

DRAFT CHANGES TO THE IACHR RULES GOVERNING THE PROCESSING OF PETITIONS AND CASES BEFORE THE INTER-AMERICAN COMMISSION AND THE INTER-AMERICAN COURT

PROCEDURE ON THE MERITS	
ARTICLE 38 - CURRENT TEXT	PROPOSAL
<p>1. Upon opening the case, the Commission shall set a period of two months for the petitioners to submit additional observations on the merits. The pertinent parts of those observations shall be transmitted to the State in question so that it may submit its observations within two months.</p> <p>2. The Executive Secretariat shall evaluate requests for an extension of the time periods established in the preceding subparagraph that are duly founded. However, it shall not grant extensions that exceed three months from the date the initial request for observations was sent to each party.</p> <p>3. In serious and urgent cases, or when it is believed that the life or personal integrity of a person is in real and imminent danger, and once the case has been opened, the Commission shall request that the State forward its additional observations on the merits within a reasonable time period, established by the Commission taking into account the circumstances of each case.</p> <p>4. Prior to making its decision on the merits of the case, the Commission shall set a time period for the parties to express whether they have an interest in initiating the friendly settlement procedure provided for in Article of these Rules of Procedure. In the scenarios provided for in Article 30, subparagraph 7 and in the preceding subparagraph, the Commission shall request the parties to respond in a more expeditious manner. The Commission may also invite the parties to submit additional observations in writing.</p>	<p>1. Upon opening the case, the Commission shall set a period of two months for the petitioners to submit additional observations on the merits. The pertinent parts of those observations shall be transmitted to the State in question so that it may submit its observations within two months.</p> <p>2. With their additional observations on the merits, the petitioners shall include the personal data of the injured party and their arguments on the possible reparations applicable to the case.</p> <p>3. The Executive Secretariat shall evaluate requests for an extension of the time periods established in the preceding subparagraph that are duly founded. However, it shall not grant extensions that exceed three months from the date the initial request for observations was sent to each party.</p> <p>4. In serious and urgent cases, or when it is believed that the life or personal integrity of a person is in real and imminent danger, and once the case has been opened, the Commission shall request that the State forward its additional observations on the merits within a reasonable time period, established by the Commission taking into account the circumstances of each case.</p> <p>5. Prior to making its decision on the merits of the case, the Commission shall set a time period for the parties to express whether they have an interest in initiating the friendly settlement procedure provided for in Article of these Rules of Procedure. In the scenarios provided for in Article 30, subparagraph 7 and in the preceding subparagraph, the Commission shall request the parties to respond in a more expeditious manner. The Commission may also invite the parties to submit additional observations in writing.</p> <p>6. If it deems it necessary in order to advance in its consideration of the case, the Commission may convene the parties for a hearing, as provided for in Chapter VI of these Rules of Procedure, or request any information that it may deem pertinent.</p>

<p>5. If it deems it necessary in order to advance in its consideration of the case, the Commission may convene the parties for a hearing, as provided for in Chapter VI of these Rules of Procedure.</p>	
REPORT ON THE MERITS	
ARTICLE 43 - CURRENT TEXT	PROPOSAL
<p>After the deliberation and vote on the merits of the case, the Commission shall proceed as follows:</p> <p>1. If it establishes that there was no violation in a given case, it shall so state in its report on the merits. The report shall be transmitted to the parties, and shall be published and included in the Commission's Annual Report to the OAS General Assembly.</p> <p>2. If it establishes one or more violations, it shall prepare a preliminary report with the proposals and recommendations it deems pertinent and shall transmit it to the State in question. In so doing, it shall set a deadline by which the State in question must report on the measures adopted to comply with the recommendations. The State shall not be authorized to publish the report until the Commission adopts a decision in this respect.</p> <p>3. It shall notify the petitioner of the adoption of the report and its transmittal to the State. In the case of States Parties to the American Convention that have accepted the contentious jurisdiction of the Inter-American Court, upon notifying the petitioner, the Commission shall give him or her one month to present his or her position as to whether the case should be submitted to the Court. When the petitioner is interested in the submission of the case, he or she should present the following:</p> <p style="padding-left: 40px;">a. the position of the victim or the victim's family members, if different from that of the petitioner;</p>	<p>After the deliberation and vote on the merits of the case, the Commission shall proceed as follows:</p> <p>1. If it establishes that there was no violation in a given case, it shall so state in its report on the merits. The report shall be transmitted to the parties, and shall be published and included in the Commission's Annual Report to the OAS General Assembly.</p> <p>2. If it establishes one or more violations, it shall prepare a preliminary report with the proposals and recommendations it deems pertinent and shall transmit it to the State in question. In so doing, it shall set a deadline by which the State in question must report on the measures adopted to comply with the recommendations. The State shall not be authorized to publish the report until the Commission adopts a decision in this respect.</p> <p>3. It shall notify the petitioners of the adoption of the report and its transmittal to the State. In the case of States Parties to the American Convention that have accepted the contentious jurisdiction of the Inter-American Court, upon notifying the petitioners, the Commission shall give them one month to present their position as to whether the case should be submitted to the Court. When the petitioners are interested in the submission of the case, they should present the following:</p> <p style="padding-left: 40px;">a. the position of the injured party, if different from that of the petitioners;</p> <p style="padding-left: 40px;">b. the reasons they consider that the case should be referred to the Court.</p>

<p>b. the personal data relative to the victim and the victim's family members;</p> <p>c. the reasons he or she considers that the case should be referred to the Court;</p> <p>d. the documentary, testimonial, and expert evidence available; and,</p> <p>e. the claims concerning reparations and costs.</p>	
SUSPENSION OF THE TIME LIMIT TO REFER THE MATTER TO THE COURT (NEW ARTICLE)	
	PROPOSAL
	<p>The Commission, ensuring procedural equality, may consider at the request of the State concerned the suspension of the time limit established in Article 51.1 of the American Convention for the referral of the case to the Court, pursuant to the following requirements:</p> <p>a. that the State show its willingness to implement the recommendations included in the merits report through the adoption of concrete and adequate measures of compliance; and</p> <p>b. that in its request the State accept expressly and irrevocably the suspension of the time limit established in Article 51.1 of the American Convention for the submission of the case to the Court and consequently expressly renounce the filing of preliminary objections regarding compliance with the aforementioned time limit in the event that that matter be referred to the Court.</p>
DECISION ON THE REFERRAL OF THE CASE TO THE COURT	
ARTICLE 44 - CURRENT TEXT	PROPOSAL
<p>1. If the State in question has accepted the jurisdiction of the Inter-American Court in accordance with Article 62 of the American Convention, and the Commission considers that the State has not complied with the recommendations of the report approved in accordance with Article 50 of the American Convention, it shall refer the case to the Court, unless there is a reasoned decision by an absolute majority</p>	<p>1. If the State in question has accepted the jurisdiction of the Inter-American Court in accordance with Article 62 of the American Convention, and the Commission considers that the State has not complied with the recommendations of the report approved in accordance with Article 50 of the American Convention, it shall refer the case to the Court, unless there is a reasoned decision by an absolute majority of the members of the Commission to the contrary.</p>

<p>of the members of the Commission to the contrary.</p> <p>2. The Commission shall give fundamental consideration to obtaining justice in the particular case, based, among others, on the following factors:</p> <ul style="list-style-type: none"> a. the position of the petitioner; b. the nature and seriousness of the violation; c. the need to develop or clarify the case-law of the system; d. the future effect of the decision within the legal systems of the Member States; and, e. the quality of the evidence available. 	<p>2. The Commission shall give fundamental consideration to obtaining justice in the particular case, based, among others, on the following factors:</p> <ul style="list-style-type: none"> a. the position of the petitioners; b. the nature and seriousness of the violation; c. the need to develop or clarify the case-law of the system; d. the future effect of the decision within the legal systems of the Member States.
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REFERRAL OF THE CASE TO THE COURT

<p style="text-align: center;">ARTICLE 72 (Presentation of the Application) CURRENT TEXT</p>	<p style="text-align: center;">PROPOSAL</p>
<p>1. When, in accordance with Article 61 of the American Convention on Human Rights, the Commission decides to bring a case before the Court, it shall submit an application specifying the:</p> <ul style="list-style-type: none"> a. claims on the merits, and reparations and costs sought; b. parties in the case; c. presentation of the facts; d. information on the opening of the procedure and admissibility of the petition; e. individualization of the witnesses and experts and the purpose of their statements; f. legal grounds and the pertinent conclusions; g. available information on the original complainant, the alleged victims, their family members or duly accredited representatives; h. names of its delegates; and, i. the report provided for in Article 50 of the American Convention. 	<p>1. When, in accordance with Article 61 of the American Convention on Human Rights and Article 44 of these Rules, the Commission decides to bring a case before the Inter-American Court, it shall submit, through its Secretariat, a copy of the report adopted pursuant to Article 50 of the American Convention, accompanied by the following documents and information:</p> <ul style="list-style-type: none"> a. a copy of the file before the Commission, excluding any internal working documents; b. the available data of the injured party or his or her duly accredited representative, with the indication of whether the petitioner has requested that his or her identity be withheld; c. an appraisal of the degree of compliance with the recommendations issued in the merits report; d. the grounds for the referral of the matter to the Court; e. the names of its delegates; and,

2. The Commission's application shall be accompanied by certified copies of the items in the file that the Commission or its delegate considers pertinent.

f. any other document or information deemed useful for the analysis of the case.