

Special Procedures of the Human Rights Council and the Human Rights Council Complaint Procedure

Belangrijke woorden zijn gecursiveerd [LK&PH]



Ambassador Elisabeth Tichy Fisslberger of Austria elected as Council President for 2020.

Introduction

The special procedures of the Human Rights Council are **independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective**. The system of Special Procedures is a **central** element of the United Nations human rights machinery and **covers** all human rights: **civil**, cultural, economic, **political**, and social. In the context of the 2011 review of its work and functioning, the Human Rights Council reaffirmed the **obligation** of States to **cooperate** with the Special Procedures, and the integrity and independence of Special Procedures. It also reaffirmed the principles of cooperation, transparency and accountability and the role of the system of Special Procedures in enhancing the capacity of the Human Rights Council to address **human rights situations**. Member States confirmed their strong **opposition** to **reprisals** against persons cooperating with the United Nations and its human rights mechanism and representatives.

The Council further recognized the importance of ensuring transparent, adequate and equitable funding to support all Special Procedures according to their specific needs (see [HRC resolution 16/21](#)).

Special procedures are either an individual (called "Special **Rapporteur**" or "Independent **Expert**") or a working **group** composed of five members, one from each of the five United Nations regional groupings: Africa, Asia, Latin America and the Caribbean, Eastern Europe and the Western group. The Special Rapporteurs, Independent Experts and members of the Working Groups are [appointed](#) by the Human Rights Council and serve in their personal capacities. They undertake to uphold independence, efficiency, competence and integrity through probity, impartiality, honesty and good faith. They are **not** United Nations staff members and do **not** receive financial remuneration. The **independent status** of the mandate-holders is crucial for them to be able to fulfil their functions in all impartiality. A mandate-holder's tenure in a given function, whether it is a thematic or country mandate, is limited to a maximum of six years.

With the support of the Office of the United Nations **High Commissioner for Human Rights** (OHCHR), Special Procedures undertake [country visits](#); act on individual cases of alleged violations and concerns of a broader, structural nature by sending [communications](#) to States; conduct thematic studies and convene [expert consultations](#), contributing to the development of international human rights standards ; engage in advocacy and raise public awareness ; and provide advice for technical cooperation. Special Procedures [report annually](#) to the Human Rights Council and the majority of the mandates also [report to the General Assembly](#).

As of 1 August 2017, there are **44** [thematic](#) and 12 [country](#) mandates.

Country visits

At the invitation of States, mandate-holders carry out [country visits](#) to **analyse** the human rights situation at the national level. Some countries have issued "[standing invitations](#)" to the Special Procedures, which means that they are prepared to receive a visit from any thematic mandate-holder. As of 1 January 2015, 109 Member States and one non-Member Observer State have extended a standing invitation to thematic special procedures. At the end of their visits, special procedures' mandate-holders engage in dialogue with the State on their findings and recommendations and present a **report to the Human Rights Council**.

Communications

Most Special Procedures receive information on specific allegations of human rights violations and send communications ([urgent appeals and other letters](#)) to States, and occasionally to non-State actors, asking for clarification and action. Mandate-holders may send letters to States seeking information **about legal, policy or structural developments**, submitting observations, or following-up on recommendations.

The [Annual Facts and Figures](#) provides an overview of total communications sent and related information. Communications sent and the responses received are [reported](#) at each regular session to the Human Rights Council.

Other activities

Either at the request of the Human Rights Council or at the initiative of the mandate-holders, special procedures prepare **thematic studies**, develop human rights **standards and guidelines**, participate in expert consultations, seminars and conferences, organize panels during the sessions of the Human Rights Council, organise "working visits", i.e. in-country missions that are not fact-finding but a mix between technical assistance, mediation and the development of best practices, and raise public awareness about specific human rights situations and phenomena

attesting threats to and violations of human rights through public statements and interaction with a wide variety of partners.

Coordination amongst the Special Procedures: Coordination Committee of Special Procedures and the Annual Meeting of Special Procedures

At their annual meeting in 2005, Special Procedures mandate-holders established a [Coordination Committee](#) to facilitate coordination amongst mandate-holders and act as a bridge between them and OHCHR, the broader UN human rights framework, and stakeholders.

[Annual meetings](#) of Special Procedures mandate-holders have been organized since 1994. The meeting is intended to better coordinate and harmonize the work of special procedures, and for mandate-holders to address topical issues, and exchange views with States, the President of the Human Rights Council, regional human rights organisations, national human rights institutions, representatives from OHCHR and UN entities, and civil society organisations.

Code of Conduct and working methods of the special procedures

The [Code of Conduct](#) adopted by the Council in 2007 and the [Manual of Operations](#) adopted by Special Procedures mandate-holders during their Annual Meeting in 2008 provide guidelines on the working methods of Special Procedures. Mandate-holders also established an [Internal Advisory Procedure](#) to review practices and working methods, which allows any stakeholder to bring issues relating to working methods and conduct to the attention of the Coordination Committee. The procedure was devised to enhance the independence and effectiveness of Special Procedures and cooperation by States, and to contribute to self-regulation of the special procedures system and individual mandate holders.

Nomination, selection and appointment of mandate holders

In its resolution 5/1 and 16/21, the Human Rights Council clarified the parameters related to the [selection and appointment](#) of special procedures mandate-holders: Candidates can be nominated by Governments, the Regional Groups operating within the United Nations system, international organisations or their offices, non-governmental organizations, other human rights bodies and individuals. A Consultative Group appointed by the Council reviews all applications for Special Procedures' positions and proposes a list of candidates to the President of the Council. Resolution [16/21](#) has further strengthened and enhanced transparency in the selection and appointment process of mandate holders. [National Human Rights Institutions](#) that comply with the Paris Principles may also nominate candidates. Furthermore, candidates are required to submit an application

accompanied by a motivation letter for each mandate they wish to apply for. Shortlisted candidates are thereafter interviewed by the Consultative Group. According to [resolution 5/1](#), the following general criteria will be of paramount importance while nominating, selecting and appointing mandate-holders: (a) expertise; (b) experience in the field of the mandate; (c) independence; (d) impartiality; (e) personal integrity; and (f) objectivity. Due consideration should be given to gender balance and equitable geographic representation, as well as to an appropriate representation of different legal systems. Eligible candidates are highly qualified individuals who possess established competence, relevant expertise and extensive professional experience in the field of human rights. Individuals in decision-making positions in Government or in any other organization or entity which may give rise to a conflict of interest with the responsibilities inherent to the mandate are excluded from being appointed as experts. Technical and objective requirements have been further clarified in HRC [decision 6/102](#).

History of the system

In the early days of the United Nations, the Commission on Human Rights - the predecessor of the Human Rights Council - focused on elaborating human rights standards. The Economic and Social Council had passed a resolution stating that the Commission had "no power to take any action in regard to any complaints concerning human rights" (ECOSOC Resolution 75 (V) (1947)). However in 1965, the Commission on Human Rights was faced with a number of individual petitions from South Africa and came under considerable pressure to deal with them. As a result, in 1967 the Commission departed from previous practice and established an ad-hoc working group of experts to investigate the situation of human rights in Southern Africa (CHR resolution 2 (XXIII)). The ad-hoc working group can be considered as the first Special Procedure of the Commission on Human Rights. Following the 1973 coup in Chile against President Allende by General Augusto Pinochet, the Commission established an ad-hoc working group in 1975 to inquire into the situation of human rights in Chile. In 1979, this working group was replaced by a special rapporteur and two experts to study the fate of the disappeared in Chile. This led to the establishment of the first thematic Special Procedure in 1980: the Working Group on Enforced Disappearances to deal with the question of enforced disappearances throughout the world (CHR resolution [20 \(XXXVI\)](#)). Ten years later, in 1990, there were six thematic mandates covering enforced disappearances, extrajudicial, summary or arbitrary executions, religious intolerance, mercenaries, torture and sale of children. Since then, many new mandates have been established to deal with human rights challenges in various parts of the world. They now cover all regions and rights: civil, cultural, economic, political, and social.

Human Rights Council Complaint Procedure

On 18 June 2007, the Human Rights Council adopted resolution 5/1 entitled “Institution-Building of the United Nations Human Rights Council” by which a **new complaint procedure** was established to address consistent patterns of gross and reliably attested violations of all human rights and **all fundamental freedoms occurring in any part of the world and under any circumstances**.

The complaint procedure addresses communications submitted by **individuals, groups, or non-governmental organizations that claim to be victims of human rights violations or that have direct, reliable knowledge of such violations**.

Like the former 1503 procedure, it is confidential, with a view to enhance cooperation with the State concerned. The new complaint procedure has been improved, where necessary, to ensure that the procedure be impartial, objective, efficient, victims-oriented and conducted in a timely manner.

How does the complaint procedure work?

Pursuant to paragraph 94 of resolution 5/1, the Chairperson of the Working Group on Communications, together with the Secretariat, undertake an **initial screening** of communications based on the **admissibility** criteria set in paragraphs 85 to 88 of resolution 5/1. **Manifestly ill-founded and anonymous communications are screened out**. Communications not rejected in the **initial screening are transmitted to the State concerned to obtain its views on the allegations** of violations. Both the author of a communication and the State concerned are informed of the proceedings at each stage.

Two distinct working groups - the [Working Group on Communications](#) and the [Working Group on Situations](#) - are responsible, respectively, for examining written communications and bringing consistent patterns of gross and reliably attested violations of human rights and fundamental freedoms to the attention of the Council. (Click in the “in this section” for more information on both Working Groups and the closed meetings of the Council).

What are the criteria for a communication to be accepted for examination?

A communication related to a violation of human rights and fundamental freedoms is admissible, provided that:

- It is **not manifestly politically motivated**, and its object is consistent with the Charter of the United Nations, the Universal Declaration of Human Rights and other applicable instruments in the field of **human rights law**;
- It gives a **factual description of the alleged violations, including the rights which are alleged to be violated**;

- Its language is **not abusive**. However, such a communication may be considered if it meets the other criteria for admissibility after deletion of the abusive language;
- It is **submitted by a person or a group of persons claiming to be the victims of violations of human rights and fundamental freedoms, or by any person or group of persons, including non-governmental organizations**, acting in good faith in accordance with the principles of human rights, not resorting to politically motivated stands contrary to the provisions of the Charter of the United Nations and **claiming to have direct and reliable knowledge of the violations concerned**. Nonetheless, reliably attested communications shall not be inadmissible solely because the knowledge of the individual authors is second-hand, provided that they are accompanied by clear evidence;
- It is not exclusively based on reports disseminated by mass media;
- It does not refer to a case that appears to reveal a consistent pattern of gross and reliably attested violations of human rights already being dealt with by a special procedure, a treaty body or other United Nations or similar regional complaints procedure in the field of human rights;
- **Domestic remedies have been exhausted, unless it appears that such remedies would be ineffective or unreasonably prolonged.**

National human rights institutions, established and operating under the Principles Relating to the Status of National Institutions (the Paris Principles), in particular in regard to quasi-judicial competence, may serve as effective means of addressing individual human rights violations.

How to submit communications?

Please fill out the [complaint procedure form](#) if you consider that your communication meets the abovementioned criteria.

See complaint procedure next page [LK&PH].

Where to send communications?

Communications intended for handling under the Human Rights Council complaint procedure may be addressed to:

Complaint Procedure Unit

Human Rights Council Branch

Office of the United Nations High Commissioner for Human Rights

United Nations Office at Geneva

CH-1211 Geneva 10, Switzerland

Fax: (41 22) 917 90 11

E-mail: CP@ohchr.org

Related links

- [Frequently Asked Questions](#)
- [Complaint mechanism of the Special Procedures](#)
- [Treaty-based complaint procedures](#)
- [Human Rights Council Advisory Committee](#)

Human Rights Council

Complaint Procedure Form

- You are kindly requested to submit your complaint in writing in one of the six official UN languages (Arabic, Chinese, English, French, Russian and Spanish) and to use these languages in any future correspondence;
- Anonymous complaints are not admissible;
- It is recommended that your **complaint does not exceed eight pages**, excluding enclosures.
- You are kindly requested not to use abusive or insulting language.

I. Information concerning the author (s) of the communication or the alleged victim (s) if other than the author

Individual Group of individuals NGO Other

Last name:

First name(s):

Nationality:

Address for correspondence on this complaint:

Tel and fax: (please indicate country and area code)

E-mail:

Website:

Submitting the complaint:

On the author's own behalf:

On behalf of other persons: (Please specify:

II. Information on the State concerned

Name of the State concerned and, as applicable, name of public authorities responsible for the alleged violation(s):

III. Facts of the complaint and nature of the alleged violation(s)

The complaint procedure addresses consistent patterns of gross and reliably attested violations of all human rights and all fundamental freedoms occurring in any part of the world and under any circumstances.

Please detail, in chronological order, the facts and circumstances of the alleged violations including dates, places and alleged perpetrators and how you consider that the facts and circumstances described violate your rights or that of the

concerned person(s).

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IV. Exhaustion of domestic remedies

1- Steps taken by or on behalf of the alleged victim(s) to exhaust domestic remedies—please provide details on the procedures which have been pursued, including recourse to the courts and other public authorities as well as national human rights institutions¹, the claims made, at which times, and what the outcome was:

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2- If domestic remedies have not been exhausted on grounds that their application would be ineffective or unreasonably prolonged, please explain the reasons in detail:

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V. Submission of communication to other human rights bodies

1- Have you already submitted the same matter to a special procedure, a treaty body or other United Nations or similar regional complaint procedures in the field of human rights?

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2- If so, detail which procedure has been, or is being pursued, which claims have been made, at which times, and the current status of the complaint before this body:

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VI. Request for confidentiality

In case the communication complies with the admissibility criteria set forth in Council resolution 5/1, kindly note that it will be transmitted to the State concerned so as to obtain the views of the latter on the allegations of violations. Please state whether you would like your identity or any specific information contained in the complaint to be kept confidential.

Request for confidentiality (*Please tick as appropriate*): Yes No

Please indicate which information you would like to be kept confidential

Date:

Signature:

¹ National human rights institutions, established and operating under the Principles Relating to the Status of National Institutions (the Paris Principles), in particular in regard to quasi-judicial competence, may serve as effective means of addressing individual human rights violations.

N.B. The blanks under the various sections of this form indicate where your responses are required. You should take as much space as you need to set out your responses. Your complaint should not exceed eight pages.

VII. Checklist of supporting documents

Please provide copies (not original) of supporting documents (kindly note that these documents will not be returned) in one of the six UN official languages.

- Decisions of domestic courts and authorities on the claim made (a copy of the relevant national legislation is also helpful):
- Complaints sent to any other procedure mentioned in section **V** (and any decisions taken under that procedure):
- Any other evidence or supporting documents deemed necessary:

VIII. Where to send your communications?

Office of the United Nations High Commissioner for Human Rights

Human Rights Council Branch-Complaint Procedure Unit

OHCHR- Palais Wilson

United Nations Office at Geneva

CH-1211 Geneva 10, Switzerland

Fax: (+41 22) 917 90 11

E-mail: CP@ohchr.org

Website: <http://www.ohchr.org/EN/HRBodies/HRC/Pages/HRCIndex.aspx>