

CROATIA

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

CAT, A/60/44 (2005)

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

115. At its thirtieth session, in May 2003, the Committee began a routine practice of identifying, at the end of each set of concluding observations, a limited number of recommendations that are of a serious nature and warrant a request for additional information following the dialogue with the State party concerning its periodic report. The Committee identifies conclusions and recommendations regarding the reports of States parties which are serious, can be accomplished in a one-year period, and are protective. The Committee has requested those States parties reviewed since the thirtieth session of the Committee to provide the information sought within one year.

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118. The Rapporteur has welcomed the follow-up information provided by six States parties as of 20 May 2005, when its thirty-fourth session concluded, indicating the commitment of the States parties to an ongoing process of dialogue and cooperation aimed at enhancing compliance with the requirements of the Convention. The documentation received will be given a document number and made public. The Rapporteur has assessed the responses received particularly as to whether all of the items designated by the Committee for follow-up (normally between three and five issues) have been addressed, whether the information provided is responsive, and whether further information is required.

119. With regard to the States parties that have not supplied the information requested, the Rapporteur will write to solicit the outstanding information. The chart below details, as of 20 May 2005, the conclusion of the Committee's thirty-fourth session, the status of follow-up replies to concluding observations since the practice was initiated. As of that date, the replies from seven States parties remained outstanding.

120. As the Committee's mechanism for monitoring follow-up to concluding observations was established in May 2003, this chart describes the results of this procedure from its initiation until the close of the thirty-fourth session in May 2005.

<u>State party</u>	<u>Date due</u>	<u>Date reply received</u>	<u>Further action taken/required</u>
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Croatia	May 2005		Reminder to State party
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CAT, A/61/44 (2006)

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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.

A. Follow-up reply due before 1 May 2006

State party	Date due	Date reply received	Document symbol number	Further action taken/required
...				
Croatia	May 2005	-		Reminder to State party

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CAT, A/62/44 (2007)

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IV. FOLLOWUP 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

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Thirty second session (May 2004)

State party	Information due in	Information received	Action taken
...			
Croatia	May 2005	12 July 2006 CAT/C/HRV/CO/3/Add.1	Reminder Response under review
...			

(ii) Action by State party

CAT, CAT/C/HRV/CO/3/1Add.1 (2006)

Comments by the Government of Croatia to the conclusions and recommendations of the Committee against Torture

[12 July 2006]

1. The Ministry of Foreign Affairs and European Integration of the Republic of Croatia presents its compliments to the Office of the United Nations High Commissioner for Human Rights and pursuant to the question of Felice D. Gaer, Rapporteur for Follow-up on conclusions and Recommendations of the Committee against Torture dated 17 February 2006, has the honour to provide further information regarding areas of particular concern identified by the Committee in paragraph 9(a), (b), (f), (n) and (p) as follows:

9(a)

2. For the criminal offence as stated in Article 176 of the Criminal Code (Torture and Other Cruel, Inhuman and Degrading Treatment), with the intention of detecting, investigating, processing and appropriately criminally sanctioning, the State Attorney Office undertakes specific measures from within its competence as stated in the Law on the State Attorney Office and the Criminal Procedure Act.

3. In case of the aforementioned criminal offence the State Attorney Office institutes and directs *ex officio* criminal proceedings. The State Attorney conducts investigations himself and gathers the necessary information, which does not delay the course of the pre-trial procedure, avoiding the redundant correspondence with other state authorities that can provide the required data and conduct investigations during the preliminary criminal procedure.

4. However, when the State Attorney cannot gather the necessary information and evidence during his/her investigation on the basis of which could conclude whether there exists a grounded suspicion to initiate criminal proceedings by immediately bringing charges, then he will request the police to gather the necessary information and to conduct investigations on the basis of which he will decide either to reject criminal charges or to request an investigation i.e. to bring criminal charges.

5. According to article 174, paragraph 2 of the Criminal Procedure Act the State Attorney Office is authorized to request from the police the necessary measures and actions be undertaken and can order the content of these measures or activities. In such a case the police are obliged to undertake all the measures from the request thus specified and they are obliged to inform the State Attorney within 30 days about what they have done. This regulation enables the State Attorney to directly control police investigations.

6. The State Attorney Office has achieved harmonious cooperation with the police, which is the

prerequisite to the efficiency of the State Attorney Office and the right way to ensure an impartial, complete and fast investigation on the basis of all the reports on the tortures committed and other cruel, inhuman or humiliating treatment. The role of the police is of the primary and imperative importance in investigating crimes because police work ensures the facts and evidence to the State Attorney Office necessary for instituting criminal proceedings.

7. When investigating these criminal offences in cooperation with the police, in coordinated gathering of all the relevant data, special attention is paid to the fact that regardless of ethnic origin and other circumstances the might be discriminating, the criminal prosecution and providing an honest and adequate protection and compensation to the victims should be applied in the same way not only with regard to the possible perpetrator of the criminal offence but also to the victim. Given that in this case the criminal offence is contained in the Criminal Code of the Republic of Croatia among the criminal offences sanctioned to protect the values protected by international law; the State Attorney Office pays special attention to a timely and efficient processing and sanctioning of perpetrators of this criminal offence.

8. In the last two years (2004/2005), state attorney offices in the Republic of Croatia received one criminal report each year, in both cases charges were dropped after police investigations because no evidence or facts could be gathered on the basis of which it would be concluded that there is a grounded suspicion for instituting criminal proceeding before the court. In their files the State Attorney Office did not record that a court investigation was conducted, that charges were brought or that a judgment to convict, reject or acquit was passed related to the criminal offence as provided in Article 176 of the Criminal Code.

9(b)

9. The Republic of Croatia completely and without reservations cooperates with all international courts and thus also with the International Criminal Tribunal for the Former Yugoslavia (ICTY). The competent directorate of the Ministry of Justice of the Republic of Croatia cooperates closely with the Liaison Office in Zagreb as well as with the accused Croatian nationals and their defense lawyers (documentation is delivered to the defendants and to the Prosecutor Office, access to archives is possible, talks with the witnesses summoned and warrants of arrest are being carried out an/or handover of defendants pursuant to the regulations of the ICTY Statute and Regulations on Procedure and Evidence.

10. The Republic of Croatia enabled the inspection into all its archives and talks with top-ranking officials from all the spheres of government administration.

11. The international community recognized the cooperation between the Republic of Croatia and the International Tribunal of Former Yugoslavia as can be seen from the progress achieved in the accession to the EU Croatia showed that it cooperates with the ICTY fully in *bona fide*.

9(f)

12. As regards the recommendation of the Committee against Torture referring to the adoption of

the necessary measures for the improvement of material conditions at the Reception Centres for asylum seekers and immigrants, we can state that the recommendation mentioned has been completely adopted and implemented.

13. After the Asylum Act was passed, which came into force on July 1, 2004, regulations were adopted on the accommodation of asylum seekers and foreigners provisionally under protection (Official Gazette of the Republic of Croatia, No. 108/04) which came into force on August 12, 2004.

14. Within the Ministry of the Interior a Reception Centre for asylum seekers was established which is currently operating at 2 locations /Jezevo and Sasina Grede near Sisak) because the Republic of Croatia still does not have a permanent location where asylum seekers could be accommodated, the conversion of the premises in Kutina which are in the possession of the Ministry of the Interior is under way, which will significantly increase the accommodation capacities and will improve the conditions for the implementation of various social programmes and consequently the reception and accommodation could be carried out according to the European and international standards. We expect that the reception and accommodation of asylum seekers at that location will begin in June this year.

15. The reception, accommodation and welfare of asylum seekers are currently being provided for in accordance with the provisional reception and accommodation procedure. The accommodation of asylum seekers is provided at the Reception Centre for aliens in Jezevo where aliens are normally accommodated who stay in Croatia illegally, who could not be forcibly expelled, as well as aliens whose identity has not been established. The Centre is an enclosed one and the movement of the users is limited. All the aliens accommodated have free food, medical care and social welfare. It should be noted that part of the premises at the Reception Centre uses the Centre for asylum seekers who are separated from illegal immigrants. Currently, 24 asylum seekers could be accommodated there, but the accommodation capacity could increase by 10 to 15 persons. The asylum seekers stay in Jezevo up to 2 days and during that time all the procedures concerning the reception of asylum seekers (taking fingerprints, photographs, submission of asylum applications, production and issuance of cards, entering data of the reception procedure in the obligatory files, and the first medical examination) are being carried out.

16. Asylum seekers are provided information about their rights and duties during the procedure for obtaining asylum, as well as useful information on non-governmental organizations which take care of asylum seekers or offer them legal assistance. These instructions are in the languages of the origin of the asylum seekers. In case that there is no instruction in the appropriate language, the asylum seeker is informed in the presence of an interpreter.

17. Upon his/her arrival at the Centre each asylum seeker gets a basic hygienic package and, if necessary, appropriate clothes. The asylum seekers arriving from high-risk countries where there is a possibility for the transmission of infectious disease are additionally medically tested for malaria and the cholera at the Dr. Fran Mihaljevic Clinical Hospital for Infectious Diseases pursuant to the decision on Hygienic and Medical Examination of Asylum Seekers, Asylees and Aliens under Provisional Protection, issued by the Ministry of Health and Social Welfare on the basis of the Regulations on Accommodation. The decision came into force on August 12, 2004.

18. Following the reception procedure, asylum seekers are accommodated at the Reception Centre for asylum seekers in Sasina Greda near Sisak (accommodation capacity is 50 persons with the additional possibility to receive up to 10 more persons without lowering the obligatory accommodation standards). The Reception Centre for asylum seekers in Sasina Greda has 20 residential buildings at its disposal, 4 bathrooms, one kitchen, one room with a TV set, one sports hall, a children playroom, a workshop, a small library, an office for the staff and a room for talks and the work of non-governmental organisations.

19. Where conditions allow it asylum seekers are accommodated with members of their families, whereas unaccompanied women are accommodated separately from men. Unattended minors are accommodated in separate rooms, and can also be accommodated with elder relatives, friends, acquaintances or foster families. Notably, the asylum Act in art. 12 provides that members of the immediate family of an asylum seeker, who arrived in Croatia together with the asylum seeker, have the right to stay in the Republic of Croatia until the termination of the asylum-seeking procedure. Pursuant to the said principle of family unity, in all the cases to date, when members of the same family appeared as asylum seekers, this principle was duly taken into account. Special care is also being taken of vulnerable groups of asylum seekers persons incapable of working, minors, unattended minors, older and weak persons, severely ill persons, handicapped persons, pregnant women, single-mothers and rape victims or victims of some other violence.

20. Asylum seekers in Sasina Greda can move freely, unless their movement is restricted. The Reception Centre is conducting interviews with asylum seekers on the basic asylum requests. Asylum seekers have the right to stay. In the Republic of Croatia as well as a right to enjoy the basic conditions for living and accommodation, basic education, health care, religious freedom, legal, humanitarian and money support until the procedure is finished (and if they lodge a complaint, until the complaint procedure is finished).

21. The Ministry of the Interior has concluded a Cooperation Agreement with the Croatian Red Cross, and apart from the employees of the Ministry of the Interior, the staff of the Croatian Red Cross are working at the Reception Centre as well. Social programmes and food delivery are carried out by the staff of the Croatian Red Cross according to the Agreement. Healthcare for asylum seekers is provided at the nearest medical clinic and if necessary asylum seekers are sent to specialist medical examinations in health care establishments in Sisak and Zagreb.

22. The officers engaged in the reception, accommodation and care asylum seekers are appropriately educated for dealing with asylum seekers (education through the 2001 CARDS project of sylum Reform and through the Regional CARDS project, asylum module).

23. Note that standards of the reception in the part referring to asylum seekers are for the most part in accordance with the Council Directive 2003/9/EC on setting up the minimum standards for the reception of asylum seekers, dated 27.01.2003. Momentarily, Amendments to the Asylum Act and harmonization with the rule of law of the European Union is in progress, so in this respect the defects in the reception and accommodation will be harmonized with the legislation and, practically, the standard will be improved if necessary.

9(n)

24. In 2003, the Ministry of the Interior/the Police Academy printed and sent to all the organizational units a Police Manual, in which the conduct of police officers in implementing all the police powers provided in the Police Act and the Rules concerning the way of proceeding of police officers are explained in an easy-to-understand fashion.

25. In 2004, the Ministry of the Interior/the Police Academy prepared and published, in cooperation with ICITAP, a manual of the Principals and Procedures, the basic guidelines for professionally, legally and ethically correct proceeding of the police officers. The manual consists of general instructions which contain regulations on proceeding and conduct in specific situations, and the principles and procedures for the conduct of police officers during a criminal investigation. The manual was distributed to all police officers.

26. Apart from that, the General Police Directorate issued instructions in writing to all the organizational units on how to handle detained and arrested persons, and in 2005, it issued an instruction related to the accommodation of persons arrested due to suspicion that they committed a crime or misdemeanour on detention premises.

9(p)

27. From 2003 to 2005, four criminal acts referred to in Article 126 of the Criminal Code (Extortion of Statements by Coercion) were detected and reported for which three police officers and one tradesman were reported (in 2003, one criminal act, in 2004, two criminal acts and in 2005, one criminal act was detected and reported). Disciplinary proceeding were conducted against the three police officers who during interviews extorted statements by force, and one of the police officer actually lost his job.

28. With regard to detection and reporting the crime referred to in article 127 of the Criminal Code (Maltreatment in Discharge of Duty or Public Authority), during the reporting period thirty criminal offences were detected and reported (in 2003, 16 criminal offences; in 2004 and 2005, seven criminal offences). In 14 cases the perpetrators of those criminal acts were police officers, while in other cases the perpetrators were high-school teachers, primary school teachers, kindergarten teachers, and in one case a pupil who abused another pupil. As a rule, the police officers committed criminal offence when applying police power, and disciplinary proceedings were conducted against 19 police officers suspected of the commission of this criminal offence. With reference to the commission of this criminal offence by other persons, five criminal offences were committed by kindergarten teachers, who on several occasions held children closed in toilets for punishment, and two criminal offences were committed by a primary school teacher by abusing the persons accepted for a job at the school in which the teacher in question worked as headmaster.

29. In the reporting period not a single criminal offence referred to in the Article 176 of the Criminal Code (Torture and Other Cruel, Inhuman or Degrading Treatment) was detected and reported.