

ALBANIA

Follow-up - State Reporting Action by Treaty Bodies

CCPR, A/60/40 vol. I (2005)

CHAPTER VII. FOLLOW-UP TO CONCLUDING OBSERVATIONS

...

233. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the comprehensive table presented below. Since 18 June 2004, 15 States parties (Egypt, Germany, Kenya, Latvia, Lithuania, Morocco, the Netherlands, the Philippines, Portugal, the Russian Federation, Serbia and Montenegro, Slovakia, Sweden, Togo and Venezuela) have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, only six States parties (Colombia, Israel, Mali, Republic of Moldova, Sri Lanka and Suriname) have failed to supply follow-up information that had fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.

224. The table below details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow-up responses provided to it, decided to take no further action prior to the period covered by this report.

<u>State Party</u>	<u>Date Information Due</u>	<u>Date Reply Received</u>	<u>Further Action</u>
--------------------	-----------------------------	----------------------------	-----------------------

...

Eighty-second session (October 2004)

Albania	4 November 2005	-	-
---------	-----------------	---	---

CCPR, CCPR/C/SR.2392 (2006)

HUMAN RIGHTS COMMITTEE

Eighty-seventh session

SUMMARY RECORD OF THE 2392nd MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 26 July 2006, at 11 a.m.

...

FOLLOW-UP TO CONCLUDING OBSERVATIONS ON STATE REPORTS AND TO VIEWS
UNDER THE OPTIONAL PROTOCOL (agenda item 7)

...

Report of the Special Rapporteur for follow-up on concluding observations
(CCPR/C/87/CRP.1/Add.7)

...

[Mr. RIVAS POSADA, speaking as Special Rapporteur for follow-up on concluding observations]

53. Albania had sent a partial reply on 2 November 2005 to the Committee's request (made in October 2004) for additional information. A full reply had been requested and a reminder sent on 6 July 2006.

...

CCPR, A/61/40 vol. I (2006)

CHAPTER VII. FOLLOW-UP TO CONCLUDING OBSERVATIONS

234. In chapter VII of its annual report for 2003 (A/58/40, vol. I), the Committee described the framework that it has set out for providing for more effective follow-up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report (A/60/40, vol. I), an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2006.

235. Over the period covered by the present annual report, Mr. Rafael Rivas Posada continued to act as the Committee's Special Rapporteur for follow-up to concluding observations. At the Committee's eighty-fifth, eighty-sixth and eighty-seventh sessions, he presented progress reports to the Committee on intersessional developments and made recommendations which prompted the Committee to take appropriate decisions on a State-by-State basis.

236. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table. Over the reporting period, since 1 August 2005, 14 States parties (Albania, Belgium, Benin, Colombia, El Salvador, Kenya, Mauritius, Philippines, Poland, Serbia and Montenegro, Sri Lanka, Tajikistan, Togo and Uganda) have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, only 11 States parties (Equatorial Guinea, Greece, Iceland, Israel, Mali, Moldova, Namibia, Suriname, the Gambia, Uzbekistan and Venezuela) have failed to supply follow-up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.

237. The table below details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow-up responses provided to it, decided to take no further action prior to the period covered by this report.

State party	Date information due	Date reply received	Further action
--------------------	---------------------------------	--------------------------------	-----------------------

...

Eighty-second session (October 2004)

...

Albania	4 November 2005	2 November 2005	A complete response to supplement the partial reply, including on paras. 13 and 16, was requested to the State party. Last reminder was dispatched on 6 July 2006.
Initial report examined	Paras. 11, 13 and 16	(partial reply with respect to paras. 16 and 13)	

Consultations have been scheduled for its eighty-eighth session.

...

CCPR, A/62/40 vol. I (2007)

CHAPTER VII. FOLLOW-UP ON CONCLUDING OBSERVATIONS

220. In chapter VII of its annual report for 2003 (A/58/40, vol. I), the Committee described the framework that it has set out for providing for more effective follow-up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report (A/61/40, vol. I), an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2007.

221. Over the period covered by the present annual report, Mr. Rafael Rivas-Posada continued to act as the Committee's Special Rapporteur for follow-up to concluding observations. At the Committee's eighty-fifth, eighty-sixth and eighty-seventh sessions, he presented progress reports to the Committee on intersessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State. In view of Mr. Rivas-Posada's election to the Chair of the Committee, Sir Nigel Rodley was appointed the new Special Rapporteur for follow-up on concluding observations at the Committee's ninetieth session.

222. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.¹ Over the reporting period, since 1 August 2006, 12 States parties (Albania, Canada, Greece, Iceland, Israel, Italy, Slovenia, Syrian Arab Republic, Thailand, Uganda, Uzbekistan and Venezuela) have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, only 12 States parties (Brazil, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Mali, Moldova, Namibia, Surinam, Paraguay, the Gambia, Surinam and Yemen) and UNMIK have failed to supply follow-up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.

223. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow-up responses provided to it, decided before 1 August 2006 to take no further action prior to the period covered by this report.

...

Eighty-second session (October 2004)

State party: Albania

Report considered: Initial

Information requested:

Para. 11: Little participation by women in public affairs and economic life (arts. 2, 3 and 26).

Para. 13: Reports of arbitrary detention, excessive use of force, ill-treatment and torture of detainees; remedies and compensation for victims (art. 7).

Para. 16: Conditions in detention for those held on remand and for convicted persons; effective system of bail (arts. 9 and 10).

Date information due: 1 December 2005

Action taken:

6 July 2006 The State party was asked for a complete response to paragraphs 13 and 16.

Date reply received:

2 November 2005 (Partial reply to paragraph 16, no response to paragraph 13.)

17 August 2006 Complete reply.

Recommended action: At its eighty-eighth session the Committee decided no further action needed to be taken with regard to the initial report of the State party.

Next report due: 1 November 2008

...

Note

1/ The table format was altered at the ninetieth session.

Follow-up- State Reporting
ii) Action by State party

CCPR, CCPR/CO/82/ALB/Add.1 (2007)

Comments by the Government of Albania on the concluding observations of the Human Rights Committee

[19 January 2007]

Information and comments of the Albanian Government on the implementation of recommendations contained in paragraphs 13 and 16 of the Concluding Observations (CCPR/CO/82/ALB)

Paragraph 13

The Committee is concerned about allegations of arbitrary arrests and detention, the excessive use of force by law enforcement officials, ill-treatment of detainees in police custody and use of torture to extract confession from suspects. It regrets that acts of torture by law enforcement officials are considered as "arbitrary acts" only and treated accordingly. It is also concerned that despite several cases of investigations and punishment of those responsible for ill-treatment, many cases have not been investigated properly and compensation to victims has not been provided (art.7).

The State party should take firm measures to eradicate all forms of ill-treatment by law enforcement officials and ensure prompt, thorough, independent and impartial investigations into all allegations of torture and ill-treatment. It should prosecute perpetrators and ensure that they are punished in a manner proportionate to the seriousness of the crimes committed, and grant effective remedies including compensation to the victims.

The Ministry of Interior and the General Directorate of State Police have undertaken measures for the elimination of violence and maltreatments or any sort of torture exercised by the police officers towards the citizens deprived of liberty (detained, pre-detained, sentenced and those brought to Police Station).

To this end, several orders and instructions of the Minister of Interior, official demands and service orders of the General Director of the State Police on the introduction, implementation and the safeguard of fundamental constitutional rights of individuals, and to those deprived of liberty in particular have been drafted and forwarded to all the local structures of the State Police.

In order to monitor the observance and safeguard the rights sanctioned by law for the pre-detained individuals, many representatives of international organizations have been issued permits and have been allowed to conduct visits and inspections at the pre-detention facilities of the Ministry of Interior. Such representatives were from Albanian Helsinki Committee, the commissioners of the Ombudsman, members of the Committee for Torture Prevention and Inhuman Treatments of the Council of Europe, etc.

The prosecutors of the district courts and of the General Prosecutors Office have the legal authority to control the pre-detention premises, living conditions, nourishment, treatment and the safeguard of the rights for the pre-detained individuals and to take the necessary measures against any police officer responsible.

The pre-detained are offered medical service by high and medium medical personnel, who make medical visits at the very early moments of their detention or arrest, periodical visits at any time, according to the needs of the pre-detained individuals. This staff is legally obliged to denounce any violation and maltreatment act conducted towards the pre-detained, by drawing up the respective reports and documentation.

Right from the very first moments of arrest/detention, the citizens have been provided with the right of having their own defense counsel, to notify their relatives and be acquainted with the reasons of their arrest, etc.

The police officers, who have abused, maltreated or violated the rights of individuals deprived of liberty, have been subject of criminal prosecution and legal accountability.

In view of this recommendation, the Ministry of Justice has informed us that for the period 2005 onwards, 4 cases of the use of force against the imprisoned individuals have been evidenced, in concrete terms, at the penitentiary institutions in Lezhë, Peqin, Vaqarr and Pre-detention Institution in Tirana (Jordan Misja Street) For the cases in the prisons in Lezha, Peqin and at the pre-detention center in the "Jordan Misja" Street, the convicted have referred the policemen of the prisons for criminal proceedings, which afterwards have been dropped by the Prosecution. For the same events occurred in the institutions in Lezha and at the "Jordan Misja" street in Tirana, even the officers of these institutions have asked for the criminal prosecution against the convicted. For the same period,(2005 onwards) the Directorate General of Prisons has taken the disciplinary measure of removing from office two employees, (an officer and a primary employee in the Prison of Vaqarr) on account of using violence against the convicted.

The complaints lodged to the institution of the People's Advocate

(Ombudsman) concerning the cases of maltreatment have been better assessed, since when they have turned out to be true, they have proved to be serious violations of Article 25 of the Constitution of the Republic of Albania, which stipulates as follows: " No one may be subject to the torture and to the cruel, inhuman or humiliating treatment" They constitute, at the same time, serious violations of Article 3 of the European Convention of Human Rights. According to the Ombudsman, in 2005, they have increased as against the year 2004 and the most recent months, in particular.

30 complaints have been lodged to the Ombudsman for the year 2005, for maltreatment of citizens from the State Police, out of which 4 have been assessed as correct, 22 ungrounded and one complainant has withdrawn.

For the cases when the claims of the complainants on account of maltreatment on the part of police officers have been proved, the Ombudsman has forwarded recommendations to the relevant bodies.

During this year, only for the maltreatment cases, 4 recommendations have been forwarded to the Prosecution office for the initiation of criminal proceedings, out of which three have been accepted and one is under consideration. Likewise, the Ombudsman has demanded from the bodies of internal auditing and Prosecution thorough and objective investigations for these kinds of complaints.

As to the compensation of the victims, the Ministry of Justice has informed us that it is cooperating with other institutions to develop the legal mechanisms which would enable the victims of tortures to benefit correct and adequate compensation; however, one should take into account the fact that such a mechanism implies high financial costs.

Paragraph 16

The Committee is concerned about inhuman conditions of detention, e.g. in police custody, about the number of persons on remand and conditions of detention, the condition of juvenile and female detainees as well as the lack of compensation of juvenile and female detainees as well as the lack of compensation for unlawful arrest of detention(arts. 9 and 10)

The State party is urged to improve the conditions of detention for those held on remand and for convicted persons. Individuals held in remand detention should be segregated from convicted persons. The state party should also provide the necessary measures for victims of unlawful arrest or detention to claim compensation. The State party is reminded that, under article 9, paragraph 3, it shall not be general rule that suspected persons are detained while awaiting trial. The State party should develop an effective system of bail.

Although the infrastructure of the pre-detention surroundings of the Ministry of Interior is outdated and almost obsolete, continuous operations have been made to improve the living conditions and the hygiene. In this regard, the outworn mattresses and blankets have been replaced; the interiors of the building are whitewashed not less than twice a year, measures have been taken to receive and handle a certain number of inmates in the pre-detention chambers, according to their capacities.

Pursuant to the Decision of the Council of Ministers No. 327, Dated 15.05.2000 On shifting the pre-detention system under the subordination of the Ministry of Justice", the Ministry of Interior and the Directorate General of State Police, through their cooperation with the Ministry of Justice and the Directorate General of Prisons ate making efforts for the acceleration of the process of shifting the pre-detention system under the subordination of the Ministry of Justice.

Currently, near 1/3 of the pre-detention system of the Ministry of Interior has been shifted to the Ministry of Justice.

The Minor detainees are ensured and handled in rooms of their own, separate from the adult inmates. There is still no special pre-detention institution in place in our country for ensuring and handling all the minors.

The female detainees are held in the pre-detention chambers from the moment of detention or arrest up to the point when the Court decides on the measure

"arrest in custody" and afterwards they are transferred and handled in one of the pre-detention institutions of the Ministry of Justice.

During the time they are secured and handled in the pre-detention rooms, they stay in separate rooms, secured with two keys; any action with them is performed upon the presence of not less than two persons and, in many cases with policewomen. They have also been provided with the facilities for their personal hygiene.

For the convicts in the pre-detention rooms, after the final decision of the court comes and after compiling the relevant documentation, their removal to serve the sentence terms in one of the prison institutions of the Ministry of Justice is demanded.

In regard to the "unfair pre-detentions" we inform you as follows:

the detentions and arrests made from the officers of the Judiciary Police are monitored by the prosecutors attached to the courts of judiciary districts and the Prosecution of Serious Crimes and afterwards, there are the judiciary bodies that assess and judge one of the security measures foreseen in the Code of Criminal Proceedings.

It is the prerogative and competence of the judiciary bodies to decide, with a reasonable judgment, whether a detainee or arrested person will be criminally proceeded through "arrest in custody" (pre-detention) or while being free.

The Albanian legislation has stipulated and ensured an effective defense through lawyers for all the detainees and arrested persons, through all stages, from the moment of detention or arrest, to investigation and judgment.

The local structures of State Police have been ordered to permit the access of the defense lawyers in the police premises, in order to contact and offer their counsel to their client's right from the very first moments of detention.

For the cases of unfair detention of citizens, it is the Court that decides for the indemnification and its size.