



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

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## Committee against Torture

### Decision adopted by the Committee on the request submitted by Australia under article 24 (2) of the Optional Protocol to the Convention\*

1. Australia ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 8 August 1989, and ratified the Optional Protocol thereto on 21 December 2017, with a declaration that it would postpone the establishment of its national preventive mechanism for three years, in accordance with article 24 of the Optional Protocol.
2. Considering that the Optional Protocol entered into force for Australia on 20 January 2018, the deadline for the State party to establish its national preventive mechanism was postponed to 20 January 2022.<sup>1</sup>
3. The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment received a letter from the Government of Australia, dated 20 December 2021, requesting, under article 24 (2) of the Optional Protocol, a postponement of one additional year with regard to its obligation to establish its national preventive mechanism.
4. The main reasons cited for the request were the coronavirus (COVID-19) pandemic and considerations relating to the country's federal system of government and to resources. Among other things, Australia indicated that the extension would allow it to ensure that all states and territories were given the opportunity to take the action necessary for Australia to ensure that it would be in a position to comply fully with its obligations under the Optional Protocol, and that the many member bodies would have commenced operations and would be working effectively with the office of the Commonwealth Ombudsman in its capacity as mechanism's coordinator.
5. Following established practice, further to discussing the matter at its forty-sixth session in February, the Subcommittee transmitted the State party's request to the Committee against Torture for its consideration on 1 March 2022. Pursuant to rule 62 of the Committee's rules of procedure, consultations between the Committee and the Subcommittee regarding the request, which are required in order to comply with the provisions of article 24 (2) of the Optional Protocol, were held in private on 25 April 2022, in the course of the seventy-third session of the Committee. In this context, the Committee invited a representative of Australia to attend a private meeting on the same date to discuss the grounds for the above-mentioned request, with the presence of the Chair of the Subcommittee.
6. After further consultations with the Subcommittee on the matter, the Committee decided to accept the request of the State party, and extends the postponement of the State

\* Adopted by the Committee at its seventy-third session (19 April–13 May 2022).

<sup>1</sup> One year, under article 17 of the Optional Protocol, and three years on the basis of the declaration under article 24.



party's obligations under part IV of the Optional Protocol for an additional year, in accordance with article 24 (2) of the Optional Protocol.

7. While noting the elements invoked by Australia in seeking the current extension, the Committee takes this decision on the assumption that the State party will establish its national preventive mechanism in full adherence to the provisions of part IV of the Optional Protocol, especially concerning the mechanism's independence and resources, in accordance with article 18 of the Optional Protocol, in order to have a mechanism in full compliance with the Optional Protocol.

8. To this effect, the State party should ensure the operational autonomy of the national preventive mechanism and guarantee that the mechanism's coordinator and member bodies are independent and receive sufficient resources to discharge their prevention mandate independently and effectively, in accordance with the Optional Protocol and the guidelines on national preventive mechanisms.<sup>2</sup>

9. In application of the present decision, the Committee invites the State party to present as soon as possible a plan of action for the establishment of the national preventive mechanism, and an oral progress report on the measures taken to establish the mechanism, including at the level of states and territories, during the consideration of its sixth periodic report,<sup>3</sup> scheduled for consideration by the Committee at its seventy-fifth session, which will be held at the United Nations Office at Geneva, from 31 October to 25 November 2022. A representative of the Subcommittee will be invited to attend the meeting at which the progress report is presented.

10. The present decision is being made public after having been brought to the attention of the Subcommittee and the State party.

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<sup>2</sup> See CAT/OP/12/5, in particular paragraphs 5–15.

<sup>3</sup> CAT/C/AUS/6.