



EUROPEAN COURT OF HUMAN RIGHTS  
COUR EUROPÉENNE DES DROITS DE L'HOMME

2 November 2016

## Rules of Court

Amendments to the Rules of the Court  
adopted by the Plenary Court on 19 September 2016  
(Rules 1, 24, 29, 34, 44 and 82, new Chapter X)

**Entry into force on 1<sup>st</sup> August 2018**

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## I. Amended Rules

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### Rule 1<sup>1</sup> – Definitions

For the purposes of these Rules unless the context otherwise requires:

- (a) the term “Convention” means the Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto;
- (b) the expression “plenary Court” means the European Court of Human Rights sitting in plenary session;
- (c) the expression “Grand Chamber” means the Grand Chamber of seventeen judges constituted in pursuance of Article 26 § 1 of the Convention;
- (d) the term “Section” means a Chamber set up by the plenary Court for a fixed period in pursuance of Article 25 (b) of the Convention and the expression “President of the Section” means the judge elected by the plenary Court in pursuance of Article 25 (c) of the Convention as President of such a Section;
- (e) the term “Chamber” means any Chamber of seven judges constituted in pursuance of Article 26 § 1 of the Convention and the expression “President of the Chamber” means the judge presiding over such a “Chamber”;
- (f) the term “Committee” means a Committee of three judges set up in pursuance of Article 26 § 1 of the Convention and the expression “President of the Committee” means the judge presiding over such a “Committee”;
- (g) the expression “single-judge formation” means a single judge sitting in accordance with Article 26 § 1 of the Convention;
- (h) the term “Court” means either the plenary Court, the Grand Chamber, a Section, a Chamber, a Committee, a single judge or the panel of five judges referred to in Article 43 § 2 of the Convention and in Article 2 of Protocol No. 16 thereto;
- (i) the expression “*ad hoc* judge” means any person chosen in pursuance of Article 26 § 4 of the Convention and in accordance with Rule 29 to sit as a member of the Grand Chamber or as a member of a Chamber;
- (j) the terms “judge” and “judges” mean the judges elected by the Parliamentary Assembly of the Council of Europe or *ad hoc* judges;
- (k) the expression “Judge Rapporteur” means a judge appointed to carry out the tasks provided for in Rules 48 and 49;
- (l) the term “non-judicial rapporteur” means a member of the Registry charged with assisting the single-judge formations provided for in Article 24 § 2 of the Convention;
- (m) the term “delegate” means a judge who has been appointed to a delegation by the Chamber and the expression “head of the delegation” means the delegate appointed by the Chamber to lead its delegation;
- (n) the term “delegation” means a body composed of delegates, Registry members and any other person appointed by the Chamber to assist the delegation;

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1. As amended by the Court on 7 July 2003, 13 November 2006 and 19 September 2016

(o) the term “Registrar” denotes the Registrar of the Court or the Registrar of a Section according to the context;

(p) the terms “party” and “parties” mean

- the applicant or respondent Contracting Parties;
- the applicant (the person, non-governmental organisation or group of individuals) that lodged a complaint under Article 34 of the Convention;

(q) the expression “third party” means any Contracting Party or any person concerned or the Council of Europe Commissioner for Human Rights who, as provided for in Article 36 §§ 1, 2 and 3 of the Convention and in Article 3 of Protocol No. 16 thereto, has exercised the right to submit written comments and take part in a hearing, or has been invited to do so;

(r) the terms “hearing” and “hearings” mean oral proceedings held on the admissibility and/or merits of an application or in connection with a request for revision or an advisory opinion, a request for interpretation by a party or by the Committee of Ministers, or a question whether there has been a failure to fulfil an obligation;

(s) the expression “Committee of Ministers” means the Committee of Ministers of the Council of Europe;

(t) the terms “former Court” and “Commission” mean respectively the European Court and European Commission of Human Rights set up under former Article 19 of the Convention.

## **Rule 24<sup>2</sup> – Composition of the Grand Chamber**

1. The Grand Chamber shall be composed of seventeen judges and at least three substitute judges.

2. (a) The Grand Chamber shall include the President and the Vice-Presidents of the Court and the Presidents of the Sections. Any Vice-President of the Court or President of a Section who is unable to sit as a member of the Grand Chamber shall be replaced by the Vice-President of the relevant Section.

(b) The judge elected in respect of the Contracting Party concerned or, where appropriate, the judge designated by virtue of Rule 29 or Rule 30 shall sit as an *ex officio* member of the Grand Chamber in accordance with Article 26 §§ 4 and 5 of the Convention.

(c) In cases referred to the Grand Chamber under Article 30 of the Convention, the Grand Chamber shall also include the members of the Chamber which relinquished jurisdiction.

(d) In cases referred to it under Article 43 of the Convention, the Grand Chamber shall not include any judge who sat in the Chamber which rendered the judgment in the case so referred, with the exception of the President of that Chamber and the judge who sat in respect of the State Party concerned, or any judge who sat in the Chamber or Chambers which ruled on the admissibility of the application.

(e) The judges and substitute judges who are to complete the Grand Chamber in each case referred to it shall be designated from among the remaining judges by a drawing of lots by the President of the Court in the presence of the Registrar. The modalities for the drawing of lots shall be laid down by the Plenary Court, having due regard to the need for a geographically balanced composition reflecting the different legal systems among the Contracting Parties.

(f) In examining a request under Article 46 § 4 of the Convention, the Grand Chamber shall include, in addition to the judges referred to in paragraph 2 (a) and (b) of this Rule, the members of the

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2. As amended by the Court on 8 December 2000, 13 December 2004, 4 July and 7 November 2005, 29 May and 13 November 2006, 6 May 2013 and 19 September 2016

Chamber or Committee which rendered the judgment in the case concerned. If the judgment was rendered by a Grand Chamber, the Grand Chamber shall be constituted as the original Grand Chamber. In all cases, including those where it is not possible to reconstitute the original Grand Chamber, the judges and substitute judges who are to complete the Grand Chamber shall be designated in accordance with paragraph 2 (e) of this Rule.

(g) In examining a request for an advisory opinion under Article 47 of the Convention, the Grand Chamber shall be constituted in accordance with the provisions of paragraph 2 (a) and (e) of this Rule.

(h) In examining a request for an advisory opinion under Protocol No. 16 to the Convention, the Grand Chamber shall be constituted in accordance with the provisions of paragraph 2 (a), (b) and (e) of this Rule.

3. If any judges are prevented from sitting, they shall be replaced by the substitute judges in the order in which the latter were selected under paragraph 2 (e) of this Rule.

4. The judges and substitute judges designated in accordance with the above provisions shall continue to sit in the Grand Chamber for the consideration of the case until the proceedings have been completed. Even after the end of their terms of office, they shall continue to deal with the case if they have participated in the consideration of the merits. These provisions shall also apply to proceedings relating to advisory opinions.

5. (a) The panel of five judges of the Grand Chamber called upon to consider a referral request submitted under Article 43 of the Convention shall be composed of

- the President of the Court. If the President of the Court is prevented from sitting, he or she shall be replaced by the Vice-President of the Court taking precedence;
- two Presidents of Sections designated by rotation. If the Presidents of the Sections so designated are prevented from sitting, they shall be replaced by the Vice-Presidents of their Sections;
- two judges designated by rotation from among the judges elected by the remaining Sections to serve on the panel for a period of six months;
- at least two substitute judges designated in rotation from among the judges elected by the Sections to serve on the panel for a period of six months;

(b) When considering a referral request, the panel shall not include any judge who took part in the consideration of the admissibility or merits of the case in question.

(c) No judge elected in respect of, or who is a national of, a Contracting Party concerned by a referral request may be a member of the panel when it examines that request. An elected judge appointed pursuant to Rules 29 or 30 shall likewise be excluded from consideration of any such request.

(d) Any member of the panel unable to sit, for the reasons set out in (b) or (c) shall be replaced by a substitute judge designated in rotation from among the judges elected by the Sections to serve on the panel for a period of six months.

(e) When considering a request for an advisory opinion submitted under Article 1 of Protocol No. 16 to the Convention, the panel shall be composed in accordance with the provisions of Rule C of Chapter X.

### **Rule 29<sup>3</sup> – Ad hoc judges**

1. (a) If the judge elected in respect of a Contracting Party concerned is unable to sit in the Chamber, withdraws, or is exempted, or if there is none, the President of the Court shall choose an *ad hoc* judge, who is eligible to take part in the consideration of the case in accordance with Rule 28, from a list submitted in advance by the Contracting Party containing the names of three to five persons whom the Contracting Party has designated as eligible to serve as *ad hoc* judges for a renewable period of two years and as satisfying the conditions set out in paragraph 1 (c) of this Rule.

The list shall include both sexes and shall be accompanied by biographical details of the persons whose names appear on the list. The persons whose names appear on the list may not represent a party or a third party in any capacity in proceedings before the Court.

(b) The procedure set out in paragraph 1 (a) of this Rule shall apply if the person so appointed is unable to sit or withdraws.

(c) An *ad hoc* judge shall possess the qualifications required by Article 21 § 1 of the Convention and must be in a position to meet the demands of availability and attendance provided for in paragraph 5 of this Rule. For the duration of their appointment, an *ad hoc* judge shall not represent any party or third party in any capacity in proceedings before the Court.

2. The President of the Court shall appoint another elected judge to sit as an *ad hoc* judge where

(a) at the time of notice being given of the application under Rule 54 § 2 (b), the Contracting Party concerned has not supplied the Registrar with a list as described in paragraph 1 (a) of this Rule, or

(b) the President of the Court finds that less than three of the persons indicated in the list satisfy the conditions laid down in paragraph 1 (c) of this Rule.

3. The President of the Court may decide not to appoint an *ad hoc* judge pursuant to paragraph 1 (a) or 2 of this Rule until notice of the application is given to the Contracting Party under Rule 54 § 2 (b). Pending the decision of the President of the Court, the first substitute judge shall sit.

4. An *ad hoc* judge shall, at the beginning of the first sitting held to consider the case after the judge has been appointed, take the oath or make the solemn declaration provided for in Rule 3. This act shall be recorded in minutes.

5. *Ad hoc* judges are required to make themselves available to the Court and, subject to Rule 26 § 2, to attend the meetings of the Chamber.

6. The provisions of this Rule shall apply *mutatis mutandis* to proceedings before a panel of a Grand Chamber in connection with a request for an advisory opinion submitted under Article 1 of Protocol No. 16 to the Convention as well as to proceedings before the Grand Chamber constituted to examine requests accepted by the panel.

### **Rule 34<sup>4</sup> – Use of languages**

1. The official languages of the Court shall be English and French.

2. In connection with applications lodged under Article 34 of the Convention, and for as long as no Contracting Party has been given notice of such an application in accordance with these Rules, all communications with and oral and written submissions by applicants or their representatives, if not in one of the Court's official languages, shall be in one of the official languages of the Contracting Parties. If a Contracting Party is informed or given notice of an application in accordance with these

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3. As amended by the Court on 17 June and 8 July 2002, 13 November 2006, 29 March 2010, 6 May 2013 and 19 September 2016

4. As amended by the Court on 13 December 2004 and 19 September 2016

Rules, the application and any accompanying documents shall be communicated to that State in the language in which they were lodged with the Registry by the applicant.

3. (a) All communications with and oral and written submissions by applicants or their representatives in respect of a hearing, or after notice of an application has been given to a Contracting Party, shall be in one of the Court's official languages, unless the President of the Chamber grants leave for the continued use of the official language of a Contracting Party.

(b) If such leave is granted, the Registrar shall make the necessary arrangements for the interpretation and translation into English or French of the applicant's oral and written submissions respectively, in full or in part, where the President of the Chamber considers it to be in the interests of the proper conduct of the proceedings.

(c) Exceptionally the President of the Chamber may make the grant of leave subject to the condition that the applicant bear all or part of the costs of making such arrangements.

(d) Unless the President of the Chamber decides otherwise, any decision made under the foregoing provisions of this paragraph shall remain valid in all subsequent proceedings in the case, including those in respect of requests for referral of the case to the Grand Chamber and requests for interpretation or revision of a judgment under Rules 73, 79 and 80 respectively.

4. (a) All communications with and oral and written submissions by a Contracting Party which is a party to the case shall be in one of the Court's official languages. The President of the Chamber may grant the Contracting Party concerned leave to use one of its official languages for its oral and written submissions.

(b) If such leave is granted, it shall be the responsibility of the requesting Party

(i) to file a translation of its written submissions into one of the official languages of the Court within a time-limit to be fixed by the President of the Chamber. Should that Party not file the translation within that time-limit, the Registrar may make the necessary arrangements for such translation, the expenses to be charged to the requesting Party;

(ii) to bear the expenses of interpreting its oral submissions into English or French. The Registrar shall be responsible for making the necessary arrangements for such interpretation.

(c) The President of the Chamber may direct that a Contracting Party which is a party to the case shall, within a specified time, provide a translation into, or a summary in, English or French of all or certain annexes to its written submissions or of any other relevant document, or of extracts therefrom.

(d) The preceding sub-paragraphs of this paragraph shall also apply, *mutatis mutandis*, to third-party intervention under Rule 44 and to the use of a non-official language by a third party.

5. The President of the Chamber may invite the respondent Contracting Party to provide a translation of its written submissions in the or an official language of that Party in order to facilitate the applicant's understanding of those submissions.

6. Any witness, expert or other person appearing before the Court may use his or her own language if he or she does not have sufficient knowledge of either of the two official languages. In that event the Registrar shall make the necessary arrangements for interpreting or translation.

7. In respect of a request for an advisory opinion under Article 1 of Protocol No. 16 to the Convention, the requesting court or tribunal may submit the request as referred to in Rule B of Chapter X to the Court in the national official language used in the domestic proceedings. Where the language is not an official language of the Court, an English or French translation of the request shall be filed within a time-limit to be fixed by the President of the Court.

## Rule 44<sup>5</sup> – Third-party intervention

1. (a) When notice of an application lodged under Article 33 or 34 of the Convention is given to the respondent Contracting Party under Rules 51 § 1 or 54 § 2 (b), a copy of the application shall at the same time be transmitted by the Registrar to any other Contracting Party one of whose nationals is an applicant in the case. The Registrar shall similarly notify any such Contracting Party of a decision to hold an oral hearing in the case.

(b) If a Contracting Party wishes to exercise its right under Article 36 § 1 of the Convention to submit written comments or to take part in a hearing, it shall so advise the Registrar in writing not later than twelve weeks after the transmission or notification referred to in the preceding sub-paragraph. Another time-limit may be fixed by the President of the Chamber for exceptional reasons.

2. If the Council of Europe Commissioner for Human Rights wishes to exercise the right under Article 36 § 3 of the Convention to submit written observations or take part in a hearing, he or she shall so advise the Registrar in writing not later than twelve weeks after transmission of the application to the respondent Contracting Party or notification to it of the decision to hold an oral hearing. Another time-limit may be fixed by the President of the Chamber for exceptional reasons.

Should the Commissioner for Human Rights be unable to take part in the proceedings before the Court himself, he or she shall indicate the name of the person or persons from his or her Office whom he or she has appointed to represent him. He or she may be assisted by an advocate.

3. (a) Once notice of an application has been given to the respondent Contracting Party under Rules 51 § 1 or 54 § 2 (b), the President of the Chamber may, in the interests of the proper administration of justice, as provided in Article 36 § 2 of the Convention, invite, or grant leave to, any Contracting Party which is not a party to the proceedings, or any person concerned who is not the applicant, to submit written comments or, in exceptional cases, to take part in a hearing.

(b) Requests for leave for this purpose must be duly reasoned and submitted in writing in one of the official languages as provided in Rule 34 § 4 not later than twelve weeks after notice of the application has been given to the respondent Contracting Party. Another time-limit may be fixed by the President of the Chamber for exceptional reasons.

4. (a) In cases to be considered by the Grand Chamber, the periods of time prescribed in the preceding paragraphs shall run from the notification to the parties of the decision of the Chamber under Rule 72 § 1 to relinquish jurisdiction in favour of the Grand Chamber or of the decision of the panel of the Grand Chamber under Rule 73 § 2 to accept a request by a party for referral of the case to the Grand Chamber.

(b) The time-limits laid down in this Rule may exceptionally be extended by the President of the Chamber if sufficient cause is shown.

5. Any invitation or grant of leave referred to in paragraph 3 (a) of this Rule shall be subject to any conditions, including time-limits, set by the President of the Chamber. Where such conditions are not complied with, the President may decide not to include the comments in the case file or to limit participation in the hearing to the extent that he or she considers appropriate.

6. Written comments submitted under this Rule shall be drafted in one of the official languages as provided in Rule 34 § 4. They shall be forwarded by the Registrar to the parties to the case, who shall be entitled, subject to any conditions, including time-limits, set by the President of the Chamber, to file written observations in reply or, where appropriate, to reply at the hearing.

7. The provisions of this Rule shall apply *mutatis mutandis* to proceedings before a Grand Chamber constituted to deliver advisory opinions under Article 2 of Protocol No. 16 to the Convention. The

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5. As amended by the Court on 7 July 2003, 13 November 2006 and 19 September 2016.



President of the Grand Chamber shall determine the time-limits which apply to third-party interveners.

## **Chapter IX – Advisory Opinions under Articles 47, 48 and 49 of the Convention<sup>6</sup>**

### **Rule 82<sup>7</sup>**

In proceedings relating to advisory opinions requested by the Committee of Ministers the Court shall apply, in addition to the provisions of Articles 47, 48 and 49 of the Convention, the provisions which follow. It shall also apply the other provisions of these Rules to the extent to which it considers this to be appropriate.

## **Chapter X – Advisory Opinions under Protocol No. 16 to the Convention<sup>8</sup>**

### **Rule 1 – General**

In proceedings relating to advisory opinions requested by courts or tribunals designated by Contracting Parties pursuant to Article 10 of Protocol No. 16 to the Convention, the Court shall apply, in addition to the provisions of that Protocol, the provisions which follow. It shall also apply the other provisions of these Rules to the extent to which it considers this to be appropriate.

### **Rule 2 – The introduction of a request for an advisory opinion**

1. In accordance with Article 1 of Protocol No. 16 to the Convention, a court or tribunal of a Contracting Party to that Protocol may request the Court to give an advisory opinion on questions of principle relating to the interpretation or application of the rights and freedoms defined in the Convention and the protocols thereto. Any such request shall be filed with the Registrar of the Court.

2.1 The request shall be reasoned and shall set out

- (a) the subject matter of the domestic case and its relevant legal and factual background;
- (b) the relevant domestic legal provisions;
- (c) the relevant Convention issues, in particular the rights or freedoms at stake;
- (d) if relevant, a summary of the arguments of the parties to the domestic proceedings on the question;
- (e) if possible and appropriate, a statement of the requesting court or tribunal's own views on the question, including any analysis it may itself have made of the question.

2.2 The requesting court or tribunal shall submit any further documents of relevance to the legal and factual background of the pending case.

2.3. The requesting court or tribunal shall notify the Registrar in the event of the withdrawal of its request. On receipt of such a notification the Court shall discontinue the proceedings.

### **Rule 3 – Examination of a request by the panel**

1.1 The request for an advisory opinion shall be examined by a panel of five judges of the Grand Chamber. The panel shall be composed of

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6. Inserted by the Court on 19 September 2016

7. As amended by the Court on 19 September 2016

8. Inserted by the Court on 19 September 2016

- the President of the Court. If the President of the Court is prevented from sitting, he or she shall be replaced by the Vice-President of the Court taking precedence;
- two Presidents of Sections designated by rotation. If the Presidents of the Sections so designated are prevented from sitting, they shall be replaced by the Vice-Presidents of their Sections;
- a judge designated by rotation from among the judges elected by the remaining Sections to serve on the panel for a period of six months;
- the judge elected in respect of the Contracting Party to which the requesting court or tribunal pertains or, where appropriate, a judge appointed pursuant to Rule 29;
- at least two substitute judges designated in rotation from among the judges elected by the Sections to serve on the panel for a period of six months;

1.2 Judges serving on the panel shall continue to sit where they have participated in the examination of a request for an advisory opinion and no final decision was taken on it at the date of expiry of their period of appointment to the panel.

2. Requests for advisory opinions shall be processed as a matter of priority in accordance with Rule 41 of the Rules of Court.

3. The panel of the Grand Chamber shall accept the request if it considers that the request fulfils the requirements of Article 1 of Protocol No. 16 to the Convention.

4. The panel shall give reasons for a refusal of a request.

5. The requesting court or tribunal and the Contracting Party to which it pertains shall be notified of the panel's decision to accept or refuse a request.

#### **Rule 4 – Proceedings following the panel's acceptance of a request**

1. Where the panel accepts a request for an advisory opinion in accordance with Rule C, a Grand Chamber shall be constituted pursuant to Rule 24 § 2(h) to consider the request and to deliver an advisory opinion.

2. The President of the Grand Chamber may invite the requesting court or tribunal to submit any further information which is considered necessary for clarifying the scope of the request or its own views on the question raised by the request.

3. The President of the Grand Chamber may invite the parties to the domestic proceedings to submit written observations and, if appropriate, to take part in an oral hearing.

4. Written comments or other documents shall be filed with the Registrar in accordance with the time-limits laid down by the President of the Grand Chamber.

5. Copies of any submissions filed in accordance with the provisions of Rule 44 shall be transmitted to the requesting court or tribunal, which shall have the opportunity to comment on those submissions.

6. After the close of the written procedure, the President of the Grand Chamber shall decide whether an oral hearing should be held.

7. Advisory opinions shall be given by a majority vote of the Grand Chamber. They shall mention the number of judges constituting the majority.

8. Any judge may, if he or she so desires, attach to the advisory opinion of the Court either a separate opinion, concurring with or dissenting from the advisory opinion, or a bare statement of dissent.

9. The advisory opinion shall be signed by the President of the Grand Chamber and by the Registrar. The original copy, duly signed, shall be placed in the archives of the Court. The Registrar shall send certified copies to the requesting court or tribunal and to the Contracting Party to which that court or tribunal pertains.

10. Any third party who has intervened in the proceedings in accordance with Article 3 of Protocol No. 16 to the Convention and Rule 44 of the Rules of Court shall also receive a copy of the advisory opinion.

#### **Rule 5 – Costs of the advisory opinion proceedings and legal aid**

1. Where the President of the Grand Chamber has invited a party to the domestic proceedings to intervene in the advisory opinion proceedings pursuant to Rule 44 § 7 and Rule D.3 of Chapter X, the reimbursement of that party's costs and expenses shall not be decided by the Court but shall be determined in accordance with the law and practice of the Contracting Party to which the requesting court or tribunal pertains.

2. The provisions of Chapter XII shall apply *mutatis mutandis* where the President of the Grand Chamber has invited pursuant to Rule 44 § 7 a party to the domestic proceedings to intervene in the advisory opinion proceedings and that party lacks sufficient means to meet all or part of the costs entailed.

## II. Rules – Amendments in bold

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### Rule 1.<sup>9</sup> – Definitions

For the purposes of these Rules unless the context otherwise requires:

- (a) the term “Convention” means the Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto;
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- (e) the term “Chamber” means any Chamber of seven judges constituted in pursuance of Article 26 § 1 of the Convention and the expression “President of the Chamber” means the judge presiding over such a “Chamber”;
- (f) the term “Committee” means a Committee of three judges set up in pursuance of Article 26 § 1 of the Convention and the expression “President of the Committee” means the judge presiding over such a “Committee”;
- (g) the expression “single-judge formation” means a single judge sitting in accordance with Article 26 § 1 of the Convention;
- (h) the term “Court” means either the plenary Court, the Grand Chamber, a Section, a Chamber, a Committee, a single judge or the panel of five judges referred to in Article 43 § 2 of the Convention **and in Article 2 of Protocol No. 16 thereto**;
- (i) the expression “*ad hoc* judge” means any person chosen in pursuance of Article 26 § 4 of the Convention and in accordance with Rule 29 to sit as a member of the Grand Chamber or as a member of a Chamber;
- (j) the terms “judge” and “judges” mean the judges elected by the Parliamentary Assembly of the Council of Europe or *ad hoc* judges;
- (k) the expression “Judge Rapporteur” means a judge appointed to carry out the tasks provided for in Rules 48 and 49;
- (l) the term “non-judicial rapporteur” means a member of the Registry charged with assisting the single-judge formations provided for in Article 24 § 2 of the Convention;
- (m) the term “delegate” means a judge who has been appointed to a delegation by the Chamber and the expression “head of the delegation” means the delegate appointed by the Chamber to lead its delegation;
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9. As amended by the Court on 7 July 2003, 13 November 2006 **and 19 September 2016**.

(o) the term “Registrar” denotes the Registrar of the Court or the Registrar of a Section according to the context;

(p) the terms “party” and “parties” mean

- the applicant or respondent Contracting Parties;
- the applicant (the person, non-governmental organisation or group of individuals) that lodged a complaint under Article 34 of the Convention;

(q) the expression “third party” means any Contracting Party or any person concerned or the Council of Europe Commissioner for Human Rights who, as provided for in Article 36 §§ 1, 2 and 3 of the Convention **and in Article 3 of Protocol No. 16**, has exercised the right to submit written comments and take part in a hearing, or has been invited to do so;

(r) the terms “hearing” and “hearings” mean oral proceedings held on the admissibility and/or merits of an application or in connection with a request for revision or an advisory opinion, a request for interpretation by a party or by the Committee of Ministers, or a question whether there has been a failure to fulfil an obligation;

(s) the expression “Committee of Ministers” means the Committee of Ministers of the Council of Europe;

(t) the terms “former Court” and “Commission” mean respectively the European Court and European Commission of Human Rights set up under former Article 19 of the Convention.

## **Rule 24<sup>10</sup> – Composition of the Grand Chamber**

1. The Grand Chamber shall be composed of seventeen judges and at least three substitute judges.

2. (a) The Grand Chamber shall include the President and the Vice-Presidents of the Court and the Presidents of the Sections. Any Vice-President of the Court or President of a Section who is unable to sit as a member of the Grand Chamber shall be replaced by the Vice-President of the relevant Section.

(b) The judge elected in respect of the Contracting Party concerned or, where appropriate, the judge designated by virtue of Rule 29 or Rule 30 shall sit as an *ex officio* member of the Grand Chamber in accordance with Article 26 §§ 4 and 5 of the Convention.

(c) In cases referred to the Grand Chamber under Article 30 of the Convention, the Grand Chamber shall also include the members of the Chamber which relinquished jurisdiction.

(d) In cases referred to it under Article 43 of the Convention, the Grand Chamber shall not include any judge who sat in the Chamber which rendered the judgment in the case so referred, with the exception of the President of that Chamber and the judge who sat in respect of the State Party concerned, or any judge who sat in the Chamber or Chambers which ruled on the admissibility of the application.

(e) The judges and substitute judges who are to complete the Grand Chamber in each case referred to it shall be designated from among the remaining judges by a drawing of lots by the President of the Court in the presence of the Registrar. The modalities for the drawing of lots shall be laid down by the Plenary Court, having due regard to the need for a geographically balanced composition reflecting the different legal systems among the Contracting Parties.

(f) In examining a request under Article 46 § 4 of the Convention, the Grand Chamber shall include, in addition to the judges referred to in paragraph 2 (a) and (b) of this Rule, the members of the

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10. As amended by the Court on 8 December 2000, 13 December 2004, 4 July and 7 November 2005, 29 May and 13 November 2006, 6 May 2013 **and 19 September 2016**.

Chamber or Committee which rendered the judgment in the case concerned. If the judgment was rendered by a Grand Chamber, the Grand Chamber shall be constituted as the original Grand Chamber. In all cases, including those where it is not possible to reconstitute the original Grand Chamber, the judges and substitute judges who are to complete the Grand Chamber shall be designated in accordance with paragraph 2 (e) of this Rule.

**(g)** In examining a request for an advisory opinion under Article 47 of the Convention, the Grand Chamber shall be constituted in accordance with the provisions of paragraph 2 (a) and (e) of this Rule.

**(h) In examining a request for an advisory opinion under Protocol No. 16 to the Convention, the Grand Chamber shall be constituted in accordance with the provisions of paragraph 2 (a), (b) and (e) of this Rule.**

3. If any judges are prevented from sitting, they shall be replaced by the substitute judges in the order in which the latter were selected under paragraph 2 (e) of this Rule.

4. The judges and substitute judges designated in accordance with the above provisions shall continue to sit in the Grand Chamber for the consideration of the case until the proceedings have been completed. Even after the end of their terms of office, they shall continue to deal with the case if they have participated in the consideration of the merits. These provisions shall also apply to proceedings relating to advisory opinions.

5. (a) The panel of five judges of the Grand Chamber called upon to consider a **referral** request submitted under Article 43 of the Convention shall be composed of

- the President of the Court. If the President of the Court is prevented from sitting, he or she shall be replaced by the Vice-President of the Court taking precedence;
- two Presidents of Sections designated by rotation. If the Presidents of the Sections so designated are prevented from sitting, they shall be replaced by the Vice-Presidents of their Sections;
- two judges designated by rotation from among the judges elected by the remaining Sections to **serve** on the panel for a period of six months;
- at least two substitute judges designated in rotation from among the judges elected by the Sections to serve on the panel for a period of six months;

(b) When considering a referral request, the panel shall not include any judge who took part in the consideration of the admissibility or merits of the case in question.

(c) No judge elected in respect of, or who is a national of, a Contracting Party concerned by a referral request may be a member of the panel when it examines that request. An elected judge appointed pursuant to Rules 29 or 30 shall likewise be excluded from consideration of any such request.

(d) Any member of the panel unable to sit, for the reasons set out in (b) or (c) shall be replaced by a substitute judge designated in rotation from among the judges elected by the Sections to serve on the panel for a period of six months.

**(e) When considering a request for an advisory opinion submitted under Article 1 of Protocol No. 16 to the Convention, the panel shall be composed in accordance with the provisions of Rule C of Chapter X.**

## Rule 29.<sup>11</sup> – *Ad hoc* judges

1. (a) If the judge elected in respect of a Contracting Party concerned is unable to sit in the Chamber, withdraws, or is exempted, or if there is none, the President of the Court shall choose an *ad hoc* judge, who is eligible to take part in the consideration of the case in accordance with Rule 28, from a list submitted in advance by the Contracting Party containing the names of three to five persons whom the Contracting Party has designated as eligible to serve as *ad hoc* judges for a renewable period of two years and as satisfying the conditions set out in paragraph 1 (c) of this Rule.

The list shall include both sexes and shall be accompanied by biographical details of the persons whose names appear on the list. The persons whose names appear on the list may not represent a party or a third party in any capacity in proceedings before the Court.

(b) The procedure set out in paragraph 1 (a) of this Rule shall apply if the person so appointed is unable to sit or withdraws.

(c) An *ad hoc* judge shall possess the qualifications required by Article 21 § 1 of the Convention and must be in a position to meet the demands of availability and attendance provided for in paragraph 5 of this Rule. For the duration of their appointment, an *ad hoc* judge shall not represent any party or third party in any capacity in proceedings before the Court.

2. The President of the Court shall appoint another elected judge to sit as an *ad hoc* judge where

(a) at the time of notice being given of the application under Rule 54 § 2 (b), the Contracting Party concerned has not supplied the Registrar with a list as described in paragraph 1 (a) of this Rule, or

(b) the President of the Court finds that less than three of the persons indicated in the list satisfy the conditions laid down in paragraph 1 (c) of this Rule.

3. The President of the Court may decide not to appoint an *ad hoc* judge pursuant to paragraph 1 (a) or 2 of this Rule until notice of the application is given to the Contracting Party under Rule 54 § 2 (b). Pending the decision of the President of the Court, the first substitute judge shall sit.

4. An *ad hoc* judge shall, at the beginning of the first sitting held to consider the case after the judge has been appointed, take the oath or make the solemn declaration provided for in Rule 3. This act shall be recorded in minutes.

5. *Ad hoc* judges are required to make themselves available to the Court and, subject to Rule 26 § 2, to attend the meetings of the Chamber.

**6. The provisions of this Rule shall apply *mutatis mutandis* to proceedings before a panel of the Grand Chamber in connection with a request for an advisory opinion submitted under Article 1 of Protocol No. 16 to the Convention, as well as to proceedings before the Grand Chamber constituted to examine requests accepted by the panel.**

## Rule 34.<sup>12</sup> – Use of languages

1. The official languages of the Court shall be English and French.

2. In connection with applications lodged under Article 34 of the Convention, and for as long as no Contracting Party has been given notice of such an application in accordance with these Rules, all communications with and oral and written submissions by applicants or their representatives, if not in one of the Court's official languages, shall be in one of the official languages of the Contracting Parties. If a Contracting Party is informed or given notice of an application in accordance with these

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11. As amended by the Court on 17 June and 8 July 2002, 13 November 2006, 29 March 2010, 6 May 2013 and **19 September 2016**.

12. As amended by the Court on 13 December 2004 and **19 September 2016**.



Rules, the application and any accompanying documents shall be communicated to that State in the language in which they were lodged with the Registry by the applicant.

3. (a) All communications with and oral and written submissions by applicants or their representatives in respect of a hearing, or after notice of an application has been given to a Contracting Party, shall be in one of the Court's official languages, unless the President of the Chamber grants leave for the continued use of the official language of a Contracting Party.

(b) If such leave is granted, the Registrar shall make the necessary arrangements for the interpretation and translation into English or French of the applicant's oral and written submissions respectively, in full or in part, where the President of the Chamber considers it to be in the interests of the proper conduct of the proceedings.

(c) Exceptionally the President of the Chamber may make the grant of leave subject to the condition that the applicant bear all or part of the costs of making such arrangements.

(d) Unless the President of the Chamber decides otherwise, any decision made under the foregoing provisions of this paragraph shall remain valid in all subsequent proceedings in the case, including those in respect of requests for referral of the case to the Grand Chamber and requests for interpretation or revision of a judgment under Rules 73, 79 and 80 respectively.

4. (a) All communications with and oral and written submissions by a Contracting Party which is a party to the case shall be in one of the Court's official languages. The President of the Chamber may grant the Contracting Party concerned leave to use one of its official languages for its oral and written submissions.

(b) If such leave is granted, it shall be the responsibility of the requesting Party

(i) to file a translation of its written submissions into one of the official languages of the Court within a time-limit to be fixed by the President of the Chamber. Should that Party not file the translation within that time-limit, the Registrar may make the necessary arrangements for such translation, the expenses to be charged to the requesting Party;

(ii) to bear the expenses of interpreting its oral submissions into English or French. The Registrar shall be responsible for making the necessary arrangements for such interpretation.

(c) The President of the Chamber may direct that a Contracting Party which is a party to the case shall, within a specified time, provide a translation into, or a summary in, English or French of all or certain annexes to its written submissions or of any other relevant document, or of extracts therefrom.

(d) The preceding sub-paragraphs of this paragraph shall also apply, *mutatis mutandis*, to third-party intervention under Rule 44 and to the use of a non-official language by a third party.

5. The President of the Chamber may invite the respondent Contracting Party to provide a translation of its written submissions in the or an official language of that Party in order to facilitate the applicant's understanding of those submissions.

6. Any witness, expert or other person appearing before the Court may use his or her own language if he or she does not have sufficient knowledge of either of the two official languages. In that event the Registrar shall make the necessary arrangements for interpreting or translation.

**7. In respect of a request for an advisory opinion under Article 1 of Protocol No. 16 to the Convention, the requesting court or tribunal may submit the request as referred to in Rule B of Chapter X to the Court in the national official language used in the domestic proceedings. Where the language is not an official language of the Court, an English or French translation of the request shall be filed within a time-limit to be fixed by the President of the Court.**

## Rule 44.<sup>13</sup> – Third-party intervention

1. (a) When notice of an application lodged under Article 33 or 34 of the Convention is given to the respondent Contracting Party under Rules 51 § 1 or 54 § 2 (b), a copy of the application shall at the same time be transmitted by the Registrar to any other Contracting Party one of whose nationals is an applicant in the case. The Registrar shall similarly notify any such Contracting Party of a decision to hold an oral hearing in the case.

(b) If a Contracting Party wishes to exercise its right under Article 36 § 1 of the Convention to submit written comments or to take part in a hearing, it shall so advise the Registrar in writing not later than twelve weeks after the transmission or notification referred to in the preceding sub-paragraph. Another time-limit may be fixed by the President of the Chamber for exceptional reasons.

2. If the Council of Europe Commissioner for Human Rights wishes to exercise the right under Article 36 § 3 of the Convention to submit written observations or take part in a hearing, he or she shall so advise the Registrar in writing not later than twelve weeks after transmission of the application to the respondent Contracting Party or notification to it of the decision to hold an oral hearing. Another time-limit may be fixed by the President of the Chamber for exceptional reasons.

Should the Commissioner for Human Rights be unable to take part in the proceedings before the Court himself, he or she shall indicate the name of the person or persons from his or her Office whom he or she has appointed to represent him. He or she may be assisted by an advocate.

3. (a) Once notice of an application has been given to the respondent Contracting Party under Rules 51 § 1 or 54 § 2 (b), the President of the Chamber may, in the interests of the proper administration of justice, as provided in Article 36 § 2 of the Convention, invite, or grant leave to, any Contracting Party which is not a party to the proceedings, or any person concerned who is not the applicant, to submit written comments or, in exceptional cases, to take part in a hearing.

(b) Requests for leave for this purpose must be duly reasoned and submitted in writing in one of the official languages as provided in Rule 34 § 4 not later than twelve weeks after notice of the application has been given to the respondent Contracting Party. Another time-limit may be fixed by the President of the Chamber for exceptional reasons.

4. (a) In cases to be considered by the Grand Chamber, the periods of time prescribed in the preceding paragraphs shall run from the notification to the parties of the decision of the Chamber under Rule 72 § 1 to relinquish jurisdiction in favour of the Grand Chamber or of the decision of the panel of the Grand Chamber under Rule 73 § 2 to accept a request by a party for referral of the case to the Grand Chamber.

(b) The time-limits laid down in this Rule may exceptionally be extended by the President of the Chamber if sufficient cause is shown.

5. Any invitation or grant of leave referred to in paragraph 3 (a) of this Rule shall be subject to any conditions, including time-limits, set by the President of the Chamber. Where such conditions are not complied with, the President may decide not to include the comments in the case file or to limit participation in the hearing to the extent that he or she considers appropriate.

6. Written comments submitted under this Rule shall be drafted in one of the official languages as provided in Rule 34 § 4. They shall be forwarded by the Registrar to the parties to the case, who shall be entitled, subject to any conditions, including time-limits, set by the President of the Chamber, to file written observations in reply or, where appropriate, to reply at the hearing.

**7. The provisions of this Rule shall apply *mutatis mutandis* to proceedings before the Grand Chamber constituted to deliver advisory opinions under Article 2 of Protocol No. 16 to the**

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13. As amended by the Court on 7 July 2003, 13 November 2006 and 19 September 2016.

**Convention. The President of the Court shall determine the time-limits which apply to third-party interveners.**

## **Chapter IX – Advisory Opinions under Articles 47, 48 and 49 of the Convention.<sup>14</sup>**

### **Rule 82.<sup>15</sup>**

In proceedings relating to advisory opinions **requested by the Committee of Ministers** the Court shall apply, in addition to the provisions of Articles 47, 48 and 49 of the Convention, the provisions which follow. It shall also apply the other provisions of these Rules to the extent to which it considers this to be appropriate.

## **Chapter X – Advisory Opinions under Protocol No. 16 to the Convention.<sup>16</sup>**

### **Rule 1 – General**

In proceedings relating to advisory opinions requested by courts or tribunals designated by Contracting Parties pursuant to Article 10 of Protocol No. 16 to the Convention, the Court shall apply, in addition to the provisions of that Protocol, the provisions which follow. It shall also apply the other provisions of these Rules to the extent to which it considers this to be appropriate.

### **Rule 2 – The introduction of a request for an advisory opinion**

1. In accordance with Article 1 of Protocol No. 16 to the Convention, a court or tribunal of a Contracting Party to that Protocol may request the Court to give an advisory opinion on questions of principle relating to the interpretation or application of the rights and freedoms defined in the Convention and the Protocols thereto. Any such request shall be filed with the Registrar of the Court.

2.1 The request shall be reasoned and shall set out

- (a) the subject matter of the domestic case and its relevant legal and factual background;
- (b) the relevant domestic legal provisions;
- (c) the relevant Convention issues, in particular the rights or freedoms at stake;
- (d) if relevant, a summary of the arguments of the parties to the domestic proceedings on the question; and
- (e) if possible and appropriate, a statement of the requesting court's or tribunal's own views on the question, including any analysis it may itself have made of the question.

2.2 The requesting court or tribunal shall submit any further documents of relevance to the legal and factual background of the pending case.

2.3 The requesting court or tribunal shall notify the Registrar in the event of the withdrawal of its request. On receipt of such a notification the Court shall discontinue the proceedings.

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14. Inserted by the Court on 19 September 2016.

15. As amended by the Court on 19 September 2016.

16. Inserted by the Court on 19 September 2016.

### **Rule 3 – Examination of a request by the panel**

**1.1 The request for an advisory opinion shall be examined by a panel of five judges of the Grand Chamber. The panel shall be composed of**

**(a) the President of the Court. If the President of the Court is prevented from sitting, he or she shall be replaced by the Vice-President of the Court taking precedence;**

**(b) two Presidents of Sections designated by rotation. If the Presidents of the Sections so designated are prevented from sitting, they shall be replaced by the Vice-Presidents of their Sections;**

**(c) a judge designated by rotation from among the judges elected by the remaining Sections to serve on the panel for a period of six months;**

**(d) the judge elected in respect of the Contracting Party to which the requesting court or tribunal pertains or, where appropriate, a judge appointed pursuant to Rule 29; and**

**(e) at least two substitute judges designated in rotation from among the judges elected by the Sections to serve on the panel for a period of six months.**

**1.2 Judges serving on the panel shall continue to serve where they have participated in the examination of a request for an advisory opinion and no final decision has been taken on it at the date of expiry of their period of appointment to the panel.**

**2. Requests for advisory opinions shall be processed as a matter of priority in accordance with Rule 41 of the Rules of Court.**

**3. The panel of the Grand Chamber shall accept the request if it considers that it fulfils the requirements of Article 1 of Protocol No. 16 to the Convention.**

**4. The panel shall give reasons for a refusal of a request.**

**5. The requesting court or tribunal and the Contracting Party to which it pertains shall be notified of the panel's decision to accept or refuse a request.**

### **Rule 4 – Proceedings following the panel's acceptance of a request**

**1. Where the panel accepts a request for an advisory opinion in accordance with Rule C, a Grand Chamber shall be constituted pursuant to Rule 24 § 2 (h) to consider the request and to deliver an advisory opinion.**

**2. The President of the Grand Chamber may invite the requesting court or tribunal to submit any further information which is considered necessary for clarifying the scope of the request or its own views on the question raised by the request.**

**3. The President of the Grand Chamber may invite the parties to the domestic proceedings to submit written observations and, if appropriate, to take part in an oral hearing.**

**4. Written comments or other documents shall be filed with the Registrar in accordance with the time-limits laid down by the President of the Grand Chamber.**

**5. Copies of any submissions filed in accordance with the provisions of Rule 44 shall be transmitted to the requesting court or tribunal, which shall have the opportunity to comment on those submissions.**

**6. After the close of the written procedure, the President of the Grand Chamber shall decide whether an oral hearing should be held.**

**7. Advisory opinions shall be given by a majority vote of the Grand Chamber. They shall mention the number of judges constituting the majority.**

8. Any judge may, if he or she so desires, attach to the advisory opinion of the Court either a separate opinion, concurring with or dissenting from the advisory opinion, or a bare statement of dissent.

9. The advisory opinion shall be signed by the President of the Grand Chamber and by the Registrar. The original copy, duly signed, shall be placed in the archives of the Court. The Registrar shall send certified copies to the requesting court or tribunal and to the Contracting Party to which that court or tribunal pertains.

10. Any third party who has intervened in the proceedings in accordance with Article 3 of Protocol No. 16 to the Convention and Rule 44 of the Rules of Court shall also receive a copy of the advisory opinion.

#### **Rule 5 – Costs of the advisory-opinion proceedings and legal aid**

1. Where the President of the Grand Chamber has invited a party to the domestic proceedings to intervene in the advisory-opinion proceedings pursuant to Rule 44 § 7 and Rule D § 3 of this Chapter, the reimbursement of that party's costs and expenses shall not be decided by the Court but shall be determined in accordance with the law and practice of the Contracting Party to which the requesting court or tribunal pertains.

2. The provisions of Chapter XII shall apply *mutatis mutandis* where the President of the Grand Chamber has invited pursuant to Rule 44 § 7 and Rule D § 3 of this Chapter a party to the domestic proceedings to intervene in the advisory-opinion proceedings and that party lacks sufficient means to meet all or part of the costs entailed.