entry into force on 1 October 1985 of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data,

Having regard to Article 20, paragraph 4 of the Convention,

Adopts the present Rules of Procedure:

Article 1:

For the purposes of the Rules of Procedure, the following definitions are used:

- "Convention", means the Convention for the Protection of Individuals with regard to the Automatic Processing of Personal Data;
- "Committee", means the Consultative Committee of the Convention;
- "Representative", means the representative of a Contracting Party or, in his absence, the deputy representative appointed in accordance with the provisions of Article 18, paragraph 2 of the Convention;
- "Observer", means the observer of a member State of the Council of Europe which has not yet become a Party to the Convention as well as the observer of a non-member State appointed in accordance with the provisions of Article 18 paragraph 3 of the Convention.
- "Written procedure" means a distance voting process, using for instance electronic mail, telecopy or postal mail.^(V)

Article 2: Representatives

1. Each Contracting Party shall communicate to the Secretary General of the Council of Europe, the name, address and functions of its representative to the Committee, of his deputy and, if necessary, of his advisers.
2. Each representative shall retain office until the Contracting Party has notified the Secretary General that the representative has been replaced.

Article 3: Observers

1. Any member State of the Council of Europe which is not a Party to the Convention shall communicate to the Secretary General of the Council of Europe the name, address and functions of the person appointed as its observer and, if necessary, of his adviser. The person appointed as observer shall retain office until the member State has notified the Secretary General of the Council of Europe that he has been replaced.
2. Any non-member State of the Council of Europe that is not a Party to the Convention shall communicate the name, address and functions of the person appointed as its observer, in accordance with the conditions laid down in Article 18, paragraph 3 of the Convention.
3. Abstentions, which may be accompanied by an explanatory statement, shall not prevent the Committee from reaching a decision in accordance with Article 18, paragraph 3 of the Convention.
4. As soon as a State is invited by the Committee of Ministers to accede to the Convention, it is entitled to participate in the Committee meetings.^(X)
5. The following Council of Europe bodies may send a delegate to meetings of the Committee, without the right to vote but with defrayal of expenses at the charge of their respective Votes of the Ordinary Budget:
 - the Parliamentary Assembly,

- the Congress of Local and Regional Authorities of the Council of Europe,
 - the European Court of Human Rights,
 - the Commissioner for Human Rights of the Council of Europe,
 - the Conference of INGOs enjoying participatory status with the Council of Europe,
 - the Steering Committee for Human Rights (CDDH),
 - the European Committee on Legal Co-operation (CDCJ),
 - the European Committee on Crime Problems (CDPC),
 - the Steering Committee on the Media and New Communication Services (CDMC).
6. The Data Protection Commissioner of the Council of Europe may also participate in the meetings of the Committee, without the right to vote but with defrayal of his or her expenses.
7. Meetings are by default open to observers and experts referred to in Articles 3, 4 and 4 bis unless stated otherwise.

Article 4: Experts ^(ix)

1. The Committee may, by a majority of the votes cast, decide to invite a person or an Organisation to appoint a representative to participate in the work of the Committee on a specific subject as an expert or to be available for consultation during an entire meeting or for part of it.
2. The Chair may invite an expert to participate in an entire meeting or for part of it. ^(x)

Article 4 bis: International Institutions and Organisations

1. The Committee may, by unanimity of the votes cast, decide to invite international institutions and Organisations to send one or more delegates to attend its meeting.
2. The Committee may, by a majority of the votes cast, decide to withdraw such an invitation. ⁽ⁱ⁾

Article 5: Time limits for Notifications

The appointments referred to in Articles 2, 3, 4 and 4 bis should as far as possible be notified at least one month before the date fixed for the opening of the meeting at which the persons appointed are to participate.

Article 6: Meetings

1. The Committee shall fix the dates of its meetings in consultation with the Secretary General.
2. The period between two meetings shall not exceed two years.
3. If one third of the representatives request the convocation of the Committee, the Secretary General shall fix the date of the meeting in consultation with the Chairman of the Committee. This meeting shall take place, at the latest, four months after receipt of the request.
4. As a general rule, meetings shall be held at the seat of the Council of Europe in Strasbourg or at the Paris Office of the Council of Europe.

Article 7: Convocation

1. The meetings of the Committee shall be convened by letter of the Secretary General sent to the Governments, representatives and observers as well as to the experts invited in accordance with Articles 4 and 4 bis of the Rules of Procedure.

2. The letter of convocation, accompanied by the draft agenda, shall be sent at least six weeks before the date fixed for the opening of the meeting.^(v)

Article 8: Meeting Adjournment

After a meeting has been convened, any request for adjournment must be sent to the Secretary General at least two weeks before the original date fixed for the opening of the meeting. The request for adjournment will be considered as approved when the majority of representatives have made known their approval to the Secretary General seven days before the date originally fixed.

Article 9: Quorum

A majority of the representatives shall constitute a quorum for a meeting of the Committee.

Article 9 bis: Functions and competences of the Committee

The Committee shall exercise the functions set out in Articles 19 and 20 of the Convention. In particular, the Committee;

1. shall adopt the work programme and determine priorities;
2. shall draw up draft legal instruments¹ with a view to their adoption by the Committee of Ministers;
3. shall adopt opinions and reports;
4. shall decide on the establishment of working parties, on their composition and on their terms of reference;
5. shall elect a Chair and two vice-Chairs and the other members of the Bureau following the requirements set out in Articles 10 bis and 10 ter;
6. shall adopt the terms of reference of the Bureau.^(iv)

Article 10: Chair and Vice-Chairs

1. The Chair, the first Vice-Chair and the second Vice-Chair shall be elected by a majority of the members present from among the representatives for a period of two years. The elections shall not, by default, be held by secret ballot unless specifically requested.
2. The Chair and Vice-Chairs shall be eligible for re-election for a second consecutive term of office. In exceptional cases, the Chair and Vice-Chairs shall be eligible for a third consecutive term of office*. However, the term shall end if they cease to be a member of the Committee.^(ix)
3. The Chair shall direct the work and sum up the conclusions of the discussions.
4. The Chair shall retain the right to participate in the discussions of the Committee and to vote.
5. Whenever the Chair is absent or stands down, he shall be replaced in his role as Chair by the first Vice-Chair or if he or she is not available, the second Vice-Chair. If neither the Chair nor one or the other of the Vice-Chair can carry out his or her duties the Committee shall elect an acting Chair.

Article 10 bis: Membership, functions and competences of the Bureau

1. The Bureau shall be composed of the Chair and two Vice-Chairs of the Committee, together with four elected members and the outgoing Chair who may remain a member *de iure* of the Bureau during the mandate(s) of the new Chair. The other members shall be elected from among the representatives on the Committee for a period of two years. The members shall be eligible for re-election.

¹ Namely conventions or agreements and recommendations.

2. If a member of the Bureau ceases to be a member of the Committee or resigns his/her office before its normal expiry, the Committee may elect a successor for the remainder of the term of that office.
3. The Bureau shall direct the work of the Committee between plenary meetings, and in particular:
 - a. prepare preliminary draft legal instruments and draft opinions provided for in Article 19 d of the Convention; ^(II)
 - b. prepare and approve opinions requested by Council of Europe bodies;
 - c. prepare reports taking into account of the comments of the Committee's delegations, where possible, unless the report is urgent;
 - d. prepare the programme of activities and propose priorities to the Committee for future work according to the Committee's working programme with a suggested timetable;
 - e. review the agenda of the plenary meeting and propose the way the Committee's business should be dealt with (for example, drafting the order of business, indentifying issues of particular importance, etc);
 - f. invite external guest speakers, where appropriate;
 - g. appoint experts to carry out specific activities;
 - h. make appointments to other Council of Europe bodies;
 - i. to report back to the Committee on its activities between the plenary meetings;
 - j. deal with any other matters specifically delegated to it by the Committee.
4. Before taking a decision and without prejudice to Article 10 bis, paragraph 3 (c) and (j), the Bureau shall consult the members of the Committee and take their observations into account. When the Bureau exercises the powers of the Committee, its decisions shall be taken by consensus. Where there is disagreement, it shall submit its draft decision to the Committee. ^(IV)

*The exceptional nature of the situation will be considered by the Committee, in light notably of the absence of candidates or where there is a need to ensure continuity in the management of an important file.

Article 10 ter: Procedure ^(VI)

1. The texts within the meaning of Article 9 bis paragraphs 2 and 3, submitted for the approval of the Committee shall be prepared by the Bureau. As a general rule they shall be subject to two readings by the Committee. A text may exceptionally be subject to a third reading if two-thirds of the representatives present at the second reading so request. During the second and third readings only those amendments presented in writing at least one month before the plenary meeting shall be debated.
2. As a general rule the Bureau shall adopt the texts it submits to the Committee by consensus. Where there is disagreement, the texts shall be adopted by a simple majority. The minority may present its point of view to the Committee in writing if it informs the Bureau beforehand. Once a text has been adopted, it shall be presented to the Committee by a rapporteur appointed by the Bureau. In urgent cases, the Chair shall have the deciding vote.
3. All proposals by the Bureau shall be sent to the members of the Committee, who shall have four weeks in which to send their observations to the Secretariat who shall forward them to all members of the Committee. This time limit may be reduced to two weeks in urgent cases. ^(VII)
4. Where documents are sent by electronic mail, the Secretariat shall take the necessary measures to ensure that the electronic mail messages have reached the members of the Committee. ^(IV)

Article 11: Secretariat

1. The Secretary General shall provide the Committee with the necessary staff and facilities.
2. The Secretary General or his or her representative may at any time make an oral or written statement on any matter under discussion or other relevant matters.
3. The Secretariat shall be responsible for the preparation and distribution of all documents to be examined by the Committee.
4. The Committee may ask the Secretariat to draw up a report, a document or a study on any question within the framework of the work of the Committee and if necessary with the assistance of experts.
5. The Secretary General shall ensure that the Committee is informed of the activities of other Committees or organs of the Council of Europe which may have a bearing on the discharge of its functions.

Article 12: Agenda

1. The Agenda shall be adopted at the beginning of each meeting on the basis of a draft prepared by the Secretariat in consultation with the Chair of the Committee.
2. All proposals for inclusion on the agenda shall be communicated at least one month before the date fixed for the meeting to the Secretariat, who shall send them to the addressees of the letter of convocation.
3. Any working document submitted in a language other than one of the official languages shall be accompanied by its author translation into one of the official languages.

Article 13: Languages

1. The official and working languages of the Committee shall be English and French. The Bureau may decide by unanimity to hold a particular meeting in only one of those languages.
2. Any representative or observer may, however, use a language other than an official language provided that he or she shall himself or herself provide for interpretation into one of the official languages.
3. Any working document submitted in a language other than one of the working languages shall be accompanied by a translation into one of the official languages.

Article 14: Publicity

1. Meetings shall be held in private. The Committee may decide to make public certain documents.
2. The Committee may, by unanimous agreement decide, at the end of its meeting, to make appropriate press statements on the decisions taken during the meeting.

Article 15: Voting

1. Subject to the provisions of Article 18 paragraph 3 of the Convention and of Article 4, Article 4 bis (I) and Article 14 paragraph 2 of the Rules of Procedure, the Committee shall take its decisions by a majority of the votes cast.
2. However, in matters falling within the competence of the European Union, when requested by a majority of the representatives of the Parties present, including a majority of the representatives of non-member States of the European Union, the Consultative Committee shall take a decision by a unanimous vote.⁽ⁱⁱⁱ⁾
3. A vote by written procedure can be taken if decided unanimously by the Committee. In justified circumstances (notably when an opinion of the Committee is requested by the Committee of Ministers or by another instance of the Council of Europe) the Chair may, with the agreement of the Vice-Chairs, use this procedure between the plenary meetings in light of the necessity to take a decision within this time period.^(x)
4. The draft decision which is subject to a written procedure shall be sent by the Secretariat to the representatives. The representatives shall expressly acknowledge receipt of the draft. The representatives

shall inform the Secretariat of their vote in writing within a fixed term and in no case in less than 4 weeks, except in urgent cases. In urgent cases, the fixed term is decided by the Chair with the agreement of the Vice-Chairs and may not be less than two weeks. A lack of reply within the set deadline shall be considered to be a tacit acceptance of the proposed decision. Delegations wishing to abstain or to object to the proposed decision shall do so expressly within the set deadline.^(X) The Secretariat shall inform the representatives of the results of the vote. The result of the vote is recorded in the report of the following meeting of the Committee.^(V)

5. The written procedure initiated by the Chair shall be interrupted if one representative requests within 7 days of receiving the draft that the draft be discussed during a meeting of the Committee, unless a majority of the representatives requests that the procedure goes ahead.^(V)

Article 16: Reconsideration of a decision

When a decision has been taken on any particular matter, such matter shall not be reopened except at the request of a representative and with the approval of a majority of the votes cast. In matters falling within the competence of the European Union, a decision shall also be reconsidered if at least two thirds of all Parties to the Convention which are not members of the European Union so request.^(III)

Article 17: Decisions and reports

The Secretariat shall prepare an abridged meeting report before the end of each meeting which will serve as a basis for the report provided for in Article 20, paragraph 3 of the Convention.

Article 18: Requests for opinion under Article 19 (d) of the Convention

1. Any request for an opinion addressed to the Committee by virtue of Article 19 (d) of the Convention, shall be made in writing.
2. The request shall be communicated by the Secretariat to the representatives and to the observers.
3. The request shall be included in the draft agenda of the first meeting to be held after receipt of the request.
4. If the Committee does not express an unanimous opinion, mention shall be made in the report of the minority opinions if the authors so request.
5. The text of the opinion shall be communicated to the Governments of the Contracting Parties and to the observers.

Article 19: Proposals made under Article 19 (a) of the Convention

Any proposal aimed at facilitating or improving the application of the Convention shall be communicated to the Committee of Ministers as well as to the Governments of the Contracting Parties and to the observers.

I. Article 4 bis was inserted and the text was amended by the Consultative Committee at its 6th meeting (February 1992).

II. Amended by the Consultative Committee at its 19th meeting (26-28 November 2003)

III. The text was amended by the Consultative Committee at its 14th meeting (3 September 1998). At its 21st meeting, the Bureau considered the possibility that within the meaning of articles 15 and 16 the decision to reconsider a vote should no longer take into account the criteria of being or not a member of the EU.

- IV.** The Article 9 bis, Article 10 bis, Article 10 ter were inserted by the Consultative Committee at its 19th meeting (26-28 November 2003)
- V.** The text was inserted or amended by the Consultative Committee at its 24th meeting (13-14 March 2008)
- VI.** The Article 10 ter was amended by the Consultative Committee further to its 24th meeting (13-14 March 2008).
- VII.** The paragraph was amended by the Consultative Committee after written procedure in July 2008.
- VIII.** The rules of procedure were amended by the Consultative Committee at the 26th plenary meeting (1-4 June 2010).
- IX.** The rules of procedure were amended by the Consultative Committee following the 31st plenary meeting (2-4 June 2014).
- X.** The rules of procedure were amended by the Consultative Committee at its 34th plenary meeting (19-21 June 2017).