



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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COMMITTEE AGAINST TORTURE

Thirty-seventh session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 749th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 22 November 2006, at 3 p.m.

Chairperson: Mr. MAVROMMATIS

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.749/Add.1.

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The meeting was called to order at 3.10 p.m.

ORGANIZATIONAL AND OTHER MATTERS (continued)

Follow-up procedures (CAT/C/37/R.2)

1. Mr. MARIÑO MENÉNDEZ, Rapporteur on follow-up to communications, reporting on follow-up to communications during the thirty-sixth and thirty-seventh sessions, drew attention to document CAT/C/37/R.2. It explained the status of communications on which the Committee had requested additional information or further action. Five States parties had not responded to the Committee's requests for information. The document contained detailed information on six communications.
2. With regard to the Dadar v. Canada case, it was proposed that the Committee should request the State party to provide, in response to the concern expressed by his counsel, information on the complainant's whereabouts and well-being, if necessary with the assistance of the Embassy in Tehran.
3. The Committee needed to take no further action on the Arana v. France case, which involved the expulsion of a Spanish citizen of Basque origin to Spain. The complainant had been expelled almost 10 years previously. Moreover, since the Committee's decision of 1999, the entry into force of European Union (EU) legislation meant that it was no longer possible for the French authorities to hand over persons of Basque origin suspected of terrorist activities to the Spanish authorities without applying extradition procedures. That was borne out by the statement of the French Ministry of the Interior of 18 January 2001.
4. As far as the Ristic v. Yugoslavia (Republic of Serbia) case was concerned, the latest noteworthy judicial development in the State party had been the decision of the Supreme Court of Serbia to overturn the decisions of a lower court and order an impartial investigation into the death of Mr. Ristic. He proposed that the State party should be requested to report on the outcome of the investigation and indicate whether compensation had been paid to the victim's family.
5. The information provided in document CAT/C/37/R.2 on the Suleymane Guengueng and others v. Senegal case was not complete. Since the decision of the African Union (AU) that Hissène Habré, the former President of Chad, should be brought to justice in a Senegalese court, in November 2006 the Government of Senegal had enacted legislation amending provisions of the Code of Criminal Procedure relating to universal jurisdiction and judicial cooperation. He therefore proposed that a letter should be sent to the State party expressing satisfaction at the enactment of the legislation and the hope that it would be implemented swiftly. The letter should also recall the decisions of the Committee and the African Union (AU) and request information as to when they would be followed up.
6. In the Tharina v. Sweden case, the State party had complied with the Committee's decision and revoked the expulsion order concerning the complainant. No follow-up action was therefore required.

7. Regarding the Agiza v. Sweden case, requests for compensation had been rejected, and the Egyptian authorities refused to allow the complainant to return to Sweden in order to serve his sentence or be retried there. The Committee could therefore merely request the State party to report regularly on its visits to the complainant, who was being held in an Egyptian prison.

8. There were a number of other pending communications not mentioned in the document that were being followed up directly with the competent authorities of the State parties concerned, one of which was Tunisia. Updated information on the status of those communications would be given in the Committee's annual report to the General Assembly. Steps should be taken to ensure that States parties responded to the Committee's requests for information.

9. The CHAIRPERSON suggested that efforts should be made to hold meetings with representatives of those States parties which had failed to respond to the Committee's requests for follow-up information. He took it that the Committee wished to endorse the proposals made by Mr. Mariño Menéndez.

10. It was so decided.

11. Ms. GAER, Rapporteur on follow-up to conclusions and recommendations, recalled that, in 2003, the Committee had begun a process of identifying conclusions and recommendations that related to serious matters raised by State party reports and required follow-up within one year. The intention was to strengthen the purposes of the Convention set forth in the preamble by assisting States parties to bring their legislation and practice more fully into line with it. Since the process had begun, the Committee had requested 25 States parties to provide follow-up information, and thus far 17 of them had acceded to that request. She examined the information submitted to assess whether all the issues raised (usually between three and five) had been addressed, and whether further clarifications were required. The information submitted was collated and issued as a public document. States parties that failed to reply were sent reminders. At the beginning of the current session replies from eight States parties had been due; a further seven would be due by the end of the session.

12. Providing examples of the type of information submitted and clarifications requested, she said that Azerbaijan had responded to the five recommendations issued by the Committee, but further clarifications had been required concerning all of them. In response to the recommendation that law enforcement officials should be given clear instructions on how to inform detainees of their rights regarding access to independent lawyers and medical experts, she had had to probe in order to find out exactly how that was done. Further clarifications had also been requested concerning measures to ensure orderly behaviour by staff at detention facilities and a special programme to ensure access to lawyers and medical experts. The State party had said that the ombudsman visited detention facilities and so the Committee had requested copies of his reports. Additional information had been requested concerning cooperation between the Ministry of Justice and the newly established Bar association in order to ensure that an adequate number of appropriately qualified and independent lawyers were available. With regard to the protection of human rights defenders and NGOs, the Committee had sought further details concerning specific reports of intimidation and attacks against them.

13. To date no information had been received from Cambodia. She recalled that, in 2003, the Committee had considered Cambodia's initial report in the absence of the delegation. The State party had therefore been requested to provide written responses to the Committee's questions and comments about the report. Since there had been no reply to the reminders sent, she intended to make approaches to the Cambodian Mission.

14. Latvia had responded promptly and at length to the five issues raised by the Committee, in particular its efforts to comply with EU prison standards. Worthy of note was the attention it had paid to the "shadow report" submitted in connection with the consideration of its initial report, although further clarifications had been required in relation to some of the cases it dealt with.

15. Regarding Yemen, the Committee had voiced a number of serious concerns, such as the need to abolish de facto incommunicado detention and to ensure that all counter-terrorism measures were consistent with the Convention. The information received did not really meet those concerns. With regard to incommunicado detention, reference had been made to a person in charge of inspections but not to the results of those inspections. The State party had thus been requested to provide copies of the relevant reports. One of the counter-terrorism measures mentioned had been "holding ideological discussions" with detainees. Since she had never heard of such a thing, she had asked for more information and whether it entailed any coercion or deprivation of liberty. The State party had also said that an NGO was allowed to visit convicted terrorists in prison and produced a report. She had requested a copy of the report but had not yet received it.

16. In the case of Morocco, the Committee had recommended that the term of police custody should be kept to a minimum, and that allegations of ill-treatment and torture be investigated immediately. It had also enquired as to the outcome of impartial investigations into the high number of deaths in police custody. The State party had provided lengthy replies, but not all the information requested. In response to further questions concerning access to lawyers and doctors during police custody, the State party had said that only lawyers could request medical assistance. Regarding specific allegations of deaths during police custody, she had asked what penalties were imposed on persons found guilty of the offences in question. The State party must be commended for promptly despatching another set of replies, which she had not yet had the opportunity to examine.

17. The experience of the follow-up procedure to date showed that a process of dialogue and cooperation had been established with the States parties, which would further the purposes of the Convention by assisting them to comply more fully with its provisions in time for their next periodic review. She thanked all Committee members who had assisted her in her task.

18. The CHAIRPERSON thanked the Rapporteurs for their valuable work and stressed the importance of follow-up to communications and country reports. Without it, the Committee's work would be meaningless.

19. Ms. SVEAASS sought clarification regarding the document numbers used to identify replies submitted by State parties and the extent to which OHCHR was involved in providing, or encouraging State parties to provide, follow-up information.

20. Ms. GAER said that the documents provided for Committee members featured an identifying number but did not include the actual follow-up material. The corresponding document could be accessed via the Committee's website, obtained from the secretariat or forwarded by the Rapporteurs. OHCHR did not formally participate in the work in question.
21. To date, the following countries had not submitted a follow-up report: Bulgaria, Cameroon, Chile, Switzerland and Uganda. Bahrain had submitted its report that morning. She noted with satisfaction that a total of 17 out of 25 countries had submitted their follow-up report. At the end of the session, follow-up reports would be due from seven other countries: Austria, Bosnia and Herzegovina, Congo, Ecuador, France, Nepal and Sri Lanka.
22. Mr. WANG Xuexian, referring to communication No. 181/2001: Suleymane Guengueng and others v. Senegal, noted that Mr. Mariño Menéndez had said that he would seek further information from Senegal. However, he would also like Mr. Mariño Menéndez to provide more detailed information on the relevant decision of the Committee of Eminent African Jurists and draft legislation.
23. Mr. MARIÑO MENÉNDEZ said that no official information had been received from the State party, and that while it appeared to be reliable, the information provided by Amnesty International was not sufficiently explicit. He would ask the State party to inform the Committee of any measures, in particular legislative measures, that had been adopted. Once that information had been received, it would be dealt with in the normal manner.

The public part of the meeting rose at 3.55 p.m.