

GAMBIA

Special Decisions or Action Taken Re: Reporting

CCPR A/58/40 vol. I (2003)

CHAPTER II. METHODS OF WORK OF THE COMMITTEE UNDER ARTICLE 40 OF THE COVENANT: NEW DEVELOPMENTS

A. Recent developments and decisions on procedures

56. For several years, the Committee has expressed concern about the number of overdue reports and non-compliance by States parties with their obligations under article 40 of the Covenant (1). Two working groups of the Committee which met during the sixty-eighth to seventy-first sessions proposed amendments to the rules of procedure, which are aimed at helping States parties to fulfil their reporting obligations and designed to simplify the procedure.

These amendments were formally adopted during the seventy-first session, and the revised rules of procedure were issued as document CCPR/C/3/Rev.6 and Corr.1.(2) All States parties were informed of the amendments to the rules of procedure, and the Committee has applied the revised rules since the end of the seventy-first session (April 2001). The Committee recalls that general comment No. 30, adopted at the seventy-fifth session, spells out the States parties' obligations under article 40 of the Covenant (3).

57. The amendments introduce procedures for dealing with situations of States parties that have failed to honour their reporting obligations for a long time, or that have chosen to request a postponement of their scheduled appearance before the Committee at short notice. In both situations, the Committee may henceforth serve notice on the States concerned that it intends to examine, from material available to it, the measures adopted by that State party with a view to giving effect to the provisions of the Covenant, even in the absence of a report...

58. The Committee first applied the new procedure to a non-reporting State at its seventy-fifth session. It examined the measures taken by the Gambia to give effect to the rights recognized in the Covenant without a report, and in the absence of a delegation from the State party. It adopted provisional concluding observations on the situation of civil and political rights in the Gambia, which were transmitted to the State party. At the seventy-eighth session, the Committee discussed the status of the provisional concluding observations on the Gambia and requested the State party to submit a periodic report by 1 July 2004 that should specifically address the concerns identified in the Committee's provisional concluding observations. Failure to submit such a report within the deadline set by the Committee would result in the conversion of the provisional concluding observations into final ones, and their general dissemination. On 8 August 2003, the Committee amended rule 69A of its rules of procedure to provide for the possibility of converting provisional concluding observations into final and public ones (see annex III)...

Notes

1. See [*Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 40 (A/56/40)*, vol. I], chap. III, sect. B and *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 40 (A/57/40)*, chap. III, sect. B.
2. See *ibid.*, *Fifty-sixth Session, Supplement No. 40 (A/56/40)*, vol. I, annex III, sect. B.
3. See *ibid.*, *Fifty-seventh Session, Supplement No. 40 (A/57/40)*, vol. I, annex VI.

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^{1/} See *ibid.*, vol. I, annex II, sect. A.

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A. Recent developments and decisions on procedures

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44. For several years, the Committee has been concerned about the number of overdue reports and non-compliance by States parties with their obligations under article 40 of the Covenant.¹⁰ Two working groups of the Committee proposed amendments to the rules of procedure in order to help States parties fulfil their reporting obligations and to simplify the procedure. These amendments were formally adopted during the seventy-first session, in March 2001, and the revised rules of procedure were issued (CCPR/C/3/Rev.6 and Corr.1).¹¹ All States parties were informed of the amendments to the rules of procedure, and the Committee has applied the revised rules since the end of the seventy-first session (April 2001). The Committee recalls that general comment No. 30, adopted at the seventy-fifth session, spells out the States parties' obligations under article 40 of the Covenant.¹²

45. The amendments introduce a procedure to be followed when a State party has failed to honour its reporting obligations for a long time, or requests a postponement of its scheduled appearance before the Committee at short notice. In both situations, the Committee may henceforth serve notice on the State concerned that it intends to consider, from material available to it, the measures adopted by that State party to give effect to the provisions of the Covenant, even in the absence of a report. The amended rules of procedure further introduce a follow-up procedure to the concluding observations of the Committee: rather than setting in the last paragraph of the concluding observations a date by which the State party's next report should be submitted, the Committee will invite the State party to report back to it within a specified period regarding its follow-up to the Committee's recommendations, indicating what steps, if any, it has taken. The responses received will thereafter be examined by the Committee's Special Rapporteur on follow-up to concluding observations, and a definitive deadline will then be set for the submission of the next report. Since the seventy-sixth session, the Committee has, as a rule, examined the progress reports submitted by the Special Rapporteur on a sessional basis.¹³

46. The Committee first applied the new procedure to a non-reporting State at its seventy-fifth session. In July 2002, it considered the measures taken by the Gambia to give effect to the rights set out in the Covenant, in the absence of a report and a delegation from the State party. It adopted provisional concluding observations on the situation of civil and political rights in the Gambia, which were transmitted to the State party. At its seventy-eighth session, the Committee

discussed the status of the provisional concluding observations on the Gambia and requested the State party to submit by 1 July 2004 a periodic report that should specifically address the concerns identified in the Committee's provisional concluding observations. If the State party failed to meet the deadline, the provisional concluding observations would become final and the Committee would make them public. On 8 August 2003, the Committee amended rule 69A of its rules of procedure¹⁴ to provide for the possibility of making provisional concluding observations final and public. At the end of its eighty-first session, the Committee decided to make the provisional concluding observations on the Gambia final and public, since the State party had failed to submit its second periodic report.

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¹⁰ [Official Records of the General Assembly], chap. III, sect. B, and *ibid.*, *Fifty-seventh Session, Supplement No. 40 (A/57/40)*, chap. III, sect. B.

¹¹ *Ibid.*, *Fifty-sixth Session, Supplement No. 40 (A/56/40)*, vol. I, annex III, sect. B.

¹² *Ibid.*, *Fifty-seventh Session, Supplement No. 40 (A/57/40)*, vol. I, annex VI.

¹³ Except for the eighty-third session, when a new Special Rapporteur was appointed.

¹⁴ Rule 70 of the revised rules of procedure.

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56. For several years, the Committee has been concerned about the number of overdue reports and non-compliance by States parties with their obligations under article 40 of the Covenant.⁷ Two working groups of the Committee proposed amendments to the rules of procedure in order to help States parties fulfil their reporting obligations and to simplify the procedure. These amendments were formally adopted during the seventy-first session, in March 2001, and the revised rules of procedure were issued (CCPR/C/3/Rev.6 and Corr.1).⁸ All States parties were informed of the amendments to the rules of procedure, and the Committee has applied the revised rules since the end of the seventy-first session (April 2001). The Committee recalls that general comment No. 30, adopted at the seventy-fifth session, spells out the States parties' obligations under article 40 of the Covenant.⁹

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⁸ *Ibid.*, *Fifty-sixth Session, Supplement No. 40 (A/56/40)*, vol. I, annex III, sect. B.

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Chapter III: Submission of Reports by States Parties under Article 40 of the Covenant

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B. Overdue Reports and Non-compliance by States parties with their Obligations under Article 40

50. The Committee wishes to reiterate that States parties to the Covenant must submit the reports referred to in article 40 of the Covenant on time so that the Committee can duly perform its functions under that article. Those reports are the basis for the discussion between the Committee and States parties on the human rights situation in States parties. Regrettably, serious delays have been noted since the establishment of the Committee.

51. The Committee notes with concern that the failure of States parties to submit reports hinders the performance of its monitoring functions under article 40 of the Covenant. The list below identifies the States parties that have a report more than five years overdue, and those that have not submitted reports requested by a special decision of the Committee. The Committee reiterates that these States are in default of their obligations under article 40 of the Covenant.

52. The Committee once again draws particular attention to the fact that 26 initial reports are overdue (including the 22 initial reports overdue by at least five years listed above). The result is frustration of a crucial objective of the Covenant, namely, to enable the Committee to monitor compliance by States parties with their obligations under the Covenant on the basis of periodic reports. The Committee addresses reminders at regular intervals to all those States parties whose reports are significantly overdue.

53. Owing to the concern of the Committee about the number of overdue reports and non-compliance by States parties with their obligations under article 40 of the Covenant,¹⁰ two working groups of the Committee proposed amendments to the rules of procedure in order to help States parties fulfil their reporting obligations and to simplify the procedure. These amendments were formally adopted during the seventy-first session, in March 2001, and the revised rules of procedure were issued (CCPR/C/3/Rev.6 and Corr.1).¹¹ All States parties were informed of the amendments to the rules of procedure, and the Committee has applied the revised rules since the end of the seventy-first session (April 2001). The Committee recalls that general comment No. 30, adopted at the seventy-fifth session, spells out the States parties' obligations under article 40 of the Covenant.¹²

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