

AUSTRALIA

Follow-up - State Reporting Action by Treaty Bodies, Including Reports on Missions

CCPR, CCPR/C/SR.2738/Add.1 (2010)

Human Rights Committee
Ninety-ninth session

Summary record of the second part (public) of the 2738th meeting
Held at Palais Wilson, Geneva,
on Wednesday 28 July 2010, at 11:25 am

...

Follow-up to concluding observations on State reports and to Views under the Optional Protocol

Report of the Special Rapporteur for Follow-up on Concluding Observations (CCPR/C/99/2/CRP.1)

...

2. **Mr. Amor**, Special Rapporteur for Follow-up on Concluding Observations, said that, while he commended the excellent work of the secretariat, it was regrettable that the relevant staff did not have more time to devote to follow-up on concluding observations. At the Committee's request, he had undertaken to supply details of the contents of the letters sent to States parties concerning follow-up in which the Committee asked for further information, urged the State to implement a recommendation or, alternatively, noted that a reply was satisfactory.

...

70. **Mr. Amor** said that follow-up information had been due from Australia on 1 April 2010. As no information had been received to date, he recommended that a reminder should be sent to the State party.

71. *It was so decided.*

...

...

Chapter VII: Follow-up to Concluding Observations

203. In chapter VII of its annual report for 2003,¹⁶ the Committee described the framework that it has set out for providing for more effective follow-up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report,¹⁷ an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2010.

204. Over the period covered by the present annual report, Mr. Abdelfattah Amor acted as the Committee's Special Rapporteur for follow-up on concluding observations. At the Committee's ninety-seventh, ninety-eighth and ninety-ninth sessions, he presented progress reports to the Committee on intersessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State.

205. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.¹⁸ Over the reporting period, since 1 August 2009, 17 States parties (Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, Denmark, France, Georgia, Japan, Monaco, Spain, the former Yugoslav Republic of Macedonia, Sudan, Sweden, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland and Zambia), as well as the United Nations Interim Administration Mission in Kosovo (UNMIK), have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, 12 States parties (Australia, Botswana, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Namibia, Nicaragua, Panama, Rwanda, San Marino and Yemen) have failed to supply follow-up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the preparation of the next periodic report by the State party.¹⁹

206. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, the report does not cover those States parties with respect to which the Committee has completed its follow-up activities, including all States parties which were considered from the seventy-first session (March 2001) to the eighty-fifth session (October 2005).

207. The Committee emphasizes that certain States parties have failed to cooperate with it in

the performance of its functions under Part IV of the Covenant, thereby violating their obligations (Equatorial Guinea, Gambia).

...

Ninety-fourth session (October 2008)

...

State party: Australia

Report considered: Fifth periodic (due on 31 July 2005), submitted on 7 August 2007.

Information requested:

Para. 11: Ensure that counter-terrorism legislation and practices are in full conformity with the Covenant. Address the vagueness of the definition of a terrorist act in the Criminal Code Act 1995, in order to ensure that its application is limited to offences that are indisputably terrorist offences:

- (a) Guarantee the right to be presumed innocent by avoiding reversing the burden of proof;
- (b) Ensure that the notion of “exceptional circumstances” does not create an automatic obstacle to release bail;
- (c) Envisage abrogating the provisions that provide the Australian Security Intelligence Organization (ASIO) with the power to detain people without access to a lawyer and in conditions of secrecy for up to seven-day renewable periods (arts. 2, 9 and 14).

Para. 14: Redesign Northern Territory Emergency Response measures in direct consultation with the indigenous peoples concerned, in order to ensure that they are consistent with the 1995 Racial Discrimination Act and the Covenant (arts. 2, 24, 26 and 27).

Para. 17: Strengthen efforts towards the elimination of violence against women, especially perpetrated against indigenous women. Implement the National Plan of Action to Reduce Violence against Women and Their Children, as well as the recommendations of the 2008 Family Violence and Homeless report (arts. 2, 3, 7 and 26).

Para. 23:

- (a) *Consider abolishing the remaining elements of the mandatory immigration detention policy;*
- (b) *Implement the recommendations made by the Human Rights and Equality Commission in its Immigration Detention Report of 2008;*
- (c) *Consider closing down the Christmas Island detention centre;*
- (d) *Enact in legislation a comprehensive immigration framework in compliance with the Covenant (arts. 9 and 14).*

Date information due: 1 April 2010

No information received.

Recommended action: A reminder should be sent.

Next report due: 1 April 2013

¹⁶ *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40, vol. I (A/58/40 (vol. I)).*

¹⁷ *Ibid., Sixty-Fourth Session, Supplement No. 40, vol. I (A/64/40 (vol. I)).*

¹⁸ The table format was altered at the ninetieth session.

¹⁹ As the next periodic report has become due with respect to the following States parties, the Committee has terminated the follow-up procedure despite deficient information or the absence of a follow-up report: Austria, Brazil, Central African Republic, Democratic Republic of the Congo, Hong Kong (China), Mali, Namibia, Paraguay, Republic of Korea, Sri Lanka, Suriname and Yemen.