

## Information Note: Requirements for the selection of candidates for UN Human Rights Treaty Body membership

Compliance with each core human rights treaty is monitored by a treaty body, which receives State reports, engages in dialogue with State parties, makes recommendations on the implementations of the rights enshrined in the document and, in most cases, treats complaints of individuals who claim their rights have been violated.

The **creation of a committee of independent experts**, i.e. treaty body, is generally prescribed in the treaty itself, which establishes certain requirements that these experts must satisfy to guarantee the integrity of the committee<sup>1</sup>. This note aims to underscore the key criteria based on which members of UN treaty bodies must be selected.

To be elected as member of UN treaty bodies, candidates must meet the following requirements:

- State Party nationality;<sup>2</sup>
- High moral standing/character;<sup>3</sup>
- Serving in a personal capacity;<sup>4</sup>
- Recognized competence in the field of human rights/ in the field covered by the convention<sup>5</sup> (except the International Convention on the Elimination of All Forms of Racial Discrimination);
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In addition, States must ensure:

- Equitable geographical distribution.<sup>6</sup>
- balanced gender representation in the composition of the treaty bodies;<sup>7</sup>
- the representation of different forms of civilization and of the principal legal systems.<sup>8</sup>

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<sup>1</sup> Exception to the rule is the International Covenant on Economic, Social, and Cultural Rights. The Committee on Economic, Social and Cultural Rights is regulated under ECOSOC Resolution 1985/17 of 28 May 1985.

<sup>2</sup> A/RES/2200A (XXI), ICCPR art. 28.2; A/RES/34/180, CEDAW art. 17; A/RES/2106 (XX), CERD art. 8; A/RES/44/25, CRC art. 43; A/RES/61/106, CRPD art 34.5; A/RES/39/46, CAT art. 17.2; A/RES/45/158 CMW art. 72.2(a); A/RES/47/133, CED art. 26.2

<sup>3</sup> ICCPR art. 28.2; CEDAW art. 17; CERD art. 8.1; CRC art. 43.2; CRPD art. 34.3; CAT art. 17.1; CMW art. 72.1(b); CED art. 26.1

<sup>4</sup> ICCPR art. 28.3; CEDAW art. 17; CERD art. 8.1; CRC art. 43.2; CRPD art. 34.3; CAT art. 17.1; CMW art. 72.2(b); CED art. 26.1; ECOSOC/1985/17 para. b

<sup>5</sup> ICCPR art. 28.2; CEDAW art. 17; CRC art. 43.2; CRPD art. 34.3; CAT art. 17.1; CMW art. 72.1(b); CED art. 26.1; ECOSOC/1985/17 para. b

<sup>6</sup> ICCPR art. 31.2; CEDAW art. 17; CERD art. 8.1; CRC art. 43.2; CRPD art. 34.4; CAT art. 17.1; CMW art. 72.2(a); CED art. 26.1; ECOSOC/1985/17 para. b

<sup>7</sup> CRPD art. 34.4; CED art. 26.1.

<sup>8</sup> ICCPR art. 31.2; CEDAW art. 17; CERD art. 8.1; CRPD art. 34.4; ECOSOC/1985/17 para. b.

In relation to equal geographical representation, the ECOSOC Resolution 1985/17 goes a step further by prescribing the **equal distribution of seats** in the Committee on Economic, Social and Cultural Rights among the regional groups.<sup>9</sup>

In addition to the requirement of recognized competence in the field covered by the convention, or generally in human rights, the International Covenant on Civil and Political Rights and the Convention on Torture underscore the importance of nominating candidates that have **legal experience**.<sup>10</sup>

Further to the Convention on the Rights of Persons with Disabilities and the Convention on Enforced Disappearances, the requirement of balanced gender representation among committee members has been emphasized by **General Assembly (GA) resolution 68/268**.<sup>11</sup> The **Report of the co-facilitators on the process of the consideration of the state of the UN human rights treaty body system**, stemming from the GA's decision to review the state of the treaty body system six years after the adoption of the resolution,<sup>12</sup> also recommend ensuring due consideration of gender representation in the selection of committee members.<sup>13</sup>

At the Human Rights Council level, Resolution A/HRC/RES/41/6<sup>14</sup> and the Advisory Committee's report on "Current levels of representation of women in human rights organs and mechanisms: ensuring gender balance"<sup>15</sup> also stress the importance of gender balance in the nomination and election of members of human right bodies, including treaty bodies. Except for the Convention on Enforced Disappearances and the Convention against Torture, the majority of treaties prescribe the need **for representation of different forms of civilization and of the principal legal systems**,<sup>16</sup>. The Convention on the Rights of the Child and the Convention on the Protection of the Rights of All Migrant Workers prescribe only the representation of the principal legal systems.<sup>17</sup> This requirement is also recommended in the GA resolution 68/268<sup>18</sup> and the Report of the co-facilitators on the process of the consideration of the state of the UN human rights treaty body system.<sup>19</sup>

Furthermore, the Convention on the Rights of Persons with Disabilities prescribes that experts with disabilities must be included.<sup>20</sup> Likewise, GA resolution 68/268<sup>21</sup> and Report of the co-facilitators on the process of the consideration of the state of the UN human rights treaty body

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<sup>9</sup> ECOSOC/1985/17 para. b

<sup>10</sup> ICCPR art. 28.2; CAT art. 17.1

<sup>11</sup> A/RES/68/268, para. 13.

<sup>12</sup> Ibid, para. 41.

<sup>13</sup> Report on the process of the consideration of the state of the United Nations human rights treaty body system, A/75/601, November 17, 2020, para. 30.

<sup>14</sup> A/HRC/RES/41/6, 19 July 2019, Human Rights Council Resolution, para 15.

<sup>15</sup> A/HRC/47/51, 21 May 2021, Report of the Human Rights Council Advisory Committee, Current levels of representation of women in human rights organs and mechanisms: ensuring gender balance

<sup>16</sup> ICCPR art. 31.2; CEDAW art. 17; CERD art. 8.1; CRPD art. 34.4; ECOSOC/1985/17 para. b

<sup>17</sup> CRC art. 43.2; CMW art. 72.2(a)

<sup>18</sup> A/RES/68/268, para. 13.

<sup>19</sup> Report on the process of the consideration of the state of the United Nations human rights treaty body system, A/75/601, November 17, 2020, para. 30.

<sup>20</sup> CRPD art. 34.4.

<sup>21</sup> A/RES/68/268, para. 13.

system<sup>22</sup> underscore the need to ensure the participation of persons with disabilities in the committees' membership.

Besides establishing that the members of the committee serve in a personal capacity, certain treaties explicitly mention the requirements of **impartiality and independence**.<sup>23</sup>

Impartiality and independence of committee members are further specified through the **Addis Ababa Guidelines**, endorsed by the Chairpersons of the treaty bodies in 2012.

The first requirement set in the Guidelines is that committee members have to be independent and impartial, and to appear as such to a reasonable observer.<sup>24</sup>

**Independence** implies that treaty body members must act in a **personal capacity**. They are accountable to the treaty body and their conscience, and they should not submit to any kind of influence, direction, pressure or instructions by the State of their nationality or any other State.<sup>25</sup>

**Impartiality** entails that treaty body members must conduct their functions in a way that doesn't grant favorable treatment to their State of nationality or that is not perceived as granting such treatment<sup>26</sup>. They must avoid any action that might be seen as leading to bias in favor or against a State.<sup>27</sup>

The guidelines highlight the importance of committee members being free from affiliation with the government of their State of nationality: they must not cover functions and conduct activities that are incompatible with their responsibilities as independent experts on a committee.<sup>28</sup>

The (GA) resolution 68/268 underlines the importance of independence and impartiality as requirements for treaty body membership. It emphasizes the adoption of the Addis Ababa Guidelines and their aim to guarantee the **objective, impartial and independent functioning of the treaty bodies**.<sup>29</sup> It calls upon the **treaty bodies to implement the Guidelines** and to work on their review and improvement.<sup>30</sup>

The resolution highlights that committee members must be experts of **high moral standing and proven competence and experience in the field** of the convention and calls upon states to adopt national policies for members' nomination.<sup>31</sup>

Additionally, the Report of the co-facilitators on the process of the consideration of the state of the UN human rights treaty body system underlines the importance of independence and

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<sup>22</sup> Report on the process of the consideration of the state of the United Nations human rights treaty body system, A/75/601, November 17, 2020, para. 30.

<sup>23</sup> ICCPR art. 38; CERD art. 8.1; CMW art. 72.1(b); CED art. 26.1

<sup>24</sup> A/67/222 para. 2

<sup>25</sup> Ibid. para. 5

<sup>26</sup> Ibid. para. 6

<sup>27</sup> Ibid. para. 7

<sup>28</sup> Ibid. para. 12

<sup>29</sup> A/RES/68/268, para. 36

<sup>30</sup> Ibid. para. 36-37

<sup>31</sup> Ibid. para. 10

impartiality of treaty body members and the need, to that end, for treaty bodies to comply with the Addis Ababa Guidelines.<sup>32</sup>

It further stresses that the **nomination and election procedures must be more transparent** and ensure the selection of highly qualified individuals.<sup>33</sup> Therefore, access to more information about the candidates is crucial, and the co-facilitators recommend establishing a **web-based electoral platform** that would allow a more transparent and direct evaluation of their merits and satisfaction of requirements.<sup>34</sup>

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<sup>32</sup> Report on the process of the consideration of the state of the United Nations human rights treaty body system, A/75/601, November 17, 2020, , para. 24

<sup>33</sup> Ibid, para. 26

<sup>34</sup> Ibid, para. 30

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Academy of International  
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