

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1972 Nr. 135

A. TITEL

Protocol tot instelling van een Commissie van verzoening en goede diensten, belast met het zoeken van een oplossing voor geschillen, welke kunnen rijzen tussen Staten die partij zijn bij het Verdrag nopens de bestrijding van discriminatie in het onderwijs;

Parijs, 18 december 1962

B. TEKST

De Engelse en de Franse tekst van het Protocol zijn geplaatst in *Trb.* 1964, 102.

C. VERTALING

Zie *Trb.* 1964, 102.

D. GOEDKEURING

Zie *Trb.* 1966, 206.

E. BEKRACHTIGING

Zie *Trb.* 1964, 102, *Trb.* 1966, 206 en *Trb.* 1968, 147 *).

*) Tegen de bekrachtiging mede voor het „Land” Berlijn door de Bondsrepubliek Duitsland en tegen de aanvaarding door de Republiek Vietnam is onderscheidenlijk bezwaar gemaakt door Hongarije, de Oekraïne, Roemenië, de Sowjet-Unie en Witrusland en door de Oekraïne, de Sowjet-Unie en Witrusland.

Behalve de aldaar genoemde hebben nog de volgende Staten, overeenkomstig artikel 22, tweede lid, van het Protocol, een akte van bekrachtiging of aanvaarding bij de Directeur-Generaal van de Organisatie der Verenigde Naties voor Onderwijs, Wetenschap en Cultuur nedergelegd:

Oeganda	9 september 1968
Noorwegen	19 september 1968
Costa Rica	11 december 1969
Cyprus	9 juni 1970

G. INWERKINGTREDING

Zie *Trb.* 1968, 147.

H. TOEPASSELIJKVERKLARING

Zie *Trb.* 1966, 206.

J. GEGEVENS

Zie *Trb.* 1964, 102, *Trb.* 1966, 206 en *Trb.* 1968, 147.

In overeenstemming met artikel 102 van het Handvest der Verenigde Naties is het Protocol op 2 december 1968 geregistreerd bij het Secretariaat der Verenigde Naties onder nr. 6193. De tekst van het Protocol is afgedrukt in „Recueil des Traités” van de Verenigde Naties, deel 651, blz. 362 e.v.

Voor het op 16 november 1945 te Londen tot stand gekomen Statuut van de Organisatie der Verenigde Naties voor Onderwijs, Wetenschap en Cultuur zie ook, laatstelijk, *Trb.* 1971, 209.

Voor het op 15 december 1960 te Parijs tot stand gekomen Verdrag nopens de bestrijding van discriminatie in het onderwijs zie ook *Trb.* 1972, 134.

Voor het op 26 juni 1945 te San Francisco tot stand gekomen Statuut van het Internationale Gerechtshof zie ook *Trb.* 1971, 55.

Voor het op 29 juli 1899 te 's-Gravenhage tot stand gekomen Verdrag voor de vreedzame beslechting van internationale geschillen zie ook *Trb.* 1970, 142.

Voor het op 18 oktober 1907 te 's-Gravenhage tot stand gekomen Verdrag voor de vreedzame beslechting van internationale geschillen zie ook *Trb.* 1970, 143.

In overeenstemming met het in artikel 11, derde lid, van het Protocol bepaalde heeft de Commissie van verzoening en goede diensten op 21 december 1971 haar Huishoudelijk Reglement vastgesteld. De Engelse tekst van het Reglement luidt als volgt:

Rules of Procedure of the Conciliation and Good Offices Commission

(declared as adopted on 21 December 1971)

PREAMBLE

The Conciliation and Good Offices Commission (hereinafter referred to as the Commission) to be responsible for seeking the settlement of any disputes which may arise between States Parties to the Convention against Discrimination in Education (hereinafter referred to as the Convention),

Having regard to Article 1 of the Protocol instituting a Conciliation and Good Offices Commission to be responsible for seeking the amicable settlement of disputes between States Parties to the Convention against Discrimination in Education (hereinafter referred to as the Protocol);

Having regard to the other provisions of the said Protocol,

Acting in pursuance of paragraphs 2 and 3 of Article 11 of the Protocol,

Establishes the present Rules:

TITLE I**Organization and working of the Commission****CHAPTER I***Members of the Commission***Rule 1**

1. The term of office of members of the Commission elected at the sixteenth session of the General Conference shall be calculated as from 6 November 1970.

2. In the case of members elected at subsequent sessions of the General Conference, the term of office shall be calculated as from the date of the expiry of the term of their predecessors.

3. However, in the case of the replacement of a member whose seat has been declared vacant in accordance with the provisions of Article 6 of the Protocol the new member shall take up his duties on his election and for the unexpired portion of the term of office.

4. Subject to the provisions of Article 6 of the Protocol, a member of the Commission shall remain in office until his successor takes up his duties.

Rule 2

1. Any State Party to a dispute which intends to choose a person to sit on the Commission as a member *ad hoc* under the provisions of

Article 8 of the Protocol shall so notify the Secretary of the Commission. A State Party which refers a dispute to the Commission shall notify at the time of referral. Other States Parties shall give notification within a time-limit fixed by the Chairman.

2. The name, address and biographical résumé of the person chosen to sit as a member *ad hoc* shall be stated, as the case may be, either at the time of referral of the dispute to the Commission or within the time-limit fixed by the Chairman.

3. The notification mentioned in the preceding paragraphs shall be communicated to the other States Parties to the dispute.

4. The provisions of Article 30 shall apply to the choosing of members *ad hoc*.

Rule 3

If, on receipt of one or more notifications under the terms of the preceding Rule, the Chairman finds (notes) that several States Parties to the dispute have the same interest and that none of them has a member of its nationality on the Commission, the Chairman shall fix a time-limit within which these States Parties, acting in agreement, shall choose a member *ad hoc* under the provisions of Article 8 of the Protocol. In the event of a dispute that the same interest exists, the Chairman shall refer it to the Commission which shall decide after receiving, if necessary, the observations of the States Parties to the dispute.

Rule 4

If a member *ad hoc* chosen under the provisions of Article 8 of the Protocol is unable to carry out his duties, the Chairman shall notify each State Party to the dispute concerned and fix a new and appropriate time-limit within which the State Party or States Parties, shall, if desired, choose another member *ad hoc*.

Rule 5

In the event that a member *ad hoc* has not been chosen under the provisions of Article 8 of the Protocol within the time-limit fixed by the Chairman under Rules 2, 3 and 4, the Commission shall nevertheless proceed to deal with the dispute.

Rule 6

Ad hoc members chosen under the provisions of Article 8 of the Protocol shall sit with the members of the Commission for the dispute for which they have been chosen and participate under the same conditions in the proceedings for such matter.

Rule 7

1. Each member and member *ad hoc* of the Commission shall make the following declaration:

"I solemnly declare that I will perform my duties and exercise my powers as a member of the Commission honourably, faithfully, impartially and conscientiously".

2. This declaration shall be made at the first meeting of the Commission at which the member is present after his election or after being chosen under the provisions of Article 8 of the Protocol.

CHAPTER II

Chairmanship of the Commission

Rule 8

1. In accordance with Article 11 of the Protocol, the Commission shall elect a Chairman and a Vice-Chairman. The Chairman and the Vice-Chairman shall remain in office until such time as their successors take up their duties.

2. The elections referred to in the present Rule shall take place by secret ballot. The member of the Commission obtaining an absolute majority (i.e. more than half) of the votes cast shall be declared elected. If no member receives an absolute majority, a second ballot shall take place. The member receiving the most votes shall then be elected. If the vote is equally divided, the member having precedence according to the length of time in office or, in the event of equal time in office, according to seniority of age.

Rule 9

The Chairman shall direct the work of the Commission; he shall preside at the meetings of the Commission.

Rule 10

The Vice-Chairman shall take the place of the Chairman if the latter is unable to carry out his duties or if the office of Chairman is vacant.

Rule 11

If at the same time both the Chairman and the Vice-Chairman are unable to fulfil their duties, or if both offices are vacant at the same time, the duties of Chairman shall be discharged by another member according to the order of precedence laid down in paragraph 2 of Rule 8.

Rule 12

If the Chairman is a national of one of the States Parties to a dispute referred to the Commission, he shall abstain from exercising his functions as Chairman in respect of that dispute. The same rule shall apply to the Vice-Chairman or to any member of the Commission who may be called on to act as Chairman.

Rule 13

If the Chairman of the Commission for some special reason considers that he should abstain from exercising his functions as Chairman in respect of a particular dispute, he shall so inform the Vice-Chairman or the member acting in his place.

Rule 14

If the examination of a dispute has begun before a periodic election of members of the Commission and continues after such election, the duties of the Chairman shall be discharged by the member of the Commission who presided when the dispute was last under examination. If he is unable to sit, the duties of Chairman shall be performed by the newly elected Chairman or, failing him, the newly elected Vice-Chairman, provided that the Chairman or the Vice-Chairman, as the case may be, is not otherwise precluded from being Chairman under these Rules. If neither is able to be Chairman, the duties of Chairman shall be performed by another member according to the order of precedence laid down in paragraph 2 of Rule 8.

CHAPTER III

Secretariat of the Commission

Rule 15

1. Pursuant to Article 10 of the Protocol, the Secretariat of the Commission shall be provided by the Director-General of the United Nations Educational, Scientific and Cultural Organization.

2. The Director-General shall appoint the Secretary and the Deputy Secretary of the Commission.

Rule 16

The Secretary of the Commission

- (a) shall assist the Commission and the members of the Commission in the fulfilment of their duties;
- (b) shall be the channel for all communications concerning the Commission;
- (c) shall have custody of the archives of the Commission.

Rule 17

1. A special register shall be kept at the Secretariat. In this register, the Secretary of the Commission shall enter all significant data concerning the referral of a dispute to the Commission and the conduct and disposition of each proceeding thereon. In particular, all disputes, relevant pleadings and exhibits shall be entered in the order of their submission and without intervening spaces or deletions.

2. Entries in the register and the notes of entries on the original documents and, at the request of the States Parties, on copies presented by them for that purpose shall have effect as certified matters of record.

3. The manner of keeping the register shall be laid down by the Chairman in agreement with the Secretary of the Commission.

Rule 18

The duties of the Secretary of the Commission, other than those specified in Rule 16 and 17, shall be laid down by the Chairman in agreement with the Director-General.

CHAPTER IV

Working of the Commission

Rule 19

The seat of the Commission shall be at the seat of the United Nations Educational, Scientific and Cultural Organization at Paris.

Rule 20

The Commission shall be convened when necessary by the Chairman. It shall also be convened by the Chairman when at least one-third of the members of the Commission consider that the Commission should examine a matter in accordance with the provisions of the Protocol.

Rule 21

The date and time of meetings shall be fixed by the Chairman after consultation with the Director-General.

Rule 22

1. Two-thirds of the members, including the members *ad hoc*, if any, shall constitute a quorum.

2. If a meeting of the Commission has been convened and it is found that there is no quorum, the Chairman, before adjourning the sitting until a quorum has been obtained, shall call together the members present for consultations.

Rule 23

Meetings of the Commission shall be held in camera.

Rule 24

1. The hearings of the Commission shall take place in private and, except as the States Parties otherwise agree, shall remain secret.

2. The Commission shall decide, with the consent of the States Parties, which other persons besides the States Parties, their agents, counsels and advocates, and Secretariat of the Commission, may attend the hearings.

Rule 25

1. The Commission shall deliberate in private. Its deliberations shall be and shall remain secret.

2. Only the members and the members *ad hoc* of the Commission shall take part in the deliberations of the Commission.

3. The Secretary and Deputy Secretary of the Commission shall be present at the deliberations. No other person may be admitted except by decision of the Commission.

Rule 26

1. Decisions of the Commission shall be made by a majority of the members and members *ad hoc* present.

2. If a vote is equally divided, the Chairman shall have a casting vote.

Rule 27

The minutes of deliberations shall be secret; they shall be limited to a record of the subject of the discussions, the votes taken, the names of those voting for and against a motion and any statements expressly made for insertion in the minutes.

Rule 28

Members who are prevented by illness or other serious reason from taking part in the meetings shall, as soon as possible, give notice thereof to the Secretary of the Commission who shall inform the Chairman.

Rule 29

If a member of the Commission for some special reason considers that he should not take part in the examination of a particular dispute, the Chairman and the member concerned shall consult together. In the event of disagreement, the Commission shall decide.

Rule 30

Members of the Commission may not take part in the examination of any dispute referred to the Commission and in which they have previously acted as the agents, advisers or legal representatives of one of the States Parties to the dispute or concerning which they have been required to state an opinion. In the event of doubt or dispute, the Commission shall decide.

TITLE II**Procedure****CHAPTER I***General Rules***Rule 31**

The official languages of the Commission shall be English, French, Spanish and Russian.

Rule 32

1. The States Parties to the dispute may agree for their use on one or more languages as working languages in the proceedings, provided that, subject to the provisions of paragraph 2 of this Rule, if they agree on any language that is not an official language, the Commission or, in the interval between meetings, the Chairman, after consultation with the Director-General, approves. If the States Parties to the dispute do not agree on any such working language or languages, each of them may select one of the official languages for this purpose.

2. If a State Party to a dispute uses a language other than an official language of the Commission, it shall be wholly responsible for the arrangements for and the special expenses incurred by any translation and interpretation into and from that language.

Rule 33

The States Parties to the dispute shall be represented before the Commission by their agents who may have the assistance of counsel or advocates.

Rule 34

1. The Commission shall deal with disputes referred to it in the order in which they become ready for hearing. It may, however, decide to give precedence to a particular dispute.

2. The Commission may at the request of a State Party to a dispute or *ex officio* order that the examination of the dispute be adjourned.

Rule 35

The Commission may, if it considers necessary, order the joinder of two or more disputes.

CHAPTER II

Institution of proceedings

Rule 36

The notice by a State referring a dispute to the Commission under Article 12 of the Protocol shall be dated, shall be signed by that State Party, shall state the name of the agent of that State Party, and shall set forth the initial communication of the complaining State, the explanation or statement, if any, of the receiving State concerning the matter, together with such other correspondence as may have been exchanged between the States Parties to the dispute.

Rule 37

1. If States Parties to the Convention agree to submit a dispute to the Commission in accordance with the provisions of Article 13 of the Protocol, the dispute may be referred to the Commission by notification of the agreement to the Director-General by one or more of the States Parties to the agreement.

2. The agreement to submit a dispute to the Commission in accordance with the provisions of Article 13 of the Protocol shall set forth the States Parties to the dispute, the provision or provisions of the Convention, the application or interpretation of which have given rise to the dispute, as well as any measures agreed concerning the settlement of the dispute.

Rule 38

The State Party or States Parties referring a dispute to the Commission under Article 12 or Article 13 of the Protocol shall provide information enabling the Commission to determine whether the conditions laid down in Article 14 of the Protocol have been satisfied.

Rule 39

The notice given by a State in referring a dispute to the Commission under Article 12 of the Protocol, or the agreement to submit a dispute to the Commission under Article 13 of the Protocol, notified to the Director-General, as the case may be, shall be accompanied by six additional signed copies. The Director-General may require such further copies as he may deem necessary.

Rule 40

The Director-General shall transmit the notice mentioned in Rule 36 or the agreement mentioned in Rule 37, as the case may be, to the Chairman of the Commission.

Rule 41

1. When a dispute is referred to the Commission under Article 12, the Secretary of the Commission shall forthwith transmit to the other State Party to the dispute a copy of the notice certified as correct.

2. When a dispute is referred to the Commission under Article 13 by means of an agreement filed by one only of the States Parties to the dispute, the Secretary of the Commission shall forthwith notify the other State Party that it has been sofiled.

Rule 42

1. The Secretary of the Commission shall forthwith transmit to all members and members *ad hoc* of the Commission copies of notices given to the Director-General in referring a dispute to the Commission under Article 12 of the Protocol or of any agreement to submit a dispute to the Commission under Article 13 of the Protocol notified to the Director-General in accordance with Rule 37.

2. The Secretary of the Commission shall inform the States Parties to the Convention of any notice by a State in referring a dispute to the Commission under Article 12 of the Protocol or of any agreement to submit a dispute to the Commission under Article 13 of the Protocol notified by the Director-General in accordance with Rule 37.

Rule 43

1. When a dispute is referred to the Commission under Article 12 of the Protocol, the State Party to whom notice is given shall, when acknowledging receipt of the notice, or failing this, as soon as possible, inform the Commission of the name of its agent.

2. When a dispute is referred to the Commission by notification of an agreement to submit a dispute under Article 13 of the Protocol, the appointment of the agent or agents of the State Party or the States Parties filing the agreement shall be notified at the same time as the agreement is filed. If the agreement is filed by one only of the States Parties, the other State Party shall, when acknowledging receipt of the notification of the filing of the agreement or failing this, as soon as possible, inform the Commission of the name of its agent.

3. The appointment of an agent must be accompanied by a statement of an address for service at the seat of the Commission or in Paris to which all communications relating to the dispute should be sent.

Rule 44

1. The State referring a dispute to the Commission under Article 12 may, by written notice to the Chairman, withdraw the dispute.
2. A dispute referred to the Commission under Article 13 may be withdrawn by written notice to the Chairman given by all States Parties to the agreement to submit the dispute.
3. The Secretary of the Commission shall inform all States Parties to the Convention of the withdrawal of the dispute.

CHAPTER III

Procedure before the Commission

Rule 45

As early as possible after a dispute has been referred to the Commission under Article 12 or Article 13 of the Protocol, but before the Commission has been convened, the Chairman shall ascertain the views of the States Parties to the dispute regarding questions of procedure. For this purpose he may request these States Parties to meet with him. He shall, in particular, ascertain their views on the following:

- (a) the language or languages to be used in the proceeding;
- (b) the written or oral submissions which each State Party to the dispute intends to make, and the time-limits within which such submissions shall be made.

Rule 46

During the meeting referred to in Rule 49, or at any time thereafter but before the Commission has been convened, the Chairman may suggest to the Parties any measures likely to bring about the amicable settlement of the dispute.

Rule 47

1. In the light of the information obtained by him pursuant to Rule 45, the Commission, or in the interval between meetings, the Chairman shall determine the time-limits for the conduct of the proceedings.

2. So far as possible, in the application of paragraph 1 of this Rule, any agreement between the States Parties to the dispute shall be taken into account.

3. The Commission, or in the interval between meetings, the Chairman, may extend any time-limit which has been fixed. In special circumstances and after the opposing State Party has been given an opportunity of stating its views, the Commission, or in the interval between meetings, the Chairman, may decide that any step taken after the expiration of a time-limit shall be considered as valid.

Rule 48

When pursuant to Article 12 of the Protocol a dispute is referred to the Commission, the Chairman of the Commission shall invite the State Party to whom notice is given as well as any State Party to the Protocol whose national is concerned to submit to the Commission its observations in writing on the admissibility of such matter.

Rule 49

The Commission, before it decides as to the admissibility of a dispute, may, if it thinks fit, invite the States Parties to the dispute and any State Party to the Protocol whose national is concerned to submit to it further comments in writing. It may also invite these States Parties to make oral explanations.

Rule 50

The decision of the Commission in regard to the admissibility of a dispute shall be accompanied by reasons. The Secretary of the Commission shall communicate such decision to the States Parties to the dispute and to any State Party to the Protocol whose national is concerned.

Rule 51

1. If the Commission accepts the dispute referred to it under Article 12 or Article 13 of the Protocol, in order to clarify the issues in dispute between the States Parties, it shall hear these States Parties and shall endeavour to obtain any information that might serve this end. These States Parties shall be associated with its work as closely as possible.

2. In order to bring about agreement between the States Parties to the dispute, as provided in Article 17 of the Protocol, the Commission may, from time to time at any stage of the proceeding make – orally or in writing – recommendations to the States Parties to the dispute. It may recommend that the States Parties to the dispute accept specific terms of settlement. It shall point out to the States Parties to the dispute arguments in favour of its recommendations. It may fix time-limits within which each State Party to the dispute shall inform the Commission of its decision concerning the recommendations made.

3. The Commission, in order to obtain information that might enable it to discharge its functions, may at any stage of the proceeding request from either State Party to the dispute or from a State Party to the Protocol whose national is concerned oral explanations, documents and other information.

Rule 52

1. The Commission may take any other measure which it considers expedient in order to carry out the duties laid down in Article 17 of the Protocol.

2. The Commission shall take formal note of the refusal of any State Party to the dispute to comply with such measures.

CHAPTER IV

Reports of the Commission on disputes referred to it

Rule 53

The Report provided for in paragraph 3 of Article 17 of the Protocol in the event that a solution within the terms of paragraph 1 of that Article is reached shall contain:

- (a) the date on which it was drawn up;
- (b) the names of the Chairman and members and members *ad hoc* of the Commission;
- (c) the names of the States Parties;
- (d) the names of the agents, counsel and advocates of the States Parties;
- (e) a statement of facts;
- (f) the terms of the solution reached;
- (g) a statement of the number of members of the Commission forming a majority.

Rule 54

The report provided for in paragraph 3 of Article 17 in the event that a solution within the terms of paragraph 1 of that Article is not reached shall contain, in addition to items (a), (b), (c), (d), (e) and (g) as specified in Rule 53, the recommendations which the Commission made with a view to conciliation and any proposal which the Commission may consider appropriate.

Rule 55

Each member of the Commission or member *ad hoc* may, in accordance with paragraph 3 of Article 17 of the Protocol, attach to the reports of the Commission provided for in such paragraph a separate opinion.

Rule 56

The reports provided for in paragraph 3 of Article 17 of the Protocol shall be signed by the Chairman and by the Secretary of the Commission.

Rule 57

The reports of the Commission provided for in paragraph 3 of Article 17 of the Protocol attached with each separate opinion, if any, together with the written and oral submissions made by the parties to the dispute in accordance with Article 11, paragraph 2 (c) of the Protocol, shall be sent to the States Parties to the dispute and to any State

Party to the Protocol whose national is concerned and then communicated to the Director-General for publication.

TITLE III

Report to the General Conference on the Commission's activities

Rule 58

The Chairman shall prepare and submit to the General Conference on behalf of the Commission the reports on the Commission's activities mentioned in Article 19 of the Protocol. These reports shall be sent in advance to the members of the Commission for their observations, if any, within a fixed time-limit.

TITLE IV

Final Provisions

Rule 59

Any question not dealt with in these Rules shall be decided by the Commission.

Rule 60

1. These Rules, except when they reproduce provisions of the Protocol, may be altered by decision of the Commission taken by a majority of the members of the Commission present and voting.

2. The Rules as altered shall be communicated to the Parties to the Protocol.

Uitgegeven de zeventiende november 1972.

De Minister van Buitenlandse Zaken,
W. K. N. SCHMELZER.