FINLAND

Follow-up: State Reporting
i) Action by Treaty Bodies

CAT, A/61/44 (2006)

...
CHAPTER IV. FOLLOW-UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS

38. In Chapter IV of its annual report for 2004-2005 (A/60/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2005. This chapter updates the Committee's experience to 19 May 2006, the end of its thirty-sixth session.

39. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2006 on the results of the procedure.

40. The Rapporteur has emphasized that the follow-up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment," as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

41. Since its thirtieth session in May 2003, the Committee began the practice of identifying a limited number of these recommendations that warrant a request for additional information following the review and discussion with the State party concerning its periodic report. Such "follow-up" recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its "follow-up recommendations" which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' report under article 19.

42. Since the procedure was established at the thirtieth session in May 2003 through the end of the thirty-sixth session in May 2006, the Committee has reviewed 39 States for which it has identified follow-up recommendations. Of the 19 States parties that were due to have submitted their follow-up reports to the Committee by 1 May 2006, 12 had completed this requirement (Argentina, Azerbaijan, Czech Republic, Colombia, Germany, Greece, Latvia, Lithuania,

Morocco, New Zealand, United Kingdom, and Yemen). As of May, seven States had failed to supply follow-up information that had fallen due (Bulgaria, Cambodia, Cameroon, Chile, Croatia, Moldova, Monaco), and each was sent a reminder of the items still outstanding and requesting them to submit information to the Committee.

43. With this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture …" (art. 2, para. 1) and the undertaking "to prevent … other acts of cruel, inhuman and degrading treatment or punishment …" (art. 16).

44. The Rapporteur has expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all of the items designated by the Committee for follow-up (normally between three to six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Where further information is needed, she writes to the State party concerned with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she writes to solicit the outstanding information.

45. Each letter responds specifically and in detail to the information presented by the State party, which is given a formal United Nations document symbol number.

46. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues not addressed but which are deemed essential in the Committee's ongoing work in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

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48. The chart below details, as of 19 May 2006, the end of the Committee's thirty-sixth session, the state of the replies with respect to follow-up.

...

B. Follow-up reply due May 2006 and November 2006

State party	Date due	Date reply received	Document symbol number	Further action taken/required
...				
Finland	May 2006			
...				

CAT, A/62/44 (2007)

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IV. FOLLOW UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS

46. In Chapter IV of its annual report for 2005 2006 (A/61/44), the Committee described the framework that it had developed to provide for follow up subsequent to the adoption of the conclusions and recommendations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2006. This chapter updates the Committee's experience to 18 May 2007, the end of its thirty eighth session.

47. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow up to conclusions and recommendations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2007 on the results of the procedure.

48. The Rapporteur has emphasized that the follow up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

49. Since its thirtieth session in May 2003, the Committee began the practice of identifying a limited number of these recommendations that warrant a request for additional information following the review and discussion with the State party concerning its periodic report. Such "follow up" recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its "follow up recommendations" which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

50. Since the procedure was established at the thirtieth session in May 2003, through the end of the thirty eighth session in May 2007 the Committee has reviewed 53 States for which it has identified follow up recommendations. Of the 39 States parties that were due to have submitted their follow up reports to the Committee by 18 May 2007, 25 had completed this requirement (Albania, Argentina, Austria, Azerbaijan, Bahrain, Canada, Chile, Czech Republic, Colombia, Croatia, Ecuador, Finland, France, Germany, Greece, Latvia, Lithuania, Monaco, Morocco, New Zealand, Qatar, Sri Lanka, Switzerland, United Kingdom and Yemen). As of 18 May, 14 States had not yet supplied follow up information that had fallen due (Bulgaria, Bosnia and Herzegovina, Cambodia, Cameroon, Democratic Republic of the Congo, Georgia, Guatemala,

Republic of Korea, Moldova, Nepal, Peru, Togo, Uganda and United States of America). In March 2007, the Rapporteur sent a reminder requesting the outstanding information to each of the States whose follow up information was due in November 2006, but had not yet been submitted, and who had not previously been sent a reminder.

51. The Rapporteur noted that 14 follow up reports had fallen due since the previous annual report (A/61/44). However, only 4 (Austria, Ecuador, Qatar and Sri Lanka) of these 14 States had submitted the follow up information in a timely manner. Despite this, she expressed the view that the follow up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow up to the review of the periodic reports. While comparatively few States had replied precisely on time, 19 of the 25 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non governmental organizations, many of whom had also encouraged States parties to submit follow up information in a timely way.

52. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture …" (art. 2, para. 1) and the undertaking "to prevent … other acts of cruel, inhuman and degrading treatment or punishment …" (art. 16).

53. The Rapporteur has expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information is needed, she writes to the State party concerned with specific requests for further clarification. With regard to States that have not supplied the follow up information at all, she writes to solicit the outstanding information.

54. At its thirty eighth session in May, the Committee decided to make public the Rapporteur's letters to the States parties. These would be assigned a United Nations document symbol number and placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies (these symbol numbers are under consideration) to the follow up and also place them on its website.

55. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill treatment.

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57. The chart below details, as of 18 May 2007, the end of the Committee's thirty eighth session, the state of the replies with respect to follow up.

Follow up procedure to conclusions and recommendations from May 2003 to May 2007

...

Thirty fourth session (May 2005)

State party	Information due in	Information received	Action taken
...			
Finland	May 2006	22 May 2006 CAT/C/FIN/CO/4/Add.1	Response under review
...			

CAT, A/63/44 (2008)

...

CHAPTER IV. FOLLOW-UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS

46. In this chapter, the Committee updates its findings and activities that follow-up on the conclusions and recommendations adopted under article 19 of the Convention, in accordance with the recommendations of its Rapporteur on Follow-Up to Country conclusions. The Rapporteur's activities, responses by States parties, and the Rapporteur's views on recurring concerns encountered through this procedure are presented below, and updated to through May 2008, following the Committee's fortieth session.

47. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the conclusions and recommendations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2008.

48. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to conclusions and recommendations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2008 on the results of the procedure.

49. The Rapporteur has emphasized that the follow-up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

50. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information specifically for this procedure. Such follow-up recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its follow-up recommendations which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

51. Since the procedure was established at the thirtieth session in May 2003, through the end of the fortieth session in May 2008, the Committee has reviewed 67 States for which it has identified follow-up recommendations. Of the 53 States parties that were due to have submitted

their follow-up reports to the Committee by 16 May 2008, 33 had completed this requirement (Albania, Argentina, Austria, Azerbaijan, Bahrain, Bosnia and Herzegovina, Canada, Chile, Czech Republic, Colombia, Croatia, Ecuador, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Republic of Korea, Latvia, Lithuania, Monaco, Morocco, Nepal, New Zealand, Qatar, Russian Federation, Sri Lanka, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America and Yemen). As of 16 May, 20 States had not yet supplied follow-up information that had fallen due (Bulgaria, Burundi, Cambodia, Cameroon, Democratic Republic of the Congo, Denmark, Guyana, Italy, Japan, Luxembourg, Mexico, Moldova, the Netherlands, Peru, Poland, South Africa, Tajikistan, Togo, Uganda and Ukraine). In March 2008, the Rapporteur sent a reminder requesting the outstanding information to each of the States whose follow-up information was due in November 2007, but had not yet been submitted, and who had not previously been sent a reminder.

52. The Rapporteur noted that 14 follow-up reports had fallen due since the previous annual report.[3] However, only 2 (Hungary and the Russian Federation) of these 14 States had submitted the follow-up information in a timely manner. Despite this, she expressed the view that the follow-up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow-up to the review of the periodic reports. While comparatively few States had replied precisely on time, 25 of the 33 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non-governmental organizations, many of whom had also encouraged States parties to submit follow-up information in a timely way.

53. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture …" (art. 2, para. 1) and the undertaking "to prevent … other acts of cruel, inhuman and degrading treatment or punishment …" (art. 16).

54. The Rapporteur expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow-up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she requests the outstanding information.

55. At its thirty-eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties. These would be placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow-up and also place them on its website (http://www2.ohchr.org/english/bodies/cat/sessions.htm).

56. Since the recommendations to each State party are crafted to reflect the specific situation

in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

...

58. The chart below details, as of 16 May 2008, the end of the Committee's fortieth session, the state of the replies with respect to follow-up.

3/ *Official Records of the General Assembly, Sixty-second Session, Supplement No. 44* (A/62/44).

Follow-up procedure to conclusions and recommendations from May 2003 to May 2008

...

Thirty-fourth session (May 2005)

State party	Information due in	Information received	Action taken
...			
Finland	May 2006	19 May 2006 CAT/C/FIN/CO/4/Add.1	Request for further clarification
...			

...

CAT, A/64/44 (2009)

IV. FOLLOW UP ON CONCLUDING OBSERVATIONS ON STATES PARTIES REPORTS

53. In this chapter, the Committee updates its findings and activities that follow-up to concluding observations adopted under article 19 of the Convention, in accordance with the recommendations of its Rapporteur on follow-up to concluding observations. The Rapporteur's activities, responses by States parties, and the Rapporteur's views on recurring concerns encountered through this procedure are presented below, and updated through 15 May 2009, following the Committee's forty-second session.

54. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2009.

55. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2009 on the results of the procedure.

56. The Rapporteur has emphasized that the follow up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and ill-treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

57. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information specifically for this procedure. Such follow-up recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its follow-up recommendations which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

58. Since the procedure was established at the thirtieth session in May 2003, through the end of the forty-second session in May 2009, the Committee has reviewed 81 States for which it has identified follow up recommendations. Of the 67 States parties that were due to have submitted their follow up reports to the Committee by 15 May 2009, 44 had completed this requirement. As of 15 May 2009, 23 States had not yet supplied follow up information that had fallen due. The

Rapporteur sends reminders requesting the outstanding information to each of the States whose follow up information was due, but had not yet been submitted, and who had not previously been sent a reminder. The status of the follow-up to concluding observations may be found in the web pages of the Committee (http://www2.ohchr.org/english/bodies/cat/ sessions.htm).

59. The Rapporteur noted that 14 follow up reports had fallen due since the previous annual report. However, only 4 (Algeria, Estonia, Portugal and Uzbekistan) of these 14 States had submitted the follow up information in a timely manner. Despite this, she expressed the view that the follow up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow up to the review of the periodic reports. One State party (Montenegro) had already submitted information which was due only in November 2009. While comparatively few States had replied precisely on time, 34 of the 44 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non governmental organizations, many of whom had also encouraged States parties to submit follow up information in a timely way.

60. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture …" (art. 2, para. 1) and the undertaking "to prevent … other acts of cruel, inhuman and degrading treatment or punishment …" (art. 16).

61. The Rapporteur expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow up information at all, she requests the outstanding information.

62. At its thirty eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties. These would be placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow up and also place them on its website (http://www2.ohchr.org/english/bodies/cat/sessions.htm).

63. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill treatment.

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65. The chart below details, as of 15 May 2009, the end of the Committee's forty-second session, the state of the replies with respect to follow up.

Follow-up procedure to conclusions and recommendations from May 2003 to May 2009

...

Thirty-fourth session (May 2005)

State party	Information due in	Information received	Action taken
...			
Finland	May 2006	19 May 2006 CAT/C/FIN/CO/4/Add.1	Request for further clarification
...			

...

CAT, A/65/44 (2010)

Chapter IV. Follow-up to concluding observations on States parties' reports

65. In this chapter, the Committee updates its findings and activities that constitute follow-up to concluding observations adopted under article 19 of the Convention, in accordance with the procedure established on follow-up to concluding observations. The follow-up responses by States parties, and the activities of the Rapporteur for follow-up to concluding observations under article 19 of the Convention, including the Rapporteur's views on the results of this procedure, are presented below. This information is updated through 14 May 2010, the end of the Committee's forty-fourth session.

66. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. In that report and each year thereafter, the Committee has presented information on its experience in receiving information on follow-up measures taken by States parties since the initiation of the procedure in May 2003.

67. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. In November 2009 and May 2010, the Rapporteur presented a progress report to the Committee on the results of the procedure.

68. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific measures to prevent acts of torture and ill-treatment. Thereby, the Committee assists States parties in identifying effective legislative, judicial, administrative and other measures to bring their laws and practice into full compliance with the obligations set forth in the Convention.

69. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information within one year. Such follow-up recommendations are identified because they are serious, protective and are considered able to be accomplished within one year. The States parties are asked to provide information within one year on the measures taken to give effect to the follow-up recommendations. In the concluding observations on each State party report, the recommendations requiring follow-up within one year are specifically identified in a paragraph at the end of the concluding observations.

70. Since the procedure was established at the thirtieth session in May 2003, through the end of the forty-fourth session in May 2010, the Committee has reviewed 95 reports from States parties for which it has identified follow-up recommendations. It must be noted that periodic reports of Chile, Latvia, Lithuania and New Zealand have been examined twice by the Committee since the establishment of the follow-up procedure. Of the 81 States parties that were due to have submitted their follow-up reports to the Committee by 14 May 2010, 57 had completed this

requirement. As of 14 May 2010, 24 States had not yet supplied follow-up information that had fallen due: Republic of Moldova, Cambodia, Cameroon, Bulgaria, Uganda, Democratic Republic of the Congo, Peru, Togo, Burundi, South Africa, Tajikistan, Luxembourg, Benin, Costa Rica, Indonesia, Zambia, Lithuania (to the 2009 concluding observations), Chad, Chile, Honduras, Israel, New Zealand, Nicaragua and the Philippines.

71. The Rapporteur sends reminders requesting the outstanding information to each of the States for which follow-up information is due, but not yet submitted. The status of the follow-up to concluding observations may be found in the web pages of the Committee at each of the respective sessions. As of 2010, the Committee has established a separate web page for follow-up (http://www2.ohchr.org/english/bodies/cat/follow-procedure.htm).

72. Of the 24 States parties that did not submit any information under the follow-up procedure as of 14 May 2010, non-respondents came from all world regions. While about one-third had reported for the first time, two-thirds were reporting for a second, third or even fourth time.

73. The Rapporteur expresses appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow-up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she requests the outstanding information.

74. At its thirty-eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties which are posted on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow-up and also place them on its website.

75. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

76. Among the Rapporteur's activities in the past year, have been the following: attending the inter-committee meetings in Geneva where follow-up procedures were discussed with members from other treaty bodies, and it was decided to establish a working group on follow-up; addressing the Committee on the Elimination of Discrimination against Women at its August 2009 meeting in New York concerning aspects of the follow-up procedure; assessing responses

from States parties and preparing follow-up letters to countries as warranted and updating the information collected from the follow-up procedure.

77. Additionally, the Rapporteur initiated a study of the Committee's follow-up procedure, beginning with an examination of the number and nature of topics identified by the Committee in its requests to States parties for follow-up information. She reported to the Committee on some preliminary findings, in November 2009 and later in May 2010, and specifically presented charts showing that the number of topics designated for follow-up has substantially increased since the thirty-fifth session. Of the 87 countries examined as of the forty-third session (November 2009), one to three paragraphs were designated for follow-up for 14 States parties, four or five such topics were designated for 38 States parties, and six or more paragraphs were designated for 35 States parties. The Rapporteur drew this trend to the attention of the members of the Committee and it was agreed in May 2010 that, whenever possible, efforts would henceforth be made to limit the number of follow-up items to a maximum of five paragraphs.

78. The Rapporteur also found that certain topics were more commonly raised as a part of the follow up procedure than others. Specifically, for all State parties reviewed since the follow-up procedure began, the following topics were most frequently designated:

Ensure prompt, impartial and effective investigation(s)	76 per cent
Prosecute and sanction persons responsible for abuses	61 per cent
Guarantee legal safeguards	57 per cent
Enable right to complain and have cases examined	43 per cent
Conduct training, awareness-raising	43 per cent
Ensure interrogation techniques in line with the Convention	39 per cent
Provide redress and rehabilitation	38 per cent
End gender-based violence, ensure protection of women	34 per cent
Ensure monitoring of detention facilities/visit by independent body	32 per cent
Carry out data collection on torture and ill-treatment	30 per cent
Improve condition of detention, including overcrowding	28 per cent

79. In the correspondence with States parties, the Rapporteur has noted recurring concerns which are not fully addressed in the follow-up replies and her concerns (illustrative, not comprehensive) have been included in prior annual reports. To summarize them, she finds there is considerable value in having more precise information being provided, e.g. lists of prisoners, details on deaths in detention and forensic investigations.

80. As a result of numerous exchanges with States parties, the Rapporteur has observed that there is need for more vigorous fact-finding and monitoring in many States parties. In addition, there is often inadequate gathering and analysing of police and criminal justice statistics. When the Committee requests such information, States parties frequently do not provide it. The Rapporteur further considers that conducting prompt, thorough and impartial investigations into allegations of abuse is of great protective value. This is often best undertaken through unannounced inspections by independent bodies. The Committee has received documents, information and complaints about the absence of such monitoring bodies, the failure of such bodies to exercise independence in carrying out their work or to implement recommendations for improvement.

81. The Rapporteur has also pointed to the importance of States parties providing clear-cut instructions on the absolute prohibition of torture as part of the training of law-enforcement and other relevant personnel. States parties need to provide information on the results of medical examinations and autopsies, and to document signs of torture, especially including sexual violence. States parties also need to instruct personnel on the need to secure and preserve evidence. The Rapporteur has found many lacunae in national statistics, including on penal and disciplinary action against law-enforcement personnel. Accurate record keeping, covering the registration of all procedural steps of detained persons, is essential and requires greater attention. All such measures contribute to safeguard the individual against torture or other forms of ill-treatment, as set forth in the Convention.

82. The chart below details, as of 14 May 2010, the end of the Committee's forty-fourth session, the replies with respect to follow-up. This chart also includes States parties' comments to concluding observations, if any.

Follow-up procedure to concluding observations from May 2003 to May 2010

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Thirty-fourth session (May 2005)

State party	Information due in	Information received	Action taken
...			
Finland	May 2006	19 May 2006 CAT/C/FIN/CO/4/Add.1 2 December 2008 CAT/C/FIN/CO/4/Add.2	Request for further clarifications Information under review
...			

...

ii) Action by State party

CAT/C/FIN/CO/4/Add.1 (2006)

Comments by the Government of Finland to the conclusions and recommendations of the Committee against Torture (CAT/C/CR/34/FIN)

[19 May 2006]

Recommendation 5(c):

The Committee recommends that the State party:

Strengthen the legal safeguards for asylum-seekers to ensure that all asylum procedures conform to article 3 of the Convention and other international obligations in this field;

1. According to section 21 of the Constitution of Finland (731/1999), everyone has the right to have his or her case dealt with appropriately and without undue delay by a legally competent court of law or other authority, as well as to have a decision pertaining to his or her rights or obligations reviewed by a court of law or other independent organ for the administration of justice.

2. The Committee has expressed its concern about the "accelerated procedure" under the Aliens Act. The provisions on the accelerated procedure were reintroduced into the Aliens Act in 2000 (HE 15/2000). During the parliamentary discussion of the bill, the Constitutional Law Committee and the Law Committee of Parliament profoundly assessed the accelerated procedure, particularly in view of the suspensive effect of appeal, in the light of the Constitution and international obligations binding on Finland. After an extensive political debate, Parliament adopted the bill with a clear majority of votes.

3. A new Aliens Act (301/2004) entered into force in 2004. All the situations to which an accelerated procedure may be applied are mentioned in one section of the Act. Differing from the repealed provisions, this section makes a distinction between cases where the application is not examined and those where the merits of the case are examined through the so-called accelerated procedure. The purpose of the change was to clarify the wording of the provisions, whereas the procedure applied to the processing of application was not changed. The publicity of proceedings, the right to be heard and obtain a reasoned decision, and the right of appeal as well as other guarantees of a fair trial and good governance are ensured by law.

4. Appeal against a decision on refusal of entry that has been made in connection with the dismissal of an application has no suspensive effect, but the person concerned may lodge a petition with Helsinki Administrative Court for an order staying the enforcement of the decision. However, such a petition does not prevent the enforcement of the decision on refusal of entry. In cases where the asylum-seeker has been found to arrive from a safe country of origin or asylum,

the decision on refusal of entry under section 201, subsection 3, of the Aliens Act may be enforced at the earliest on the eighth day from service of the decision on the applicant. Asylum-seekers have always, with the exception of renewed applications, the right to be heard in person. They have also the right to always use an interpreter and legal counsel. The suspension of enforcement for at least eight days ensures that the asylum-seeker has an opportunity to appeal before being removed from the country. The period of eight days is sufficient for the Administrative Court to prohibit enforcement of the decision, where necessary, and thus ensure the asylum-seeker's protection by law.

5. Where the decision on refusal of entry has been made under the Council Regulation[1] on determining the State responsible for examining an asylum application or under the Dublin Convention[2], it may be enforced immediately after it has been served on the asylum-seeker. The distribution of responsibility established by the Regulation is based on that each state applying the Regulation has a functioning administrative and legal system that is able to offer international protection to those in need of it. In respect of renewed applications for asylum, the decision may also be enforced immediately after it has been served on the asylum-seeker. It is required by the provisions of the Aliens Act that, in connection with the dismissal of a renewed application, a new decision on refusal of entry is always made, allowing appeal. This is important in view of legal certainty and the asylum-seeker's protection by law. Thus, it may be considered that the enforcement of a decision on refusal of entry despite appeal does not jeopardise the legal protection of the asylum-seeker.

6. Under section 9 of the Constitution, a foreigner shall not be deported, extradited or returned to another country, if in consequence he or she is in danger of a death sentence, torture or other treatment violating human dignity. According to section 147 of the Aliens Act, no one may be refused entry and sent back or deported to an area where he or she could be subject to the death penalty, torture, persecution or other treatment violating human dignity or from where he or she could be sent to such an area.

7. The aforementioned provisions are taken into account in the examination of applications for asylum. Furthermore, under section 200, subsection 2, of the Aliens Act, a final decision or a decision that is otherwise enforceable under this Act may not be enforced if there is reason to believe that returning the alien to his or her country or origin or another country may expose him or her to danger as referred to in section 147, i.e. the asylum-seeker could be subject to the death penalty, torture, persecution or other treatment violating human dignity (absolute prohibition on refoulement). The police enforcing the decision ensure, as the last authority, that there are no obstacles referred to in section 147 for removing the person in question from the country. If necessary, the police will delay the enforcement or advise the alien to file a new application for international protection.

8. All applications for asylum are examined case by case. Section 98 of the Aliens Act contains a provision that further strengthens the requirement of individual assessment and the application of the principle of benefit of doubt. Under that section, the requirements for issuing a residence permit are assessed individually for each applicant by taking account of the applicant’s statements on his or her circumstances in the State in question and of information on the circumstances in that State. It is worth noting that, in addition to the protection afforded by these

important principles, asylum-seekers always have the right to be interviewed in person, from which derogation is only possible in respect of renewed applications, as well as the right to be assisted by an interpreter and legal counsel irrespective of whether the application is examined through the ordinary or accelerated procedure.

9. Different organisations, including non-governmental organisations and the UNHCR, have expressed critical views on the accelerated procedures applied in Finland. However, the Government and Parliament have been of the view that there is no conflict with the international obligations binding on Finland. In this respect, it is also worth noting that there are no binding international rules concerning asylum procedures. In the European Union, a political agreement has been reached on a directive concerning asylum procedures. In the preparation of the directive, it was observed that the Finnish system affords a good level of protection for asylum-seekers when compared with certain other EU Member States. Upon its entry into force in the future, the directive will be the first binding international instrument on asylum procedures.

10. In Finland, all applications examined through either the ordinary procedure or the accelerated procedure are subject to individual assessment, the asylum-seeker is provided with fundamental procedural guarantees, and the asylum-seeker always has the right of appeal and the right to file a petition with Helsinki Administrative Court for the suspension of enforcement of a decision on refusal of entry. Furthermore, the provisions of the Constitution, the Aliens Act and international human rights conventions concerning the principle of non-refoulement are taken into account in connection with the enforcement of decisions. Thus, the rights of asylum-seekers are protected as required by the law and international agreements.

11. In connection with submitting the bill for the enactment of the Aliens Act, the Government requested the Ombudsman for Minorities to prepare a report on the application of the accelerated asylum procedure with special reference to practical problems in the legal protection of asylum-seekers. The report was completed in December 2005. In this report, the Ombudsman focused on the most relevant elements of the protection of asylum seekers and on their de facto protection during the asylum procedure, in the light of the protection of human rights as guaranteed by international conventions, and of the provisions of the Constitution on legal protection and good governance.

12. On the basis of his report, the Ombudsman has concluded that in most cases, the accelerated procedure affords adequate protection for the asylum seeker during the procedure. In practice, however, there have been problems of interpretation in the asylum procedure, to which attention should be paid by means of administrative instructions and, where necessary, legislative amendments. The Ombudsman has also found that the possibility of transferring the responsibility for the interview of an asylum-seeker to the police, or of not holding the asylum interview in certain cases, undermines the main responsibility of the Directorate of Immigration in the assessment of criteria for the granting of asylum. The access of the asylum-seeker to legal assistance and the use of such assistance should also be monitored, throughout the asylum procedure. The introduction of the accelerated procedure was necessary, among others, because of cases of abuse of the system of asylum but the efforts to accelerate the asylum procedure should not jeopardise the legal protection of the asylum seeker. In this respect, the possibility of using the accelerated procedure should be restricted to those cases where it can clearly be applied,

to avoid its unnecessary expansion to other cases. Furthermore, in cases of deportation of asylum-seekers to another EU Member State pursuant to the application of the Regulation concerning determination of the state responsible for an application for asylum, attention should be paid to the possibility of repetitive deportations, which are prohibited.

13. The most relevant observation in the report of the Minority Ombudsman concerns the effectiveness of the right to appeal and its relationship with the enforcement of a decision to remove an alien from the country. The possibility of appeal to the Administrative Court to prevent the enforcement of a decision on refusal of entry has in practice become the most relevant element contributing to the effectiveness of the right to appeal. It is important to ensure that the Administrative Court always has a possibility to give its opinion on a decision to remove an alien from the country before its enforcement. In this connection, it is also important to ensure the fairness of proceedings.

14. On the basis of the individual observations of the Minority Ombudsman, it cannot be concluded that referral to an accelerated procedure would always jeopardise the legal protection of the asylum-seeker, but there may sometimes be problems relating to the effectiveness of the right of appeal. The problems detected also involve the risk of a repetitive cycle, which must be taken into account. In the future, it is necessary to pay attention to the coherence of the actions of different authorities and to the guarantees of equality during the asylum procedure, regardless of the origin of the asylum-seeker and his or her ability to protect their own interests.

Recommendation 5(d):

The Committee recommends that the State party:

Complete the process of implementing the suggestions made by the working group established to look at the situation of Roma in Finnish prisons and all other necessary measures to improve the situation and welfare of Roma prisoners;

15. Roma prisoners still face some problems in Finnish prisons. Therefore, a working group was set up to consider these problems. The working group published its report in 2003, proposing various measures to improve the situation. The Criminal Sanctions Agency carried out an inquiry in the autumn of 2005, to find out the extent to which the measures proposed by the working group have been implemented. In the light of the replies received, the encouragement of Roma prisoners to use the regular educational services and the rehabilitation services for intoxicant abusers has succeeded best. This has been done in connection with the assessment of needs and the preparation of a plan for the duration of imprisonment.

16. The replies to the inquiry showed that Roma prisoners mostly needed educational services. Many of them had not completed their basic education, and they also needed preparatory and vocational training. Specific education for Roma has already been provided in those prisons where there is a larger group of Roma prisoners. Such education has been provided despite that the National Board of Education has reduced the funds reserved for the education of the Roma. Apart from the teaching of the Roma language and culture, Roma prisoners have been given basic education, vocational education and training in the development of their preparedness to

learn and think.

17. The proposal for the designation of support persons for released Roma prisoners has not been implemented. Nor have Roma contact persons been designated for all prisons.

18. An overall reform of the enforcement of sentences of imprisonment will enter into force on 1 October 2006. The contents of this reform have been thoroughly explained in connection with the consideration of the fourth periodic report of Finland in Geneva, May 2005. The reform also improves the situation of Roma prisoners, as the new Imprisonment Act requires more careful assessment of the prisoner's needs for activities and security measures. The new regional prisons that will start their operation on 1 October 2006 must plan and develop their activities so that the special needs of Roma prisoners will also be better taken into account. The new provisions of law also improve the security of prisoners who are afraid of being living together with other prisoners. Under the provisions of the Imprisonment Act, such prisoners must be provided with a possibility to be separated from other prisoners, where there is justified reason to do so.

19. In addition, the Prison Administration is preparing an equality plan for prisons. The Non-Discrimination Act requires the Finnish authorities to prepare such plans to enhance ethnic equality. Through the implementation of the plan, different forms of discrimination may be better identified, intervened in and prevented.

Comment of the Advisory Board for Roma Affairs

20. The Advisory Board for Roma Affairs is satisfied with the Committee's recommendation as to the completion of the process of implementing the suggestions made by the working group established to look at the situation of Roma in Finnish prisons. The Advisory Board and the Roma Education Unit of the National Board of Education are preparing an initiative to be submitted to the Criminal Sanctions Agency, for the implementation of the measures proposed by the working group. The Advisory Board has included the education of Roma prisoners in its plan of action for the period 2005 to 2007.

Recommendation 5(e):

The Committee recommends that the State party:

Consider means to accelerate the prison renovation programme and, in the interests of improved hygienic conditions, explore additional alternative interim solutions to the practice of “slopping out”;

21. The plan for the renovation of prisons was prepared when responsibility for the management of prison premises was transferred to the State Real Property Agency (later replaced by Senate Properties) at the beginning of the decade. A programme of financing, which was agreed on in a framework agreement, covers the replacement of the prisons located in Turku with a new prison, and renovations and additional premises at other prisons. It is necessary to adjust the programme of financing, among others, because of raised costs, the establishment of regional prisons and the requirements imposed by the new Imprisonment Act, including the

premises for the new assessment and placement units.

22. The number of prisoners in Finland has considerably increased in the past few years. In 2001, the average number of prisoners was 3,200, and it was 3,888 in 2005. The funds reserved for the Prison Administration have not been correspondingly increased, however. The restrictions on Government spending have made it necessary to review the programme of financing for the renovation of prisons, and it has been necessary to postpone the basic renovations of some prisons.

23. There are some 550 cells in Finland without sanitary equipment. In 2010, there will still be such cells at the prisons of Helsinki, H銅eenlinna and Kerava, amounting to a total of 370 cells. The aforementioned adjustments to the programme of financing may further make it necessary to postpone the basic renovation of Konnunsuo Prison, to be carried out after the year 2010. This would mean that there will be approximately 490 cells without sanitary equipment in 2010. The possibility of replacing the use of so-called "slopping out" has been constantly assessed. The problem of smells has been addressed by offering prisoners chemical lavatories that could be placed in prison cells. However, the prisoners have not wished to have such lavatories but have rather maintained the existing practice.

24. Where prisoners are allowed to use the toilets of prisons at nights, the presence of two prison guards is necessary for security reasons. Due to a lack of human resources, this is not possible at all prisons. However, Konnunsuo Prison, for example, has been able to start opening doors of prison cells at nights in 2006 where necessary. The situation has also been improved by later closing hours of prison wards. At Helsinki Prison, for example, there are plans to change the arrangements so that the doors of some wards, where the cells have no sanitary equipment, are also kept open at nights. In order to ensure the safety of the staff and prisoners, however, it is necessary to carefully select the prisoners that may be placed in such wards. The planned arrangement will be possible once the basic renovation has been completed in 2006.

25. The basic renovation of Riihim鋘i Prison will be completed during the first half of 2006, and thereafter all the prison cells will have sanitary equipment. The overall situation will also be improved upon the opening of the new Prison of South-western Finland in the second half of 2007. All the prison cells in this prison will also have sanitary equipment.

Notes

[1] Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national [Official Journal L 50 of 25 February 2003].

[2] Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities (97/C 254/01).

CAT, CAT/C/FIN/CO/4/Add.2 (2008)

Follow-up responses by the Government of Finland to the conclusions and recommendations of the Committee against Torture (CAT/C/CR/34/FIN)

[2 December 2008]

Follow-up response to the recommendation made in paragraph 5(a) of the conclusions and recommendations (CAT/C/CR/34/FIN)

1. The Penal Code (39/1889) will be supplemented with specific penal provisions concerning torture. The working group set up by the Ministry of Justice for considering this legislative amendment underlines that the express criminalization of torture will reinforce the absolute prohibition of torture laid down in the Constitution of Finland and in international law, and indicate the particular reprehensibility of torture. It will also signal that Finland supports the absolute prohibition of torture in all circumstances.

2. Acts deemed as torture are already punishable under the Finnish Penal Code, but not as a specific type of offence, for in 1995 a penal provision on torture for confession was deleted from the Code. The provision was no longer considered necessary, because such acts may be sentenced by virtue of other penal provisions of the Code, for instance as aggravated assaults and aggravated abuse of public office.

3. The working group proposes that the provisions on torture should be included in the chapter of the Penal Code concerning war crimes and offences against humanity. Torture would refer to intentional causing of severe mental or physical suffering to another for the purpose of obtaining for example a confession or information, or for punishing, intimidating or compelling the person to something.

4. The definition of torture would mainly comply with the definition given in the Convention against Torture. By exception to this, the working group proposes that also a person other than a civil servant or another person exercising public authority could be deemed guilty of torture. Thus, the working group wants to define the perpetrators of torture as broadly as under the Penal Code provision deleted in 1995.

5. Because torture is an exceptionally severe offence, the working group proposes that it should be punishable by imprisonment of at least two and at most twelve years.

Follow-up response to the recommendation made in paragraph 5(b) and (c) of the conclusions and recommendations

6. Finland is committed to fully implement the Convention relating to the Status of Refugees. The requirements for granting asylum laid down in the Finnish Aliens Act (301/2004) are identical with those of the Refugee Convention. The latest proposals for national legislative amendments concerning international protection are based on the EU Refugee Qualification

Directive[1] and the Asylum Procedure Directive[2]. When implementing the Directives at national level Finland has observed the asylum policy guidelines adopted by the EU, taking, at the same time, fully into account the provisions of the Geneva Refugee Convention.

7. The Ministry of the Interior set up a project for 1 November 2007-30 April 2008 to examine how to develop the operations of the Finnish immigration administration and the Finnish Immigration Service. The Rapporteur, Minister Ole Norrback, states in his final report (publication no. 15/2008 of the Ministry of the Interior) that the average standards of the relevant legislation and the asylum procedures in Finland are good compared to the other member States of the European Union.

8. The Finnish asylum procedure is based on an individual consideration of each application. The authorities examine and decide the applicant's right of residence not only on the basis of asylum but also on other grounds established by them. An application for international protection is processed and decided either in a normal or in an accelerated asylum procedure. The procedure ensures the applicant's fundamental procedural guarantees, for example the right to use an interpreter and a legal counsel, as well as an individual interview. The interests of an unaccompanied minor in an asylum procedure are represented by a representative ordered by a district court. The applicant is always entitled to appeal against a decision on his or her residence permit and removal from the country.

9. The Aliens Act (301/2004) defines cases where an application for international protection may be dismissed or processed in an accelerated asylum procedure. In Finland, an application may be dismissed on the merits if another state is responsible for processing it. An accelerated procedure may be used if the applicant comes from a safe country of origin, the application can be considered manifestly unfounded, or the applicant has filed a subsequent application. As a rule, applications decided on the merits are examined in a normal asylum procedure. For example in 2007 less than 30% of all applications were dismissed or decided on the merits in an accelerated procedure.

10. During the recent overall reform of the Aliens Act the Government requested the Ombudsman for Minorities to study how the accelerated procedures under the Aliens Act are applied in practice, *inter alia* from the viewpoint of the legal safeguards for asylum-seekers. The Ombudsman states in his report (Nopeus, tehokkuus vai oikeudenmukaisuus, "Rapidity, efficiency or justice"; publication No. 2/2005 of the Ombudsman for Minorities) that an accelerated procedure normally guarantees the asylum-seeker legal safeguards during the procedure.

11. In its response to the Committee's recommendations in May 2006 the Government of Finland reported on the problems of interpretation that the Ombudsman for Minorities found in connection with the asylum procedure and which, according to him, should be addressed by administrative guidance and any possible legislative amendments. These problems of interpretation relate to (1) the option of delegating the responsibility for an asylum interview and the option of omitting the interview entirely, (2) the asylum-seeker's access to legal aid, (3) the acceleration of the asylum procedure, which must not jeopardise the asylum-seeker's legal safeguards, and (4) the prohibited chain refoulement of asylum-seekers removed from the

country in an accelerated timetable by virtue of the EU Dublin Regulation. The Ombudsman's study showed that ensuring an effective right of appeal (5) is the most important legal safeguard connected with accelerated asylum procedures.

(1) The option of delegating the responsibility for an asylum interview and the option of omitting the interview entirely

12. According to section 97, subsection 2 (973/2007) of the Aliens Act the police may, at the request of the Finnish Immigration Service, conduct an asylum interview if the number of applications has increased dramatically or, for special reasons, at other times as well. The Finnish Immigration Service has issued separate instructions on the application of this provision. The police and the Finnish Immigration Service consult with the Ministry of the Interior if there is need to apply the provision in a large scale. Delegating the interview must not be the principal rule in any circumstances. Each individual case has to be assessed separately. In practice, the provision has been applied rarely.

13. The asylum interview for an application to be decided on the merits may be omitted in Finland only in the case of subsequent applications under section 102 of the Aliens Act (973/2007). A subsequent application refers to an application for international protection made by an alien after his or her previous application was rejected by the Finnish Immigration Service or an administrative court while he or she still resides in the country, or if he or she has left the country for a short time after his or her application was rejected.

(2) An asylum-seeker's access to legal aid

14. Section 8, subsections 2 and 3, of the Aliens Act (301/2004) provide that when an administrative matter and an appeal under the Act are filed and handled, the person concerned may use counsel. According to section 9, subsection 1, of the Act, provisions on aliens' right to legal aid are laid down in the Legal Aid Act (257/2002).

15. Considering the nature of accelerated procedures it is important that legal aid is available as early as possible at the initial stage of the procedure. In June 2008 the Government submitted to Parliament a bill to amend the Aliens Act (HE 86/2008 vp) in order to implement the Asylum Procedure Directive[3] at national level. The bill proposes that the Act should be supplemented with a provision on information to be provided to seekers of international protection. According to the proposed provision, an asylum-seeker would be informed about the asylum procedure and his or her rights and obligations during it. One central piece of information to be provided to the asylum-seeker is his or her right to contact and use a legal counsel during the procedure.

16. A working group set up by the Ministry of Labour has examined the legal aid provided to seekers of international protection and describes it in its report (Ulkomaalaisille annettava oikeudellinen neuvonta ja oikeusapu, "Legal advice and aid provided to aliens", publication no. 377/2007 of the labour administration). The most significant repercussions of the working group's proposals mainly concern the arrangement of the legal advice and individual assistance acquired by the asylum-seeker reception centres for their customers.

(3) Acceleration of the asylum procedure

17. Section 104 of the Aliens Act (301/2004) provides that if the applicant is considered to come from a safe country of asylum or origin, the decision on his or her application for international protection shall be made within seven days of the date when the minutes of the interview were completed and the information on their completion was entered in the Register of Aliens. In practice, the total length of the asylum procedure in such cases varies from weeks to months.

18. The law does not prescribe any time limit for deciding on an application in accelerated procedures other than those mentioned above. Occasionally there have been cases where, for instance, an application has been decided to be manifestly ill-founded after a very long time, even one year after the application was lodged. In 2007 the processing of an application in an accelerated procedure took 90 days on average.

19. In his above-mentioned report, Rapporteur Norrback paid attention to two issues in connection with accelerated asylum procedures: manifestly well-founded applications and times of processing. He proposed that a separate accelerated procedure be introduced for manifestly well-founded applications for international protection, and that the Aliens Act be supplemented with a three months' time limit for deciding on an asylum application in an accelerated procedure. In summer 2008 the Ministry of the Interior set up a working group to follow up Rapporteur Norrback's proposals.

(4) The prohibition of chain refoulement of asylum-seekers returned by virtue of the Dublin Regulation

20. Section 9 of the Constitution of Finland (731/1999) provides that a foreigner shall not be deported, extradited or returned to another country, if in consequence he or she is in danger of a death sentence, torture or other treatment violating human dignity. According to section 147 of the Aliens Act (301/2004) no one may be refused entry and sent back or deported to an area where he or she could be subject to the death penalty, torture, persecution or other treatment violating human dignity or from where he or she could be sent to such an area. These provisions are taken fully into account in asylum investigation, also in cases where the authorities, by virtue of the Dublin Regulation[4], decide to send the asylum-seeker back to another country applying the Regulation.

21. Ultimately, the authorities enforcing a decision to remove an asylum-seeker from the country are responsible for ensuring that there are no obstacles laid down in section 147 of the Aliens Act to the removal. However, section 200, subsection 2, of the Aliens Act (301/2004) provides that a final decision or a decision that is otherwise enforceable under the Act may not be enforced if there is reason to believe that returning the alien to his or her country of origin or another country may expose him or her to danger as referred to in section 147. If necessary, the enforcing authorities postpone the enforcement or advise the alien to file a new application for international protection.

(5) Providing an effective remedy

22. In connection with accelerated asylum procedures it is, regardless of appeal, possible to enforce a removal decision immediately or eight days from service of the decision. Taking account of this possibility, the applicant's right to petition a court to prohibit or suspend the enforcement has, in practice, guaranteed the implementation of the right to an effective remedy.

23. Although the Aliens Act does not obligate the authorities enforcing the removal decision to wait for the court's decision to prohibit the enforcement, the police have in practice mostly waited until the court has made its decision. Administrative courts, in turn, have been able to decide petitions for the prohibition of enforcement very quickly.

24. On 25 March 2008 the Police Department of the Ministry of the Interior issued a regulation on the division of responsibility for the enforcement of decisions to remove aliens from Finland (SM-2008-00888/Ka-24). This regulation orders the following about applications decided in an accelerated procedure:

> "Above, this regulation describes situations where decisions may be enforced unless the Supreme Administrative Court or an administrative court orders otherwise. The law does not contain any obligation to wait for the decision of a court on a petition to prohibit enforcement. If, however, it is known that such a petition has been made, the enforcing authorities, before enforcing the decision to remove the alien from the country, have to inquire of the court, by telephone or by other means, whether it intends to prohibit the enforcement of the decision."

25. A working group appointed by the Ministry of the Interior to develop the immigration administration and the aliens legislation proposed in its final report, in 2006, an assessment of the question how to clarify the provision of the Aliens Act concerning the enforcement of a removal decision made in an accelerated procedure. The legal safeguards of asylum-seekers should be taken into account in the clarification, and at the same time, the asylum procedures should be prevented from being delayed from the present time.

26. During 2008, at the initiative of the Ministry of the Interior, questions related to the enforceability of removal decisions have been examined jointly with representatives of the judicial administration, and this examination will continue.

Education and training of police officers in the enforcement of asylum decisions

27. Regarding the education and training provided to police officers for the enforcement of asylum decisions in light of section 147 of the Aliens Act (301/2004) and article 3 of the Convention, their basic education and training contains instruction in aliens issues, based on the provisions of the Aliens Act. This instruction focuses, in particular, on the purpose and scope of application of the Act, requirements for entry, removal from the country, and interim measures. The basic education and training also contains training for situations where interpretation or translation is needed. The police also arrange special courses in aliens issues, theme seminars to enhance special know-how and seminars that are also open for authorities cooperating with the police. The most recent training planned for persons involved in removals from the country and

arranged by the Police Department of the Ministry of the Interior jointly with the Aliens' Police took place in November 2007.

28. Moreover, the police are bound by the aforementioned regulation issued by the Police Department of the Ministry of the Interior on the division of responsibility for the enforcement of decisions to remove aliens from Finland (SM-2008-00888/Ka-24). The regulation was issued on 6 March 2007 and updated on 1 April 2008.

29. The Police Department of Helsinki Local District has a separate unit, "the Aliens' Police", for handling aliens issues in the Helsinki district. The regulation of the Ministry of the Interior centralises the responsibility for coordinating the enforcement of removal decisions in the Police Department of Helsinki Local District. The implementation of legal safeguards requires a consistent mode of operation and coordination.

30. The above-mentioned regulation, which is binding on the entire police, orders the following:

> "Not even a final decision shall be enforced, if there are grounds to suspect that returning the alien to the country of origin or another country may subject him or her to a danger referred to in section 147 of the Aliens Act (301/2004). No one may be sent back or deported to an area where he or she could be subject to the death penalty, torture, persecution or other treatment violating human dignity or from where he or she could be sent to such an area. The non-refoulement principle may be applicable for instance if a long time has lapsed since the removal decision of the Finnish Immigration Service, and if the circumstances in the alien's home country or country of destination have changed during that time."

31. In addition to this regulation the Police Department has issued the police with an instruction on the enforcement of a decision on removal and deportation from the country. The instruction was updated last on 1 March 2008.

32. The Ombudsman for Minorities has stated the following in his opinion on the recommendations:

> "Regarding asylum interviews the Ombudsman for Minorities has considered that the main responsibility for them should rest with the Finnish Immigration Service (the former Directorate of Immigration), which has the necessary know-how. Therefore the Ombudsman has suggested that section 97(2) of the Aliens Act should be made more precise by supplementing it with the precondition that the number of applications has increased suddenly, in order to underline the exceptionality of interviews conducted by the police. The Aliens Act has not been amended to this effect, as proposed by the Ombudsman."

33. According to the Ombudsman, an asylum-seeker's application should not be processed in an accelerated procedure except in quite obvious cases. In other words, an accelerated procedure should be used only if the asylum-seeker has not presented any grounds for international

protection or has clearly attempted to abuse the asylum procedure.

34. In practice it has been difficult to get legal aid for accelerated asylum procedures. The prompt processing has caused problems in finding counsels. In some cases the asylum-seeker has not obtained cost-free legal aid for the processing of his/her application. According to the Ombudsman for Minorities, legal aid offices should be instructed concerning access to legal aid for asylum investigation under section 97, subsection 2, (973/2007) of the Aliens Act. Furthermore, the Ombudsman has considered that the sufficiency of legal advice services at reception centres should be guaranteed by law. The provision of legal advice cannot be left to the discretion of administrative authorities.

35. When an asylum-seeker is refused asylum, he or she is also issued with a decision on removal from the country. If the asylum application has been dismissed on the grounds that the applicant may be sent to another State which, under the Dublin Regulation, is responsible for processing the application, or if the seeker has lodged a subsequent application, the removal decision is enforceable after service on the applicant, unless an administrative court orders otherwise. Further, if the removal decision has been made because the asylum-seeker has arrived from a safe country of origin or if the application has been considered manifestly unfounded, the decision is enforceable at the earliest on the eighth day from service on the applicant, unless an administrative court orders otherwise. In practice, this means that an asylum-seeker in an accelerated procedure may be removed from the country even if he or she appeals against the refusal of asylum and petitions for prohibition to enforce the removal decision. According to the current wording of the Aliens Act the police need not wait for the decision of an administrative court, not even when a prohibition to enforce a removal decision is petitioned for.

36. In the view of the Ombudsman for Minorities, the appeals system and especially petitions for a prohibition to enforce removal decisions made in accelerated procedures are essentially problematic from the viewpoint of legal safeguards. The Ombudsman suggests that these problems could be eliminated by administrative guidance or by legislation.

Follow-up response to the recommendation made in paragraph 5(d) of the conclusions and recommendations

The situation of Roma prisoners

37. A new Act on Imprisonment (767/2005) entered into force in Finland on 1 October 2006. This Act influences the situation of Roma prisoners and other prisoners by prescribing a more systematic enforcement of their term of imprisonment. The responsible allocation unit prepares a sentence plan for each prisoner, excluding prisoners with short sentences, on the basis of an assessment of his or her risks and needs. The assessment addresses the factors that should be influenced in order to reduce the prisoner's risk of committing new offences. The planning also facilitates the placement of Roma prisoners in general, by making it possible, before their entry into the prison, to take account of factors promoting their participation in activities organised during the imprisonment.

38. Efforts have been made to improve the situation of Roma prisoners by means of

performance management of prisons. The objective to improve their situation is also included in the equality plan adopted in 2006.

39. Finnish prisons have been requested to provide information about Roma prisoners' situation and the implementation of the proposals of the working group established to look at their situation. According to the answers from the prisons, the situation in open prisons is generally good. In closed prisons, too, it is usually possible to place Roma prisoners in normal residential departments, and they can participate in normal prison activities. Prisons have arranged teaching in the Roma language and culture, and Roma prisoners are also entitled to attend the general education and training. It is often difficult for Roma prisoners to pursue vocational studies, because their basic educational level tends to be deficient. These prisoners have had problems with attending rehabilitation for substance abusers, because they are often unwilling to attend it with other prisoners.

40. The situation of Roma prisoners in some closed prisons has been problematic at times. During the term of the working group mentioned above, the Roma prisoners in Riihim錶i and Konnunsuo Prisons lived in closed departments. Since then, the situation in Riihim錶i has improved because of a new division into departments. Konnunsuo Prison, too, has made continuous efforts to correct the situation and has consulted for instance the prisoners' fellowship. Despite these measures it has not been possible to place Roma prisoners in the normal departments. According to a report from Konnunsuo Prison, a large number of Roma prisoners attended comprehensive school education full-time in 2006-2007. Other Roma inmates of the (closed) department have had the opportunity to participate in work in stone or jewellery workshops, assembling or kitchen work, or cleaning of the department. The inmates of the closed department have also had more opportunities for weekly gym exercise, other physical exercise and outdoor activities than those of the normal departments. The number of Roma prisoners in Konnunsuo has declined considerably, and in recent times this prison has had only an average of 2 to 3 male Roma prisoners. No problems have been encountered in the department for female prisoners.

41. In addition to Konnunsuo Prison, also Sukeva Prison has currently placed all Roma prisoners, at their own request, in a department where they live separately from the other prisoners. Sukeva Prison has reported that the current number of Roma prisoners there is 4-5. The meals and outdoor activity breaks in this department are arranged separately, and the department also provides separate stimulating activities, which contain preparatory and conductive training. The Roma live in this department together with other prisoners who have requested separate placement, and all inmates are treated equitably and by the same principles. Sukeva Prison subscribes to one magazine in the Roma language for the Roma prisoners. Moreover, the prison intends to start adult education for Roma prisoners in autumn 2008, with funding from the National Board of Education. The prison will employ a new worker for substance abuser rehabilitation, and this will make it possible to improve such rehabilitation.

42. Prisons have no actual contact persons for Roma affairs, but the duties of the deputy prison directors, responsible for the prison operations, also include issues related to Roma prisoners. All current systems with Roma contact persons outside prisons have been organised on a voluntary

basis.

The equality plan

43. The equality plan of the Prison Service was prepared by a working group which completed its work on 24 March 2006. The plan contains the legislative provisions on equal treatment, the objectives of equal treatment, the principles concerning non-discrimination in prisons, the means of promoting non-discrimination, an assessment of the number of prison staff with minority background, and instructions for addressing cases of discrimination. In its report the working group proposes the following measures:

(a) Each prison should make efforts to identify those modes of treating minority prisoners which differ from the modes concerning prisoners of the majority population;

(b) Even minor racist phenomena should be addressed immediately and efficiently;

(c) Non-discrimination should be increased by counselling;

(d) Activities should be increased in those departments where prisoners cannot participate in joint activities with other prisoners. Dividing or redividing prisons into departments in connection with construction projects is another means of increasing prisoners' opportunities of participation;

(e) Basic and language education and training should be concentrated in certain prisons under a district prison;

(f) The societal integration of immigrants, especially young immigrants, should be supported;

(g) The release of prisoners to be deported or removed from the country should be prepared by sufficient measures;

(h) A minority contact person should be appointed in each district prison;

(i) The promotion of non-discrimination should be taken increasingly into consideration in the basic and further education and training of prison staff;

(j) When necessary, the need of the prison service for staff with knowledge of different cultures and languages should be underlined in the information provided about education and training for the prison service and its open vacancies;

(k) The prison service as an employer should support the development of the attitudinal atmosphere at workplaces towards respect for non-discrimination and diversity;

(l) The implementation of the equality plan should be made one of the performance objectives;

(m) The classification of the prisoner information system (VATI) should be developed by

enabling searches for incidents involving racism among the entries.

44. The Management Group of the Prison Service has considered the non-discrimination plan, and the directors of the district prisons are responsible for implementing it in practice. The answers of prisons to an inquiry about the implementation of the plan show that the implementation varies between them. Some prisons have distributed the plan to their staff without discussing it in detail. However, many prisons try to follow the guidelines set in the plan, for instance when placing prisoners in the prison and in different activities. Prisons try to address racist phenomena immediately. They have not appointed contact persons as expected in the plan, but they utilise, to the extent possible, the input of their employees with different backgrounds. Training in multiculturalism is considered important in prisons.

Follow-up response to the recommendation made in paragraph 5(e) of the conclusions and recommendations

The timetable of the renovation of Riihim錶i Prison and the introduction of Western Finland Prison (currently Turku Prison)

45. The renovated parts of Riihim錶i Prison were introduced in stages: department D in May 2004, department C in November 2004, department A in May 2005 and department F in November 2005. Thus, all cells in Riihim錶i Prison had a toilet in November 2005.

46. The new Turku Prison (called Western Finland Prison during the construction) was introduced on 1 October 2007.

Further information about the methods used for establishing that prisoners do not want chemical toilets in their cells, and information about the other alternatives (in addition to chemical toilets) considered for replacing the use of chamber pots in cells before 2010

47. In the early 2000s, Helsinki Prison purchased around 100 portable chemical toilets for use in cells with chamber pots. The toilets were distributed into the cells, and the prisoners were instructed how to use and service them. The old chamber pots were left in the cells. After having tried the chemical toilets the prisoners informed that they did not want to use them, because servicing and cleaning them was laborious. They also informed that the toilets could be removed, as they were unnecessary. They preferred to use chamber pots, which are easy to service. Currently, chemical toilets are used in three cells in the northern cell department of Helsinki Prison. In the department for prisoners serving fine conversion sentences, chemical toilets are used in all (13) cells. The prisoners do not, however, service them sufficiently well, and therefore they cause more odour nuisance than chamber pots.

48. H鋗eenlinna Prison, too, purchased some portable chemical toilets for trial, but did not acquire more of them, since the experience of their use was negative.

49. In some years, the Criminal Sanctions Agency has set a performance objective for all prisons to enable prisoners to visit a toilet around the clock. As a result, prisons have extended the opening hours of their departments so that prisoners may use the common toilet facilities of

the departments later in the evening than was permitted before.

50. The use of cells with chamber pots could be further reduced if guards could let prisoners visit the common toilet facilities of departments always when requested, also at night-time. So far, two prisons, those in Kuopio and Konnunsuo, have managed to arrange toilet visits in this way.

51. There is currently a lack of staff in prisons. Therefore their night-time staffing has been kept at a low level, in order to allocate as much staff as possible for the day and evening shifts. This, in turn, prevents the opening of cell doors at night, for reasons of security. Increasing the night-time staff would raise the total costs and, at the same time, reduce prisoners' opportunities to participate in daytime activities.

52. Decisions have been made to renovate Kuopio and Mikkeli Prisons in 2009–2011. Konnunsuo and H銅eenlinna Prisons will probably be renovated next. In connection with the renovations all cells of the prisons would be equipped with toilets. The situation in H銅eenlinna Prison will probably be improved partly in 2009 by allocating part of the premises of the current Prison Hospital for residential use. Thereafter the prison would have 56 cells with toilets for female prisoners.

53. According to the current plans, only Helsinki Prison would have cells with chamber pots after 2015, because no toilets were constructed there during the renovation of the western cell department in the late 1980s and the early 1990s. In Helsinki Prison, also the northern cell department has cells with chamber pots. It has been proposed that if the number of prisoners declines as expected, the cells with chamber pots in Helsinki Prison should be removed from residential use and converted into rooms for prisoners' activities. It has also been proposed to use these departments as open departments. The feasibility studies are still going on, and no final decisions have been made. Also the future trend of the number of prisoners has to be taken into account in the decision-making.

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[1] Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

[2] Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status.

[3] Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status.

[4] Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national.