

ALGERIA

Follow-up - State Reporting

i) Action by Treaty Bodies

CCPR, A/64/40, vol. I (2009)

VII. FOLLOW UP TO CONCLUDING OBSERVATIONS

237. In chapter VII of its annual report for 2003,²⁰ 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/63/40, 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 2009.

238. Over the period covered by the present annual report, Sir Nigel Rodley acted as the Committee's Special Rapporteur for follow-up on concluding observations. At the Committee's ninety-fourth, ninety-fifth and ninety-sixth sessions, he presented progress reports to the Committee on inter-sessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State.

239. 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.²¹ Over the reporting period, since 1 August 2008, 16 States parties (Austria, Barbados, Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, France, Georgia, Honduras, Hong Kong Special Administrative Region (China), Ireland, Libyan Arab Jamahiriya, Madagascar, Tunisia, Ukraine and United States of America), as well as the United Nations Interim Administration Mission in Kosovo (UNMIK), have submitted information to the Committee under the follow up procedure. Since the follow up procedure was instituted in March 2001, 11 States parties (Botswana, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Namibia, Panama, Sudan, the former Yugoslav Republic of Macedonia, Yemen and Zambia) 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.²²

240. 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 2008 to take no further action prior to the period covered by this report.

241. The Committee emphasizes that certain States parties have failed to cooperate with it in the performance of its functions under Part IV of the Covenant, thereby violating their obligations (Gambia, Equatorial Guinea).

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Ninety-first session (October 2007)

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State party: Algeria

Report considered: Third periodic (due since 1 June 2000), submitted on 22 September 2006.

Information requested:

Para. 11: Ensure that all places of detention are under the authority of the civil prison administration and the public prosecutor's office; create a national register of detention centres and detained persons; regular visits by an independent national organ to all places where persons are deprived of their liberty (arts. 2 and 9).

Para. 12: Ensure that victims of disappearances and/or their families have access to effective remedies, including compensation; ensure that all persons secretly detained are brought before a judge without delay; investigate all cases of disappearances, inform the families of victims about the results of such investigations, and publish the final report of the ad hoc National Commission on Disappearances (arts. 2, 6, 7, 9, 10 and 16).

Para. 15: Ensure that all allegations of torture and cruel treatment are investigated by an independent body and that perpetrators are punished; improve training for public officials on the rights of arrested persons and detainees (arts. 2, 6 and 7).

Date information due: 1 November 2008

Date information received:

7 November 2007 Partial reply (responses incomplete with regard to paragraphs 11, 12, and 15).

Action taken:

16 December 2008 A reminder was sent.

29 May 2009 A letter was sent to request additional information.

Recommended action: If no information is received, a reminder should be sent.

Next report due: 1 November 2011

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

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

22/ As the next periodic report has become due with respect to the following States parties, the Committee has terminated the follow-up procedure despite deficient information or the absence of a follow-up report: Mali, Sri Lanka, Suriname, Namibia, Paraguay, and the Democratic Republic of the Congo.

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

Human Rights Committee
Ninety-ninth session

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

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

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

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

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22. Algeria had provided partial replies to the Committee's concluding observations in a memorandum, which it had asked the Committee to publish as an annex to the Committee's annual report. There had been some misunderstandings, but the memorandum had been published as an official document with a symbol number and was available on the Committee's website. On 25 June 2010, he had requested a meeting with a representative of the State party and had received a reply the previous day offering to meet during the current session. Given the lack of time, he proposed sending a letter thanking the representative for the offer and suggesting a lunchtime meeting on 12 October 2010.

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24. **The Chairperson** said that, if there was no objection, he took it that the Committee wished to adopt the Special Rapporteur's recommendations.

25. *It was so decided.*

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Chapter VII: Follow-up to Concluding Observations

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

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

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

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

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

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

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Ninety-first session (October 2007)

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State party: Algeria

Report considered: Third periodic (due since 1 June 2000), submitted on 22 September 2006.

Information requested:

Para. 11: Ensure that all places of detention are under the authority of the civil prison administration and the public prosecutor's office; create a national register of detention centres and detained persons; regular visits by an independent national organ to all places where persons are deprived of their liberty (arts. 2 and 9).

Para. 12: Ensure that victims of disappearances and/or their families have access to effective remedies, including compensation; ensure that all persons secretly detained are brought before a judge without delay; investigate all cases of disappearances, inform the families of victims about the results of such investigations, and publish the final report of the ad hoc National Commission on Disappearances (arts. 2, 6, 7, 9, 10 and 16).

Para. 15: Ensure that all allegations of torture and cruel treatment are investigated by an independent body and that perpetrators are punished; improve training for public officials on the rights of arrested persons and detainees (arts. 2, 6 and 7).

Date information due: 1 November 2008

Date information received:

7 November 2007 In a memorandum addressed to the Special Rapporteur, issued under symbol CCPR/C/DZA/CO/3/Add.1, the State party explained its position on the concluding observations and gave partial replies on paragraphs 11, 12 and 15.

14 January and 12 October 2009 Letter addressed to the Special Rapporteur (the State party repeated its position, as explained in the memorandum of 7 November 2007, and again requested that that memorandum should be issued as an annex to the annual report of the Committee).

27 July 2010 Communication addressed to the Special Rapporteur informing him of the availability of representatives of the State party to meet with him at the ninety-ninth session of the Committee.

Action taken:

16 December 2008 A reminder was sent.

29 May 2009 A letter was sent to request additional information.

27 August 2009 A reminder was sent.

11 December 2009 A reminder was sent. Moreover, the Special Rapporteur requested a meeting with a representative of the State party.

25 June 2010 The Special Rapporteur requested a meeting with a representative of the State party.

28 July 2010 The Special Rapporteur requested a meeting with a representative of the State party at the 100th session of the Committee.

Recommended action: Talks will be held at the Committee's next session.

Next report due: 1 November 2011

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

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

¹⁸ The table format was altered at the ninetieth session.

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

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

CCPR, CCPR/C/DZA/CO/3/Add.1 (2007)

Comments by the Government of the People's Democratic Republic of Algeria to the concluding observations of the Human Rights Committee*

[7 November 2007]

Comments by the Algerian Government to the concluding observations
of the Human Rights Committee (CCPR/C/DZA/CO/3)

The Algerian Government was surprised by the content of the concluding observations of the Human Rights Committee, made public on 1 November 2007, following the consideration of Algeria's third periodic report on 23 and 24 October 2007.

The observations, contained in the document CCPR/C/DZA/CO/3/CRP.1, do not accurately reflect the content of the discussions held with the Algerian delegation and are not fully in keeping with the preliminary conclusions read out by the Chairperson at the meeting during which the periodic report was considered.

Desirous of promoting a fruitful dialogue with the Human Rights Committee, the Algerian Government wishes to point out that it provided the Committee with the relevant clarifications to questions raised by members of the Committee during the interactive dialogue with the delegation, both in the written replies submitted prior to the session and during the three meetings at which the report was considered. The Government expressed its willingness, moreover, to submit in writing any additional responses or documentation that might be requested by the Committee.

The Government was therefore entitled to expect to see this expression of willingness reflected in the Committee's concluding observations alongside the allegations the Committee saw fit to record.

In the light of the foregoing, the Algerian Government would like to make the following comments in respect of the Committee's concluding observations:

1. The Charter for Peace and National Reconciliation is a political text and should not, therefore, elicit comment from a legal body

The texts mentioned - Ordinance No. 06-01 and the implementing decrees - are based on the Charter and are intended to provide a legal framework for situations not addressed by domestic law. Those texts contain provisions aimed at addressing the consequences of the national tragedy once all of the options under existing legislation have been exhausted.

Neither the ordinance nor the implementing texts of the Charter for Peace and National

Reconciliation favour impunity or amnesty, as appears to be suggested in the Committee's concluding observations. Those texts reflect the unanimous will of the Algerian people, in whom sovereignty is vested and on behalf of whom justice is done, once and for all to overcome the serious crisis that affected Algeria for a decade.

2. Secret places of detention

The Algerian delegation has categorically refuted the allegations with regard to alleged places of detention that lie outside the reach of the law. In all the time that they have been promoting subversion and attacking republican institutions, the people making such allegations have never been able to put forward any documentary evidence. The Algerian Government wishes to reaffirm that it exercises its authority over all places of detention under its jurisdiction and has been allowing independent domestic and foreign institutions to visit them for more than eight years.

3. The issue of disappearances

As explained during the debate with the Committee, the Algerian Government wishes to emphasize that the issue of disappearances should have been considered in its natural context, that is, as a consequence of terrorist crime.

The Government, anxious to address this painful issue, which is a consequence of the national tragedy, wishes to point out that the principle of compensation is applied and has been extended to all victims without distinction.

The Government stated that the decision on publication of the report of the ad hoc National Commission on Disappearances fell under the exclusive jurisdiction of the authority that had prepared it and that many of the recommendations contained in the report were addressed by the implementing texts for the Charter for Peace and National Reconciliation.

4. Torture, pretrial detention and the definition of terrorist offences

The Algerian Government described the legislation in place on torture and pretrial detention both in its report and during the debate with the Committee. The Government informed the Committee that torture was prohibited in all places and in all circumstances and that the perpetrators of ill-treatment faced criminal prosecution. The Government outlined the constitutional provision concerning pretrial detention, the strict procedures to be followed under the supervision of the judicial authorities to extend the period of pretrial detention and the penalties provided for any State officials who do not comply with those provisions.

The Algerian Government wishes to recall that for more than a decade it has been calling for an international conference on terrorism to be held and regrets that the international community has yet to reach an agreed definition of terrorism. The Algerian legislature, for its part, has adopted a definition based on legislation in other countries and current practices.

5. Freedom of association, expression and assembly and freedom to demonstrate

The Algerian Government pointed out in its replies that freedom of association, expression and assembly and freedom to demonstrate are enshrined in the law. Any restrictions are those referred to in the provisions of the Covenant relating to public order, security, morality and respect for the private lives of others.

6. Status of women

When it ratified the Covenant, the Algerian Government pointed out that it had formulated interpretative declarations, particularly with respect to the sphere of personal status. It had recalled in its written replies and during the consideration of its report that reservations were a right guaranteed by the Vienna Convention on the Law of Treaties and that, in respect of the Covenant, they did not affect the essence of the rights guaranteed therein.

The Algerian Government points out that all observers agree that the amendments to the Family Code constitute a remarkable advance and that it endeavours to make them effective in practice, particularly by punishing violence against women and promoting the participation of women in public life. The Government has underscored the huge efforts currently being undertaken in the field of education, training and awareness-raising to promote women's rights in Algeria.

7. Follow-up to the Committee's views on communications

With regard to the cases referred to the Committee under the Optional Protocol, the Algerian Government informed the Committee that it cooperated with it in good faith in this regard. The Government pointed out that the facts were not always presented or interpreted faithfully by the source, and in some cases were entirely distorted by political considerations.

The Algerian Government has indicated that, if it should be established that evidence that was not made known during the examination of a case by the domestic courts could, in fact, totally change the outcome of a judicial decision, Algerian law provides for the possibility of a judicial review.

In providing this clarification, which reflects the gist of the debate with the members of the Committee, which was in fact recorded by conference services at the United Nations Office at Geneva, the Algerian Government stresses that it remains committed to the spirit of cooperation it has always shown vis-à-vis the Committee. The Government regrets, however, that the final views of the Committee are not in line with its preliminary observations, despite the efforts made by the delegation to enable the Committee to assess the achievements made in terms of the promotion and protection of civil and political rights.
