

Individual communications procedure to UN Treaty bodies



Anna Batalla Trilla
Secretary for individual communications to CRC, CED and CRPD
Petitions and Urgent Actions Section
OHCHR



UNIVERSAL AND REGIONAL HUMAN RIGHTS SYSTEMS

INTERAMERICAN SYSTEM



EUROPEAN SYSTEM



AFRICAN SYSTEM





UNIVERSAL HUMAN RIGHTS SYSTEM

UN



**NORMATIVE
FRAMEWORK**



**INSTITUTIONAL
FRAMEWORK**

ALL
HUMAN
BEING
ARE
E



NORMATIVE FRAMEWORK

CERD
1965

ICESCR
1966

ICCPR
1966

CEDAW
1979

CAT
1984

CRC
1989

CMW
1990

CRPD
2006

CED
2006

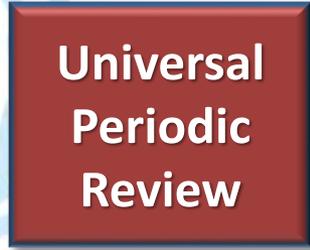
INSTITUTIONAL FRAMEWORK

CONVENTIONAL MECHANISMS



EXTRACONVENTIONAL MECHANISMS

ADOPTS C R E A T E S

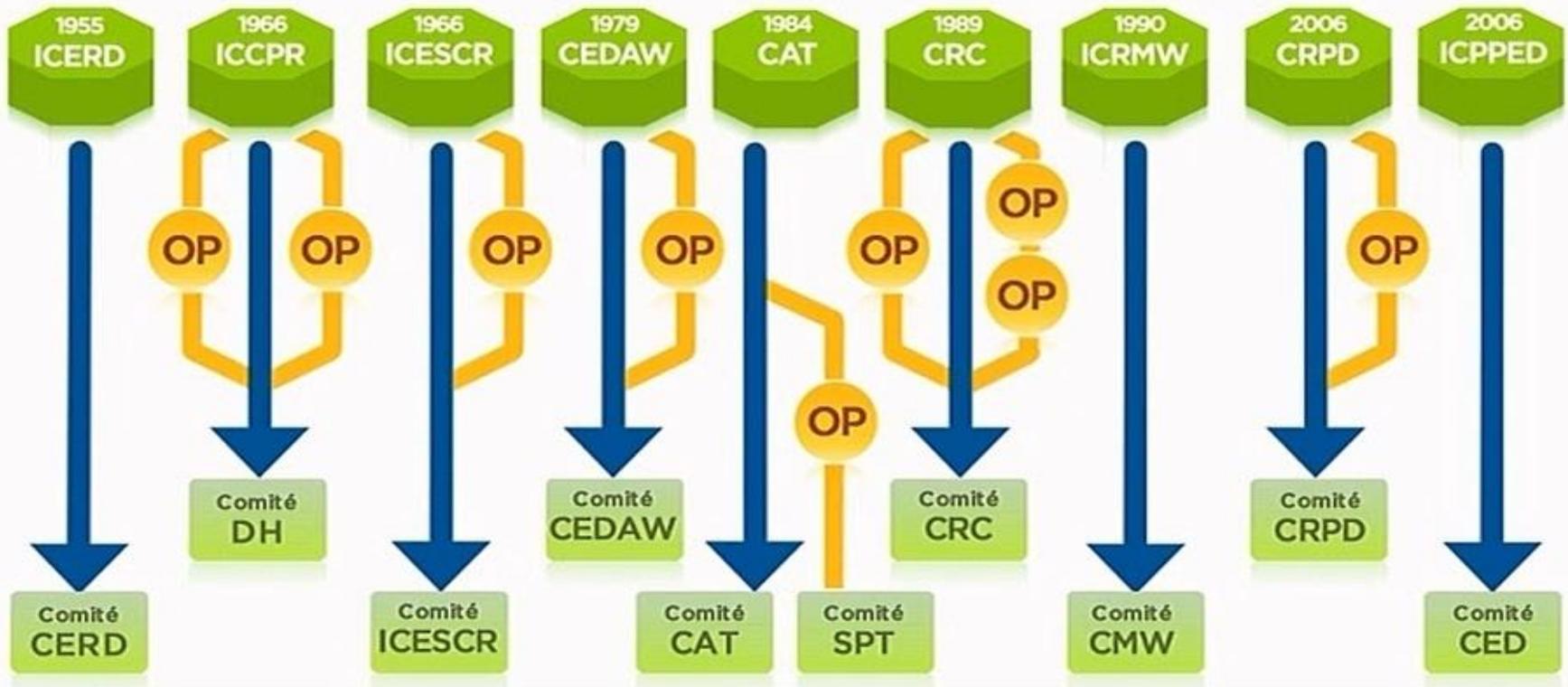


human rights
everyone
everywhere
everyday





CONVENTIONAL MECHANISMS





TREATY BODIES



CCPR



CAT



CERD



CEDAW



CRPD



CED



CESCR



CRC

TREATY BODIES

Functions:

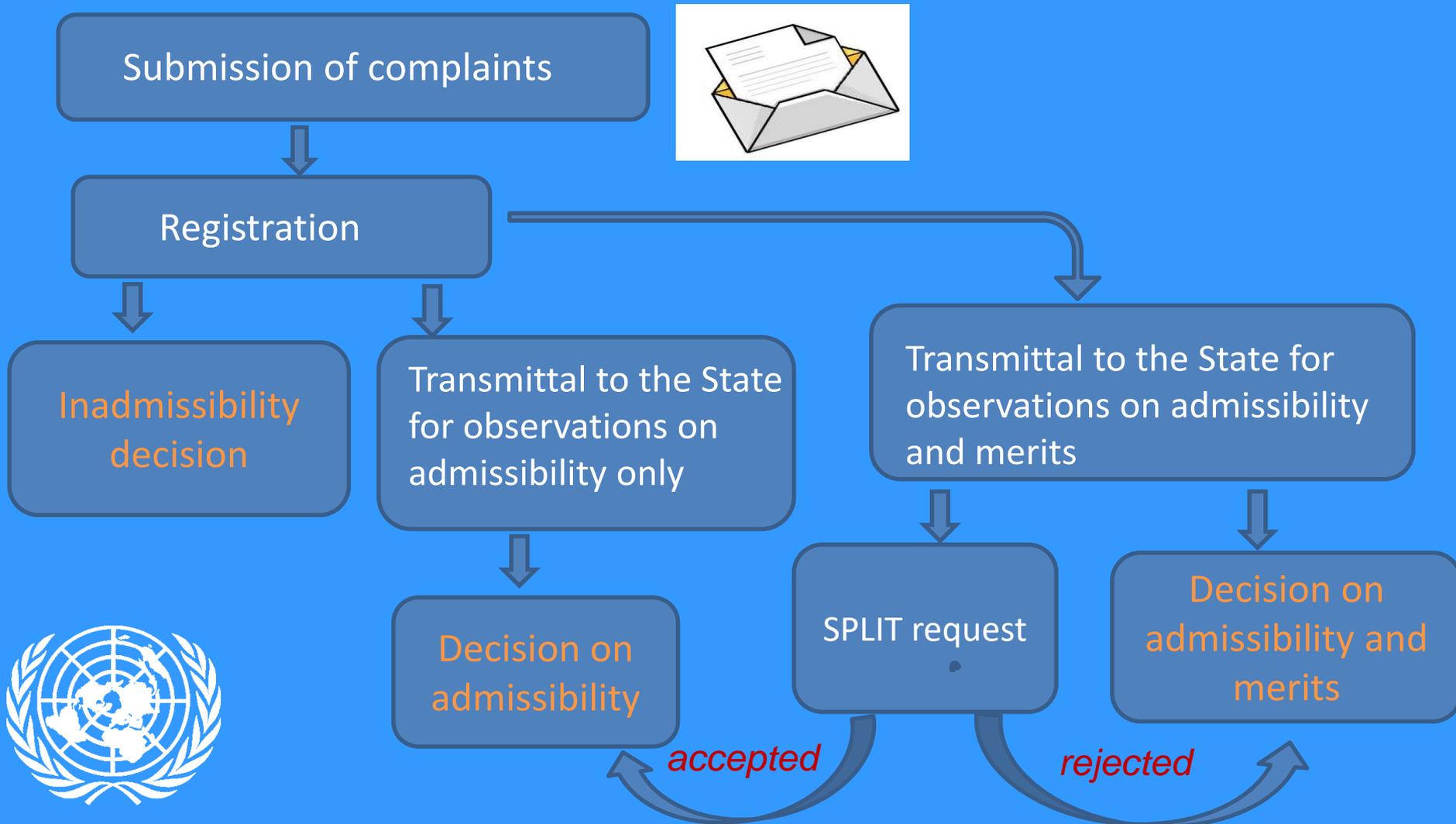
- State reviews
- General Comments or recommendations
- **Individual communications**
- Inter-State communications
- Inquiries
- Urgent Actions (CED)



Individual communications cycle



Individual communications procedure



Individual complaints procedure: admissibility requirements

- **Recognition of Committee's competence to receive individual communications**
- **Deadline for filing complaint**
- **Victim status / locus standi**
- **Competence ratione personae/materiae/temporis**
- **Exhaustion of domestic remedies**
- **Litis pendens**
- **Sufficient substantiation of claims**

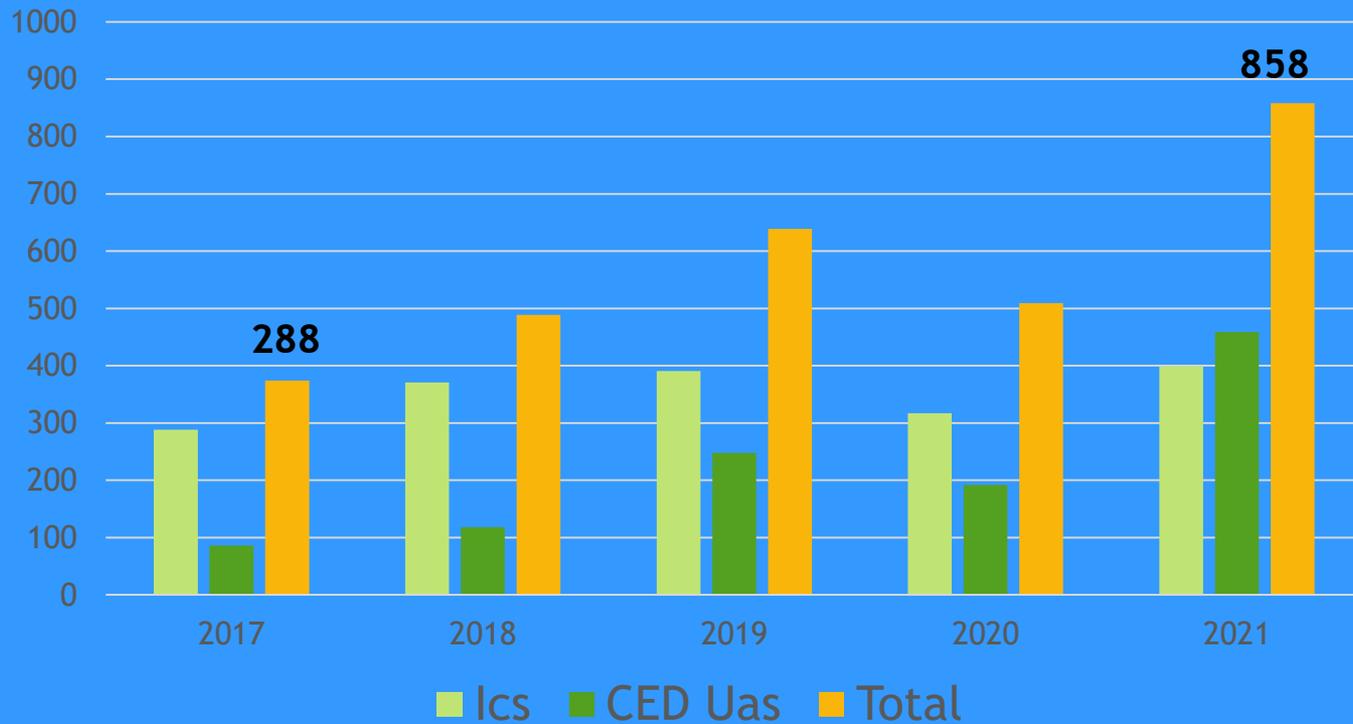


Procedural developments

- **Guidelines on interim measures (CRC, CESCO)**
- **Guidelines on third party interventions (CESCR, CRC, CCPR, CAT)**
- **Guidelines on oral hearings (CCPR, CRC)**

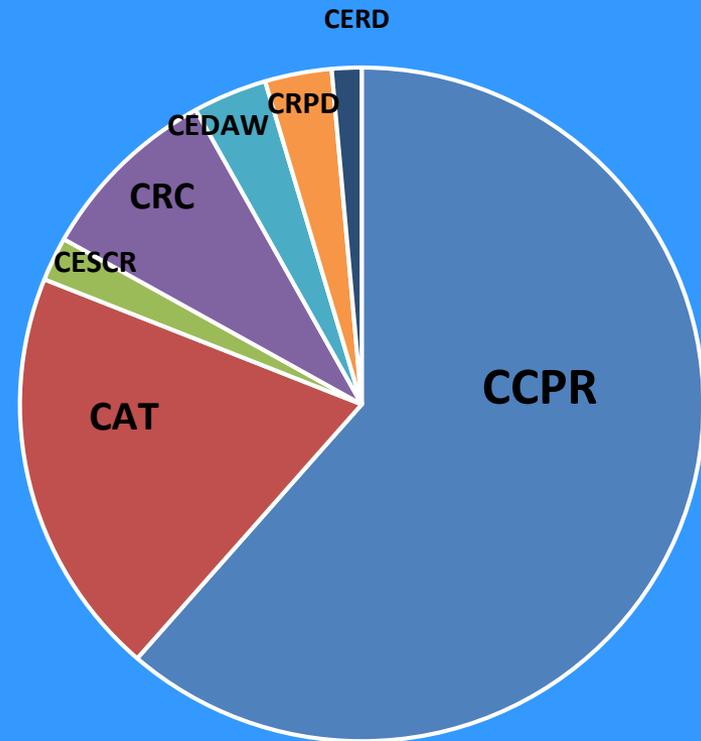


Individual communications and CED Urgent Actions registered



Decisions adopted in 2022

Committee	Cases adopted in 2022
CCPR	175
CAT	56
CESCR	6
CRC	25
CEDAW	10
CRPD	9
CERD	4
TOTAL	285



Decisions adopted against Switzerland

173 decisions adopted

- **155 CAT**
- **9 CRC**
- **7 CEDAW**
- **2 CERD**

- **113 decisions on the merits**
- **20 inadmissibility**
- **38 discontinuances**



Main issues raised

❖ Issues raised:

- ✓ **Non-refoulement cases.**
 - Dublin deportations**
 - Lack of access to medical treatment in returning State**
- ✓ **Lack of hearing of children in asylum proceedings**
- ✓ **Family reunification cases**

❖ Positive developments:

- ✓ **Systematic compliance with interim measures**
- ✓ **Reopening of proceedings and granting of residence permits**



Selected decisions

N.A. v Switzerland (CAT communication 742/2016)

Obligation to provide redress and rehabilitation to victims of torture not limited to the State where the acts of torture were committed.

Non-refoulement obligations extend to prohibition of ill-treatment

Lack of individualized assessment of the personal and real risk that the complainant would face in Italy, in particular considering his specific vulnerability as an asylum seeker and victim of torture, rather than relying on the general assumptions.



Selected decisions

E.A. and U.A. v Switzerland (CRC communication 56/2018)

- ✓ No age limit on the right of the child to express her or his views
- ✓ Determining the best interests of the children requires that their situation be assessed separately, notwithstanding the reasons for which their parents made their asylum application
- ✓ The assessment of the risk of irreparable harm to the children in case of return should be conducted in an age- and gender-sensitive manner



Useful links

- **Petitions webpage:**
<https://www.ohchr.org/en/treaty-bodies/complaints-about-human-rights-violations#individual>
- **Form and guidance note for submitting complaints to Treaty Bodies:**
<https://www.ohchr.org/en/documents/tools-and-resources/form-and-guidance-submitting-individual-communication-treaty-bodies>
- **Jurisprudence highlights:**
https://www.ohchr.org/sites/default/files/documents/hr_bodies/treaty-bodies/2022-11-17/TB-Jurisprudence-Highlights-Oct22.pdf
- **Jurisprudence database:** www.juris.ohchr.org
(temporarily: www.juris2.ohchr.org)





THANK YOU!

