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Summary record (partial)* of the 2827th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 27 July 2011, at 11 a.m.

Chairperson: Ms. Majodina

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* No summary record was prepared for the rest of the meeting.

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The discussion covered in the summary record began at 11.10 a.m.

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

1. **Ms. Chanet** (Special Rapporteur for follow-up on concluding observations) said that the current procedure for follow-up on concluding observations was extremely cumbersome and long-drawn-out. The Committee must be more precise in its recommendations, asking for information on specific laws or procedures so that the State party could provide the exact information required. At present, the documentation sent by States parties in response to a request for follow-up was sometimes more voluminous than that submitted with the original report. Non-governmental organizations (NGOs) should be encouraged to comment exclusively on the recommendations, instead of submitting new questions or unrelated information.
2. She had given some thought to the proposal to publicize in some way those States which persistently failed to cooperate in the follow-up procedure. It was easy to identify States which cooperated fully, as well as those which did not cooperate at all: the problem was the group in the middle. They might be cooperating satisfactorily in some areas but not others, or they might provide plenty of information but nothing actually relevant, or they might pretend to cooperate while in fact acting obstructively.
3. **Mr. Amor** said that, having previously held the post of Special Rapporteur, he agreed with the need for the Committee to ask a limited number of detailed questions which it was feasible for a State party to answer in the time available. Also, States parties often took an excessively long time to reply. He suggested that Ms. Chanet should draw up concise guidelines to assist States parties in providing the required information.
4. **Ms. Chanet** undertook to prepare the guidelines, although they would probably not be ready in time for the next session.
5. She invited the Committee to consider the report on follow-up to concluding observations (restricted document CCPR/C/102/CRP.3), and asked for guidance from members on a number of the cases described therein. On 20 July, she had met a representative of the United Nations Interim Administration Mission in Kosovo (UNMIK), who had assured her that UNMIK would answer the Committee's outstanding questions before the Committee's next session in October 2011. She had that morning met a representative of Botswana, who had promised to send detailed answers to the Committee's questions by the end of August. She therefore suggested that the Committee should take up those two cases again at its next session.
6. A meeting had been arranged with a representative of Nicaragua, but the representative had failed to appear and her subsequent attempts to contact the Nicaraguan mission had been unsuccessful.
7. The Government of Chile had asked for clarification of the information requested by the Committee. A letter with the necessary clarification had been sent in April 2011, but no reply had yet been received. She suggested that a reminder should be sent and that, if no further information was forthcoming, she should request a meeting with a representative of Chile during the Committee's next session.
8. Responding to a suggestion by **Mr. Lallah**, she agreed to mention in the reminder that Chile's next periodic report was due for submission in March 2012.
9. **Mr. Amor** said that States parties might cite the effort required to provide the requested follow-up information as a pretext for delaying submission of their next periodic reports.

10. **Ms. Chanet** said it was understandable, in the light of the crisis Tunisia was currently facing, that it had not yet replied to the letter the Committee had sent on 20 April 2011. She asked whether the Committee should not send a new letter to the State party in any case, to remind it that its next periodic report was due on 31 March 2012. That would be a means of keeping open communication channels with the State party during its period of transition.
11. *It was so agreed.*
12. **Mr. Fathalla** observed that the Committee should not expect an immediate response from the Government of Tunisia.
13. **Ms. Chanet**, referring to Panama, said that since the State party had left unanswered the several reminders the Committee had sent as well as its requests to meet with a representative of Panama, the Committee had no choice but to include it in the category of non-cooperating States parties.
14. In the case of Ireland and the United Kingdom, whose next periodic reports were both due on 31 July 2012, unless additional information was received from the States parties by the time of the Committee's next session, they should be sent a second reminder. A reminder should also be sent to New Zealand and Uzbekistan, whose next periodic reports were not due until 30 March 2015 and 30 March 2013 respectively.
15. As the Committee had not received a reply to the letter it had sent to Denmark on 20 April 2011, it should request a meeting, to take place in October 2011, with a representative of the State party concerning follow-up on concluding observations. Since the information the State party had provided had been unsatisfactory and its next periodic report was not due until 2013, it should be asked to act upon the recommendations the Committee had made, particularly in relation to solitary confinement during pretrial detention and domestic violence.
16. Concerning Japan, no measures would be taken since the State party's next periodic report was due in October 2011.
17. Spain had sent a reply on 29 June 2011. The Committee should send a new letter to thank it for its cooperation but note that more information was needed, in particular on its national mechanism for the prevention of torture, police custody, pretrial detention and the detention of foreigners.
18. Sweden had not provided sufficient information to the Committee, and as its next report was not due until 2014, she wished to request a meeting with a representative of the State party in October 2011 to ensure that it followed up the Committee's recommendations.
19. The Committee had not yet received a reply to the letter it had sent to Rwanda on 25 April 2011; a reminder would be sent.
20. Australia's next periodic report was due in 2013. It should be requested to participate more actively in the follow-up procedure by focusing on providing the information requested rather than submitting extensive superfluous information. The Committee would send the State party a letter requesting the information it had still not provided, in particular on its antiterrorism legislation, immigration legislation and measures aimed at eliminating domestic violence.
21. Regarding Azerbaijan, whose next periodic report was not due until 2013, she recommended sending a letter to the State party to thank it for the satisfactory information it had provided on two issues, noting that its replies on three other issues had been incomplete and requesting information on the remaining issues.

22. There had been no cooperation from Chad. The Committee would request a meeting with a representative of the State party.
23. The Committee would send a letter to request the missing information from the Russian Federation on measures taken to investigate the allegations of involvement of members of Russian forces in human rights violations in South Ossetia, and on the assaults and murders of journalists, particularly the murder of Anna Politkovskaya.
24. On Croatia, the Committee would have more information to share in October 2011, after examination of the reply it had received from the State party a few days previously.
25. The Committee should send Switzerland a letter to thank it for its satisfactory reply about the recommendation to review its legislation in order to grant free legal assistance to asylum-seekers. But the letter should also note that the Committee still needed information on the recommendation to reinforce the mandate of the Swiss Federal Commission against Racism, and that the reply saying it was “not possible” to ensure the creation in all cantons of a mechanism for receiving complaints, inter alia about ill-treatment by the police, was unsatisfactory.
26. She wished to meet with a representative of Ecuador in October 2011 since the reminders sent by the Committee had gone unanswered.
27. While the Committee had received a great deal of information from Argentina as well as from NGOs, regrettably it had yet to receive the essential information it had requested on a number of issues, including the overcrowding in prisons, prisoners’ access to the services of lawyers, Decree 168 and action in cases of violent death, and information from the Supreme Court’s database on cases of torture. As the next periodic report was not due until 2014, the State party should be asked to participate effectively in the follow-up procedure by providing satisfactory answers to the Committee’s questions.
28. The Committee had received a generally satisfactory reply from Mexico, but in a letter would request more information on the cases of *arraigo* (pre-charge) detention, on measures to encourage the decriminalization of defamation, and on progress in protecting women against violence.
29. **Mr. Thelin** said that the progress report on follow-up to individual communications currently before the Committee (CCPR/C/102/CRP.1/Add.6) was proposed for inclusion as a chapter in the Committee’s annual report to the General Assembly. Several updates to the progress report were not yet available in all the working languages owing to delays with translation. The report would also include an annex containing a list of all the Committee’s Views, including those it had agreed during the current session. He drew the Committee’s attention to the excellent work being undertaken in parallel with that of the Committee by the Centre for Civil and Political Rights, which had developed a system of information for NGOs on follow-up.
30. The cases in the progress report included a whole array of responses, including total non-compliance, more or less strenuous efforts to implement the Committee’s Views, and totally satisfactory outcomes. Some States had merely repeated their opinions, sometimes adding that their domestic legislation did not require them to comply with the Committee’s Views; some had gone so far as to say that the Committee’s Views were not legally binding. For the Committee, that was clearly not satisfactory since States parties were obliged under the Covenant and the Optional Protocol to do their utmost to implement the Views.
31. In cases Nos. 992/2001 (*Bousroual v. Algeria*), 1297/2004 (*Medjnoune Malik v. Algeria*) and 1439/2005 (*Aber v. Algeria*), notes verbales had been sent to the State party in July 2011 requesting a meeting. The Permanent Mission had replied indicating that representatives would meet the Committee during its 103rd session to discuss those cases.

32. In respect of communication No. 1629/2007 (*Fardon v. Australia*), the author had replied to an earlier communication from the State party; the Committee had forwarded the reply to the State party for comments in March 2011. In case No. 1635/2007 (*Tillman v. Australia*), the Committee was awaiting a response from the author to the State party's comments on the Views. He considered the dialogue to be ongoing in both cases.

33. In cases Nos. 415/1990 and 716/1996 (*Pauger v. Austria*), the Committee had adopted Views in 1992 and 1999, respectively. The State party had taken measures, which it had notified to the Committee in a note verbale of June 2011. He proposed that the Committee should discontinue consideration of the case under the follow-up procedure and include it in the list of cases closed with partially satisfactory outcomes.

34. On communication No. 1633/2007 (*Avadanov v. Azerbaijan*), the Committee had adopted Views in October 2010. As the author had submitted comments in March 2011, he considered the dialogue to be ongoing.

35. With regard to communications Nos. 1178/2003 (*Smantser v. Belarus*) and 1502/2006 (*Marinich v. Belarus*), he and the Chairperson had met with a delegation from Belarus in July 2011 and had recalled that responses were required from the State party. He considered the dialogue to be ongoing.

36. Mr. Salvioli noted that, in several responses from States parties, Governments attempted to reopen a debate on cases rather than following up the Committee's Views. He suggested that the Committee should pay little attention to such arguments and focus on highlighting areas in which States parties were complying or failing to comply with its Views.

37. The Chairperson agreed and observed that some States even contested the Views.

38. Mr. Thelin said that, in future, if a State party consistently refused to effect a remedy and persisted in arguing the case, it would be included in the list of cases closed with an unsatisfactory outcome. One way of addressing non-execution of remedies was to draw attention to the State party's attitude to communications during the examination of its next periodic report.

39. Continuing with his report, he said, in relation to communication No. 1397/2005 (*Engo v. Cameroon*), that the author's letter of July 2010 had been sent to the State party in February 2011. He proposed that he should meet with representatives of Cameroon during the 103rd session.

40. The report dealt with three cases concerning Canada. The Committee had adopted its Views on communication No. 1465/2006 (*Kaba v. Canada*), which concerned forcible deportation to Guinea, in March 2010. In April 2011 (some five months late), the State party had informed the Committee that the author had submitted a second request for a residence permit on humanitarian grounds. The Committee had sent that information to the author for comments. In case No. 1467/2006 (*Dumont v. Canada*), in April 2011 the author had written to the Committee expressing dissatisfaction with the compensation paid by the local authority, whereas the Committee's Views had been addressed to the federal authorities. The State party had requested that the confidentiality clause concerning the amount of compensation paid by the local authority be lifted so that a proper assessment of the case could be made. The Committee had sent that request to the author in July 2011. The Committee had adopted its Views on communication No. 1544/2007 (*Hamida v. Canada*) in March 2010. The State party's submission had been sent to the author in November 2010, but it appeared that the author's counsel had changed his address. A reminder would be sent. He considered the dialogue to be ongoing in all three cases.

41. Mr. Neuman asked what approach the Committee adopted in general when faced with a dispute concerning the amount of compensation received in the context of follow-up to Views.

42. Mr. Thelin said that each case was judged on its merits. If the State party claimed to have provided compensation and the author was dissatisfied, the Committee would have to decide whether the follow-up had been unsatisfactory, partially satisfactory or satisfactory.

43. Communication No. 1510/2006 (*Vojnović v. Croatia*) concerned a protected tenancy, a form of lease under the former Yugoslav system. Owing to the difference in property values after the change in system, the Committee had found that the author should receive adequate compensation. The State party had allocated the author a new apartment, but the author was not satisfied with that compensation, since the apartment was not in a central location and had a much lower monetary value than the previous one. The author had claimed that appropriate compensation would amount to €318,673 plus €100,000 for non-pecuniary damages. However, since the main part of his complaint had been addressed, the Rapporteur proposed that the Committee should close the examination of the case under the follow-up procedure and include it in the list of cases closed with a satisfactory outcome.

44. In the case of communication No. 1448/2006 (*Kahoutek v. the Czech Republic*), in February 2011 the author's counsel had informed the Committee that the Human Rights Department of the Office of the Government had indicated its willingness to discuss the case with the Committee during the examination of its third periodic report, which should be submitted in 2011. The Committee had sent that information to the State party for verification in March 2011. He therefore considered the dialogue to be ongoing.

45. The Committee had adopted its Views on communication No. 933/2000 (*Adrien Mundy Biso et al. v. Democratic Republic of the Congo*) on 31 July 2003. The case related to the dismissal of 68 judges. The State party had been invited to reply to submissions by one of the authors by 26 February 2011. As no reply had been received, a note verbale requesting a meeting with representatives of the State party had been sent to the Permanent Mission in July 2011. A meeting could perhaps be scheduled for the next session, depending on the State party's reply.

46. The Committee had adopted its Views on communication No. 1554/2007 (*El-Hichou v. Denmark*) on 22 July 2010. According to a comment by the author's counsel dated 29 June 2011, the State party had taken steps to issue the author with a residence permit. It was therefore proposed that the Committee should close the case.

47. The Committee had adopted its Views on communication No. 1760/2008 (*Cochet v. France*) on 21 October 2010. The author's comments, submitted in February and April 2011, had been forwarded to the State party. As the Committee was still awaiting a response, the dialogue was ongoing.

48. The Committee had adopted its Views on communication No. 1799/2008 (*Gergopoulos et al. v. Greece*) on 29 July 2010. The case concerned an eviction from a Roma settlement. The State party's reply focused on action taken prior to the submission of the case to the Committee and drew attention to the possibility of claiming pecuniary and moral damages in the courts. The State party also reassured the Committee that similar violations would not occur in the future. The authors had submitted lengthy comments in April 2011, challenging the State party's response. The Committee was awaiting a reply from the State party.

49. The report dealt with several cases concerning Kyrgyzstan. Communications Nos. 1312/2004 (*Latifulin v. Kyrgyzstan*), 1338/2005 (*Kaldarov v. Kyrgyzstan*) and 1369/2005 (*Kulov v. Kyrgyzstan*) were very similar. In all three cases the Committee was awaiting a

response from the author. The Committee had adopted its Views on a fourth case, communication No. 1402/2005 (*Krasnov v. Kyrgyzstan*), on 29 March 2011. The State party's observations failed to address the Committee's Views and merely reiterated previous comments on the communication. They had been transmitted to the author in June 2011.

50. The report dealt with two cases concerning Nepal. The Committee had adopted its Views on communication No. 1469/2006 (*Sharma v. Nepal*), which concerned a disappearance, on 28 October 2008. Several submissions had been received both from the State party and from the author. The most recent note verbale from the State party was dated 9 March 2011 and the author had submitted comments thereon on 20 June 2011. As the dialogue had been continuing for some time, a meeting with representatives of the State party should be scheduled for the next session. Communication No. 1870/2009 (*Sobhraj v. Nepal*) should also be discussed at the meeting because of the unsatisfactory nature of the State party's reply.

51. The Committee had adopted its Views on communication No. 1407/2005 (*Asensi v. Paraguay*) on 27 March 2009. The author had submitted his most recent comments on 18 February 2011 and a reminder requesting observations had been sent to the State party in July 2011.

52. The Committee had adopted its Views on communication No. 1457/2006 (*Poma Poma v. Peru*) on 27 March 2009. The author had informed the Committee on 30 April 2011 that he was still dissatisfied with the State party's response. The Committee was awaiting further comments from the State party.

53. The report dealt with three cases concerning the Philippines. The Committee had adopted its Views on communication No. 1320/2004 (*Pimentel et al. v. the Philippines*) on 19 March 2007. There had been an exchange of views between the parties. The authors' most recent comments, dated 7 June 2011, had been submitted in response to a note verbale from the State party dated 8 March 2011. The dialogue was therefore ongoing. The Committee had adopted its Views on communication No. 1466/2006 (*Lumanog and Santos v. the Philippines*) on 20 March 2008. The State party's most recent submission, dated 29 July 2010, had been transmitted to the authors for comments. The Committee had adopted its Views on communication No. 1619/2007 (*Pestano v. the Philippines*), concerning the failure to investigate a death, on 23 March 2010. In a submission dated 15 April 2011, the author had drawn attention, inter alia, to the impeachment of the Ombudsman for betrayal of public trust. The Committee was awaiting confirmation of recent developments from the State party.

54. The Committee had adopted its Views on communication No. 1143/2002 (*Correia de Matos v. Portugal*) on 28 March 2006. Comments submitted by the author on 28 February 2011 had been transmitted to the State party and the Committee was awaiting its response.

55. The Committee had adopted its Views on communication No. 1593-1603/2007 (*Jung et al. v. Republic of Korea*) concerning conscientious objectors on 23 March 2010. The State party was held to have breached article 18, paragraph 1, of the Covenant. Invoking the security situation on the Korean peninsula, the State party had replied on 9 December 2010 that it was unable to grant compensation to the authors. The reply had been submitted to the authors for comment in January 2011 and a reminder had been sent to them in July 2011.

56. The report dealt with four cases concerning the Russian Federation: communications Nos. 1232/2003 (*Pustovalov v. the Russian Federation*), 1310/2004 (*Babkin v. the Russian Federation*), 1447/2006 (*Amirov v. the Russian Federation*) and 1577/2007 (*Usaev v. the Russian Federation*). In view of the nature of the State party's replies in all four cases, the

Committee was urged to schedule a meeting with its representatives during the next session.

57. The Committee had adopted its Views on communication No. 1556/2007 (*Novaković v. Serbia*) on 21 October 2010. The case concerned negligence on the part of a State-run hospital and failure to conduct an appropriate investigation. The Committee was currently awaiting a response from the State party to the author's most recent submission, dated 30 May 2011.

58. The report dealt with three cases concerning Spain. The Committee had adopted its Views on communication No. 1363/2005 (*Gayoso v. Spain*) on 19 October 2009. The State party had responded to the author's comments on 18 November 2010 and the dialogue was ongoing. The Committee had adopted its Views on communication No. 1473/2006 (*Morales Tornel v. Spain*) on 20 March 2009. The State party had informed the Committee on 22 November 2010 that an appeal was pending before the National Court (Audiencia Nacional) on the question of compensation. The Committee was awaiting receipt of the author's comments. The Committee had adopted its Views on communication No. 1493/2006 (*Williams Lecraft v. Spain*) on 27 July 2009. The Committee had decided at its ninety-ninth session that the measures taken by the State party to give effect to the Committee's Views were satisfactory and that the case could be closed. That outcome should have been included in the Committee's previous annual report.

59. The report dealt with three cases concerning Tajikistan: communications Nos. 1195/2003 (*Dunaev v. Tajikistan*), 1401/2005 (*Kirpo v. Tajikistan*) and 1519/2006 (*Khostikoev v. Tajikistan*). In all three cases, the State party had failed to discuss a possible remedy and merely reiterated its previous arguments. A meeting with representatives of the State party should therefore be scheduled for the next session.

60. The Committee had adopted its Views on communication No. 672/1995 (*Smart v. Trinidad and Tobago*) on 29 July 1999. It was therefore a very old case and concerned violations of articles 9 and 14 of the Covenant. The Committee had decided that Mr. Smart should be granted compensation for the violations but the State party had taken no action. A third party had alerted the Committee to its non-compliance on 22 February 2011. It had also drawn attention to several other similar cases. The third-party information had been sent to the State party and the Committee was awaiting its reaction. As the State party had no Permanent Mission in Geneva, he proposed that a meeting with its representatives should be scheduled for the March 2012 session of the Committee to be held in New York.

61. The report dealt with seven cases concerning Uzbekistan: communications Nos. 1225/2003 (*Eshonov v. Uzbekistan*), 1280/2004 (*Tolipkhudzaev v. Uzbekistan*), 1284/2004 (*Kodirov v. Uzbekistan*), 1449/2006 (*Umarov v. Uzbekistan*), 1552/2007 (*Lyashkevich v. Uzbekistan*), 1585/2007 (*Batyrov v. Uzbekistan*) and 1589/2007 (*Gapirjanov v. Uzbekistan*). In all seven cases the State party had merely reiterated its previous arguments. He therefore suggested that a meeting with representatives of the State party should be scheduled for the next session.

62. The Committee had adopted its Views on communication No. 821/1998 (*Chongwe v. Zambia*) on 25 October 2000. The most recent information from the author had been submitted in September 2010 and January 2011. On 21 April 2011 the State party had informed the Committee that the author's letter of 31 January 2011 had been transmitted to the competent authorities. The Committee was now awaiting further information.

63. Mr. Flinterman, referring to the case of *Tillman v. Australia*, noted that the State party's information had been sent to the author on 15 October 2010. The author had not yet responded. He enquired about the Committee's policy in that regard. Were no time limits imposed?

64. Mr. Petrov (Secretariat) said that when the Committee adopted its Views on a case, both the Views and any individual opinions must first be translated into the appropriate language and forwarded to the State party with a note verbale. The State party was allowed 180 days from the date of the note verbale to submit its observations on follow-up action. In the case of *Tillman v. Australia*, the State party had said that it was unable to comply with the six-month deadline and the author had simply been informed of that response. In general, the deadline for a response to supplementary information was two months for authors. However, the time limit could be reduced if necessary. The Committee tried to be consistent, but States parties and authors did not always meet the customary deadlines. It was therefore necessary to proceed on a case-by-case basis.

65. Mr. Thelin said that he would send a reminder to the State party in the *Tillman v. Australia* case.

66. Mr. Amor, referring to the *Crochet v. France* case, asked whether a reminder had already been sent to the State party. The case concerned article 15 of the Covenant and dealt with an important issue of principle, namely the retroactive effect of more lenient criminal legislation. As the French authorities seemed to be unwilling to act on the Committee's Views, pressure should be brought to bear on them to comply.

67. Mr. Petrov (Secretariat) said that the reminder had been sent on 12 July 2011.

68. Mr. Thelin said that if the State party failed to reply to the Committee's reminder or took no action on its Views, a dialogue with representatives of France at the Permanent Mission could be arranged.

The meeting rose at 1 p.m.