



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

Distr.
GENERAL

CAT/C/SR.855
21 November 2008

Original: ENGLISH

COMMITTEE AGAINST TORTURE

Forty-first session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 855th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 14 November 2008, at 3 p.m.

Chairperson: Mr. GROSSMAN

later: Mr. WANG Xuexian
(Vice-Chairperson)

CONTENTS

CONSIDERATION OF COMMUNICATIONS UNDER
ARTICLE 22 OF THE CONVENTION (continued)

* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR. 855/Add.1.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 3 p.m.

CONSIDERATION OF COMMUNICATIONS UNDER ARTICLE 22 OF THE
CONVENTION (continued)

Follow-up progress report of the Committee against Torture on individual communications
(CAT/C/41/R.1)

1. The CHAIRPERSON invited the Special Rapporteur to introduce the follow-up progress report (CAT/C/41/R.1) relating to the Committee's decisions on complaints submitted under article 22 of the Convention.
2. Mr. MARIÑO MENÉNDEZ (Special Rapporteur on Follow-up), introducing the report, said that it contained follow-up information submitted since the Committee's fortieth session. No information had been received from: Canada concerning communication No. 15/1994; Spain concerning communications No. 59/1996 and No. 212/2002; Serbia and Montenegro concerning communications Nos. 171/2000, 172/2000 and 207/2002; or Tunisia concerning communication No. 269/2005. Both Serbia and Montenegro had rejected responsibility for the above-mentioned cases, as well as for the case of Milan Ristic (communication No. 113/1998), which had not been referred to in the report. He proposed that reminders requesting follow-up information should be sent to all those States parties. In the absence of a response from Serbia and Montenegro, a meeting should be convened between State party representatives and himself to clarify legal responsibility for the cases.
3. The CHAIRPERSON said that, if there was no objection, he would take it that the Committee agreed to the course of action proposed by the Special Rapporteur.
4. It was so decided.

Communication No. 297/2006: Bachan Singh Sogi v. Canada

5. Mr. MARIÑO MENÉNDEZ, summarizing the replies received from Canada, drew attention to the follow-up action proposed in the report.
6. Following a brief exchange of views, the CHAIRPERSON said he took it that the Committee agreed to the course of action proposed by the Special Rapporteur.
7. It was so decided.
8. Mr. WANG Xuexian (Vice-Chairperson) took the Chair.

Communication No. 91/1997: A. (name withheld) v. the Netherlands

9. Mr. MARIÑO MENÉNDEZ, summarizing the replies received from the Netherlands, proposed that, in the light of the State party's decision to grant the complainant a residence permit, the Committee should decide to close the matter under the follow-up procedure.
10. The CHAIRPERSON said he took it that the Committee agreed to the course of action proposed by the Special Rapporteur.

11. It was so decided.

Communication No. 299/2006: Jean-Patrick Iya v. Switzerland

12. Mr. MARIÑO MENÉNDEZ, summarizing the replies received from Switzerland, proposed that, as the State party had complied with the Committee's decision, the Committee should decide to close the matter under the follow-up procedure.

13. The CHAIRPERSON said he took it that the Committee agreed to the course of action proposed by the Special Rapporteur.

14. It was so decided.

Communication No. 181/2001: Suleymane Guengueng and others v. Senegal

15. Mr. MARIÑO MENÉNDEZ, summarizing the replies received from Senegal, drew attention to the follow-up action proposed in the report. If members were of the view that the Committee should meet with a representative of the Senegalese mission or that it should take some other action to exert pressure on the State party, he would not object. It certainly was not the Committee's responsibility to secure the necessary funds for Senegal to hold the proceedings in question. At most, the Committee could informally suggest that States that had promised to provide financial aid should fulfil their promises.

16. Ms. GAER asked whether the Special Rapporteur was of the view that further action by the Committee could be helpful in the case in question. When faced with similar situations, the Human Rights Committee, for example, sometimes sent a rapporteur to the capital of the State party concerned in order to speak to officials directly. Such visits could have a greater impact than sending a letter.

17. Mr. MARIÑO MENÉNDEZ said that, while there was no question that a face-to-face meeting had a greater impact than a letter, he was not convinced that a meeting with the president of the Senegalese Court of Cassation would be useful. The Committee was dealing with a high-profile case, and there were no legal impediments to commencing proceedings. The only impediment was the lack of financial resources. Consequently, he believed that the Committee should wait before considering a visit to the State party. However, he would not press that view if other members were in favour of going ahead with such action.

18. Mr. GROSSMAN said that it was important for the Committee to consider the various options available to it in its efforts to enhance the effectiveness of its follow-up mechanisms. In the current case, the Committee's counterpart was not the president of the Court of Cassation but rather the State party itself through its Minister for Foreign Affairs. Given that a mission to Senegal would be costly, another way to increase the visibility of the case was to organize a meeting in Switzerland between the Senegalese Ambassador and a four-person delegation from the Committee consisting of the Special Rapporteur, the Chairperson and two other members. In the course of such a meeting, the Committee could state that it was considering requesting authorization to hold a dialogue with the Senegalese judiciary in connection with the case.

19. Ms. SVEAASS agreed with the suggestion to request a meeting with the Senegalese Ambassador; however, the Committee should not use such an option exclusively in connection with high-profile cases, while taking a more lenient approach in other, less visible ones.
20. Ms. GAER said she was not opposed to a meeting with the Senegalese Ambassador in Geneva but had doubts about its potential effectiveness. The advantage of undertaking a mission to Dakar was that it would have a more immediate impact and would allow the Committee to speak with a number of national officials, not just one. The Committee should at least request such a mission before rejecting it as a possibility. The case had been unresolved for some time and it seemed strange that finances were being given as reasons for further delay. On the other hand, her main goal was effectiveness; thus, if members believed that it was more effective to meet with the Senegalese Ambassador, she was prepared to support that course of action.
21. Mr. MARINÑO MENÉNDEZ said that, since all the countries that had promised funds to Senegal were members of the European Union, the Committee might consider contacting a representative of the Council of the European Union to request help in encouraging those States to fulfil their promises. Alternatively, the secretariat could propose a meeting at the Senegalese Embassy, during which the Committee could present the current situation, emphasize the need to act swiftly and, at the same time, discuss the possibility of sending a mission to Dakar.
22. Mr. KOVALEV supported Ms. Gaer's suggestion. It was urgent for the Committee to take prompt action since there was a definite risk that the complainant would be expelled. A meeting with the Senegalese Ambassador would not prevent the Committee from subsequently undertaking a mission to Dakar.
23. Ms. KLEOPAS agreed with Mr. Kovalev and suggested that the Committee should establish a time limit for receiving a response from the Ambassador, after which it would proceed to request a mission to Dakar.
24. The CHAIRPERSON said there appeared to be a consensus on the proposal to organize a meeting with the Senegalese Ambassador the following week and, in the course of that meeting, to discuss the possibility of a visit by the Committee to Senegal.
25. Mr. GROSSMAN said that it was important for the Committee to systematize its follow-up procedures in order to have guidelines for action. That was not a substitute for good judgement, but it did broaden the scope of possibilities.
26. With regard to the Committee's follow-up on decisions adopted under article 22, there were three categories of action. The first comprised diplomatic or political actions by the Special Rapporteur or the Committee as a whole. They involved conversations with representatives of the State party and a possible visit by the Committee to the capital of the State party. It would be useful to draw up a document with a list of best practices for such action. The second category was the language used by the Committee in its publications to describe the follow-up to be taken by the State party, particularly concerning cases of non-compliance. It would be useful to gather examples of the type of language used by other treaty bodies in that regard. The third category was that of the interconnection of the follow-up on decisions adopted under article 22 with other procedures established by the Committee. He saw no reason why the Committee could not, in conjunction with its examination of a State party report, for example, ask why the latter had not

complied with the follow-up to decisions adopted under article 22. He proposed that one Committee member should volunteer to review those three categories, and any others, and subsequently present his findings to the Committee.

27. Ms. SVEAASS suggested that the Committee might wish to discuss the third category described by Mr. Grossman, which concerned methods of work, in the course of its review of its rules of procedures. She also suggested that consideration should be given to including in the list of issues follow-up by States parties on decisions adopted under article 22, which would require them to reply.

28. Mr. GROSSMAN said that it would be too much to consider both methods of work and rules of procedure at the same time.

29. Mr. MARIÑO MENÉNDEZ said that Mr. Grossman's proposal to systematize the various methods used by the Committee to follow up States parties' compliance with decisions under article 22 was a useful one. He reminded the Committee that that procedure had been in use for only about five years. The volume of cases had gradually diminished as cases were resolved. As part of the procedure under article 19, States parties were occasionally asked whether they were complying with decisions taken under follow-up to article 22, and also article 20. If the Committee wished to maintain the specific character of the follow-up of decisions under article 22, it would have to keep it as a separate procedure and not merge it with the procedure for follow-up under article 19.

30. Ms. GAER said she had been surprised at the relatively small number of cases relating to article 22 in which the Committee had concerns about follow-up; she assumed that meant that States parties had suitably followed up the Committee's decisions. The Special Rapporteur on Follow-up was in an excellent position to look at the question of how other treaty bodies approached the matter since he would soon be attending the forthcoming Eighth Inter-Committee Meeting of the human rights treaty bodies.

31. With regard to the broader question of the list of issues, the Committee should review all aspects relating to its use of that mechanism. It should examine, inter alia, whether the list of issues should be used for follow-up to decisions taken under article 22, whether it was an effective means of obtaining information from States parties, and whether it employed the most effective style and language.

32. The CHAIRPERSON proposed that it would be useful, for information purposes, if letters sent by special rapporteurs were made available to all Committee members before the start of the session.

33. Ms. FOX (Secretariat) said that on the issue of systematization, the Committee's rules of procedure set out certain powers for rapporteurs, which included the possibility of conducting a mission with the approval of the State party concerned. Those powers could be improved, and the secretariat would welcome any suggestions from the Committee in that regard.

34. As to the use of language in follow-up procedures, the Committee on the Elimination of Discrimination against Women, the Human Rights Committee and the Committee on the Elimination of Racial Discrimination all used similar language to that used by the Committee

against Torture, since the secretariat made considerable efforts to maintain consistency between the various committees. The Human Rights Council Universal Periodic Review reports contained information on the views of all the treaty bodies concerning violations or non-compliance with individual complaints procedures. On lists of issues, the Human Rights Committee systematically asked questions on cases of violations. The Committee against Torture had done so in the past.

35. Mr. GROSSMAN suggested that he and Mr. Mariño Menéndez should draft a paper to present to the Committee informing members about all activities and thus enable them to give feedback.

36. Mr. MARIÑO MENÉNDEZ said that since the Committee was giving State parties six months to comply with its decisions, it could initiate a follow-up procedure immediately to demonstrate to the Committee how the situation had evolved. An active follow-up procedure was possible if communication was established with the State party. If a letter was sent to a State, all members of the Committee should receive a copy in order to know precisely what communication had been established. All the Committee's procedures should be as transparent as possible.

37. The CHAIRPERSON said he took it that the Committee wished Mr. Grossman and Mr. Mariño Menéndez to draft a document in collaboration with the secretariat for the Committee to take up at its next session.

38. It was so decided.

39. Ms. SVEAASS asked how best changes to the rules of procedure could be prepared for discussion at the next session of the Committee and circulated to members for consideration before the session.

40. Mr. NATAF (Secretary of the Committee) said that a proposal for revised rules of procedure had been circulated in May 2008. New proposals could be sent to the secretariat and incorporated into that draft before the forthcoming discussion on methods of work, before being considered further at the Committee's next session in May 2009.

41. Mr. GROSSMAN suggested that the Committee should discuss proposed amendments to its rules of procedure at its next session since it was not ready to do so at the present time.

42. Mr. MARIÑO MENÉNDEZ said he was unsure whether the question of rules of procedure was on the agenda for the next Inter-Committee Meeting.

43. Mr. NATAF (Secretary of the Committee) said that the agenda for the forthcoming Inter-Committee Meeting addressed the issue of harmonization of methods of work only. The draft rules of procedure had not been circulated since the working group had not yet produced a final document. As soon as that document was approved, the secretariat would distribute it to all Committee members.

The public part of the meeting rose at 4.35 p.m.