

Karla Zambrano González ¹

The Human Rights Committee

I. Introduction

The Human Rights Committee is the body that monitors the implementation of the International Covenant on Civil and Political Rights by its States Parties.

II. Composition of the Human Rights Committee and mandate

The Human Rights Committee is composed of 18 independent experts who are responsible for monitoring compliance with the Covenant. Thus, in accordance with Article 28 of the International Covenant on Civil and Political Rights, the members of the Committee shall be elected by secret ballot from a list of persons meeting specified qualifications and nominated by States Parties. In this case, each State Party may nominate up to two persons.

The election of the members of the Committee shall take place at a meeting of the States Parties to the Covenant. At that meeting, two thirds of the States

¹ Postdoctoral researcher and Professor of International Public and Environmental Law. University of Valencia (Spain). Research Member of the Jean Monnet Module, Project: ENVEU. Co-funded by the European Union. The views and opinions expressed are those of the author(s) and do not necessarily reflect those of the European Union or the European Executive Agency for Education and Culture (EACEA). Neither the European Union nor the EACEA can be held responsible for them.

Parties to the Covenant shall constitute a quorum, and the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

The members of the Committee shall be elected for four years. They shall be eligible for re-election if re-nominated. However, the terms of office of nine of the members elected at the first election shall expire after two years.

III. The work of the Human Rights Committee

But what are the tasks of the Human Rights Committee? Since no state has a perfect record of protecting and promoting civil and political rights, the Committee's work can be summarised as follows:

- Maintain legislation, policies and practices that promote the enjoyment of these rights;
- Suspend or modify appropriately measures that are destructive or harmful to Covenant rights;
- Undertake positive and appropriate action where a State Party has not taken any measures to promote and protect these rights;
- Take due account of the impact, under the Covenant, of new laws, policies and practices that a State party proposes to introduce to ensure that it does not retrogress in the practical realisation of the rights recognised in the Covenant.

In this way, the Committee will mainly be responsible for:

- Receive and consider reports from States Parties on the adoption of measures to implement the civil and political rights of the ICCPR.
- Develop so-called "general comments", which serve as a guide for States Parties in detailing their main obligations.
- Receive and consider individual complaints or "communications" under the Optional Protocol from individuals who consider that their rights have been violated by a State party.
- Consider complaints that a State Party may bring against another State Party for non-compliance with its obligations under the ICCPR.

IV. Individual communications submitted to the Human Rights Committee

Special mention should be made of individual communications submitted to the Human Rights Committee. In this sense, the Committee has the capacity to examine complaints from individuals who consider that their civil and political rights and freedoms have been violated by a State Party to the Covenant. This is an entirely documentary procedure, in which the alleged victim submits the complaint and accompanies the documents that substantiate his or her petition. By means of flexible criteria. The time taken to resolve the procedure is indeterminate, although it is usually long.

However, the Committee may request the State Party to take "interim measures", such as suspending executions or extraditions, to avoid irreparable harm to the alleged victim while the complaint is being considered.

If the Committee considers the petition admissible, it adopts an "opinion" on the merits of the case and on whether or not the alleged violation of rights has been established. This opinion serves as a reference for the courts and decision-makers of the States Parties and, in any case, if a violation of rights is found, the country concerned is requested to remedy it, either by compensation, legislative repeal or amendment, or the release of an arrested person. The case is then passed to the Special Rapporteur for follow-up and remedy.



Cofinanciado por
la Unión Europea

ENVEU
Jean Monnet Module

Project No. 101085459