



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### Guidelines on the procedure for follow-up to Views\*

#### I. Introduction

1. The Human Rights Committee has adopted the present guidelines on the procedure for follow-up reports on Views in order to improve the process by which it aims to ascertain the measures taken by States parties to give effect to its Views.
2. The guidelines, which draw on the Committee's experience since 1990, are conceived as a road map for the future activity of the Committee on the issue of follow-up to Views and will be implemented progressively. The first stage of implementation will cover all newly adopted Views. Thereafter, Views adopted in the past will be included, depending on the human resources available. In the absence of adequate human and financial resources in the secretariat, the Committee does not currently have the capacity to follow up on the more than 1,200 cases subject to the follow-up procedure at the present time.
3. That notwithstanding, the present guidelines are intended to lay the foundations for an integrated and comprehensive procedure for follow-up to Views that the Committee can implement in the future.
4. The main changes in the procedure established in the present guidelines are:
  - (a) Both the State party and the author(s) will be invited to submit information in follow-up to the adopted Views according to specific criteria, initially by email and, when it is operational, using the portal designed for that purpose by the Office of the United Nations High Commissioner for Human Rights (OHCHR);
  - (b) The Committee may also receive information from other stakeholders;
  - (c) Once the new procedure becomes fully operational, newly adopted cases will be included in one of two lists. List A will include cases in which information on follow-up is still being received from the parties. List B will include cases in which that information has already been received, but the follow-up procedure is still ongoing;
  - (d) Views adopted in the past may be selected for follow-up, taking into account: (i) the gravity of the harm suffered by the victim(s)/author(s); (ii) the urgency of the remedies to be provided; (iii) the systematic nature of the violations; and (iv) whether the situation deteriorates after the adoption of the Views;
  - (e) The Committee will decide when, how and why to close the follow-up procedure (for example, when the implementation has been satisfactory or partially satisfactory) or to suspend it (for example, in cases on which the author or his, her or their representative have provided no information in the past five years).
5. The new procedure will be beneficial to the work of the Committee. It will be possible, for example, to have information available for the preparation of the Committee's lists of

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\* Adopted by the Committee at its 136th session (10 October–4 November 2022).



issues and lists of issues prior to reporting for the periodic review of States parties and for the preparation of concluding observations following such reviews. Such information will also be available to other treaty bodies, to the Human Rights Council for the preparation of the universal periodic review, to relevant special procedure mandate holders and to the staff of the OHCHR regional and country offices. The information will also be available to stakeholders, including States parties, civil society, national human rights institutions and non-governmental organizations.

6. The implementation of the guidelines is a pilot project. As such, the Committee will assess the benefits and shortcomings and, if the guidelines prove useful, will recommend them to other treaty bodies.

7. The implementation of the guidelines will be aligned and integrated with the new case management system that OHCHR is currently developing for handling individual communications, so that the information needed for the follow-up procedure is duly collected and processed by that system.

8. In the first phase of the implementation of the guidelines, the current reporting procedure will continue to be followed (two reports on follow-up to Views per year). Nevertheless, the new criteria will be applied in the selection of cases for such reports.

## **II. Guidelines on follow-up to Views**

9. Pursuant to the recommendation of the inter-committee meeting of the human rights treaty bodies in 2011 that common procedural guidelines should be drafted with the purpose of complementing the existing rules of procedure and practices on follow-up concerning individual complaints,<sup>1</sup> the Committee has adopted the present guidelines on the basis of the practice developed by the Committee to promote effective implementation of its Views. The guidelines will be implemented progressively once the new case management system of the secretariat becomes fully operational.

## **III. Introduction to the procedure for follow-up to Views**

10. Pursuant to article 2 of the Covenant, each State party to the Covenant has undertaken to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant and to ensure that any person whose rights or freedoms, as recognized in the Covenant, are violated has an effective remedy. In addition, by becoming a party to the Optional Protocol, each State party has recognized the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction who claim to be victims of a violation by that State party of any of the rights set forth in the Covenant. The Committee takes decisions on individual communications and, when deciding on the merits, issues Views, which are then forwarded to the State party and to the individual concerned. The Committee may prepare follow-up reports on Views adopted under article 5 (4) of the Optional Protocol with a view to ascertaining the measures taken by States parties to give effect to its Views.

11. As indicated in annex XXV to the report of the Secretary-General to the General Assembly, at its seventy-seventh session, on the status of the human rights treaty body system,<sup>2</sup> a significant aspect of the effectiveness of treaty bodies to protect human rights and ensure a direct impact of their decisions relates to their ability to follow up on the implementation of those decisions in which they found that the State party violated treaty provisions.

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<sup>1</sup> [HRI/ICM/2011/3-HRI/MC/2011/2](#), para. 61 B (a).

<sup>2</sup> [A/77/279](#), annex XXV, sect. II. D (follow-up procedures). Available from [www.ohchr.org/en/documents/reports/fourth-biennial-report-status-human-rights-treaty-body-system](http://www.ohchr.org/en/documents/reports/fourth-biennial-report-status-human-rights-treaty-body-system).

## IV. Special Rapporteurs for follow-up on Views

12. At its thirty-ninth session (9–27 July 1990), the Committee established a procedure and designated a Special Rapporteur to monitor follow-up to its Views adopted under article 5 (4) of the Optional Protocol. In accordance with rule 106 (3) and (4) of the Committee’s rules of procedure,<sup>3</sup> the Special Rapporteur for follow-up on Views regularly reports to the Committee on follow-up activities and the reports are referenced in the Committee’s annual report. At its 130th session (12 October–6 November 2020), the Committee decided to appoint a Deputy Special Rapporteur in addition to a Special Rapporteur.

### A. Definition of assessment criteria for follow-up to Views

13. At its 109th session (14 October–1 November 2013), the Committee decided to include in its reports on follow-up to Views an assessment of the information received from and action taken by States parties, taking into account also information received from the author(s) and counsel. The assessment is based on criteria similar to those applied by the Committee in the procedure for follow-up to its concluding observations on State party reports. At its 118th session (17 October–4 November 2016), the Committee decided to revise its assessment criteria.

### B. Initial stage of the follow-up to Views and time frame for submissions from the State party and the author

14. Views should be submitted both to the author(s) and the State party within 30 days of their adoption or within 30 days of receipt of any dissenting opinions. When the Committee adopts Views finding that a State party has violated the rights of the author(s) under the Covenant, it requests the State party to submit, within 180 days, follow-up observations on the measures taken to give effect to the reparation recommended in the Views.

15. Upon receiving the State party’s observations, the Special Rapporteur and the Deputy Special Rapporteur for follow-up on Views transmit them to the author(s) and/or counsel with a request to submit comments on the observations within 90 days. If the State party has failed to submit any observations within the designated deadline, the Special Rapporteurs inform the author(s) and/or counsel of that fact.

16. The Committee may also receive information from other stakeholders on the implementation of the Views within the same 90-day period, on which the author is also allowed to submit comments.

### C. Guidelines on drafting the State party’s observations

17. When sending Views to the State party, the Committee refers the State party to the present guidelines, noting especially that:

- (a) The observations should be concise and focus specifically on the remedy indicated in the Views adopted by the Committee;
- (b) The observations should, in general, not exceed 3,500 words;
- (c) The observations should include:
  - (i) The date and minutes of any meetings with the author(s) and/or his or her representative (counsel);
  - (ii) An indication of which authorities in the State party are responsible for the implementation of each reparative measure recommended in the Views;

<sup>3</sup> CCPR/C/3/Rev.12.

- (iii) The specific measures the State party has taken or plans to take to comply with the Views, and an indication of the relevant time frames;
- (d) The observations should be submitted before the deadline indicated in the Views, which is 180 days after the transmission of the Views to the State party;
- (e) The State party should submit the observations in one of the official languages of the United Nations;
- (f) The State party should send the observations in Word format to the following email address: ohchr-fuccpr@un.org.

#### **D. Guidelines on drafting the authors' comments and information submitted by other stakeholders**

18. The author's comments and information submitted by other stakeholders should comply with the following criteria:

- (a) The author(s) and stakeholders should provide relevant comments and information on the measures taken by the State party and any plans included in the observations received from the State party and on the priority of their implementation;
- (b) The comments and information should be concise and focus specifically on the remedy indicated in the Views adopted by the Committee;
- (c) The author(s) and stakeholders should limit their comments and information to 3,500 words per submission;
- (d) The author(s) and stakeholders should submit the comments and information in one of the official languages of the United Nations;
- (e) The author(s) and stakeholders should send the comments in Word format to the following email address: ohchr-fuccpr@un.org.<sup>4</sup>

#### **E. Assessment of the observations and comments received**

19. The Special Rapporteurs for follow-up on Views assess the observations submitted by the States party, the comments submitted by the author(s) and information submitted by other stakeholders and report to the Committee on the steps taken by the States party to provide full reparation to the affected individual(s). The follow-up report is presented and discussed in a public, plenary meeting of the Committee.

20. The Special Rapporteurs may designate focused cases, which require the particular attention of the Committee. The summaries of observations and comments on those focused cases are included in the follow-up report on Views,<sup>5</sup> while other cases are divided between lists A and B, with an assessment of the steps taken by the States party.

21. The Special Rapporteurs choose the focused cases by taking account mainly of the following elements:

- (a) The gravity of the harm suffered by the victim(s)/author(s);
- (b) The urgency of the remedies to be provided;
- (c) The systematic nature of the violations;<sup>6</sup>
- (d) Any subsequent deterioration of the situation after the adoption of the Views.

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<sup>4</sup> The Committee may consider the possibility of accepting comments in other formats.

<sup>5</sup> Each follow-up report will include about six or seven focused cases. Information included should be more concise than the information currently included in such reports.

<sup>6</sup> Some of the cases may be handled in clusters when they relate to the same type of violations.

## V. Guidelines on the report on follow-up to Views

22. The report on follow-up to Views comprises the following elements:
- (a) Main report;
  - (b) Summaries of the focused cases;
  - (c) The list of Views for which the deadline for submission of comments from the author(s) has expired in the last two years (list A);
  - (d) The list of Views adopted in the last five years that have been moved from list A after the end of the two-year period indicated in subparagraph (c) above (list B).<sup>7</sup>
23. All documents mentioned in the report on follow-up are posted on the Committee's web page.

### A. Main report

24. The main report contains a general introduction, the assessment criteria and an evaluation of the measures taken by the State party to comply with the recommendations in each of the Views contained in the report.
25. The information provided and/or measures taken by the State party are assessed in accordance with the following grading system:

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| <b>A</b> | <b>Information/action largely satisfactory:</b> The State party has provided evidence of significant action taken towards the implementation of the measures recommended in the Views.                                 |
| <b>B</b> | <b>Information/action partially satisfactory:</b> The State party has taken steps towards the implementation of the recommendation, but additional information or action remains necessary.                            |
| <b>C</b> | <b>Information/action not satisfactory:</b> A response has been received, but the action taken or information provided by the State party is not relevant or does not implement the measures recommended in the Views. |
| <b>D</b> | No observations have been provided by the State party within the designated deadline.  |
| <b>E</b> | Information or measures taken are contrary to or reflect rejection of the recommendation.  |
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### B. Summary of the focused cases

26. Each case summary contains a concise description of the relevant information, the Committee's assessment and its decision on follow-up measures still to be taken and their order of priority.
27. The Committee's assessments are based on the criteria adopted by the Committee to monitor the implementation of Views. The Committee may add a concise explanatory note to indicate the reason(s) for the grade given. The Committee may require further follow-up measures from the State party in order to ensure the full implementation of the measures recommended in the Views.

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<sup>7</sup> All the Views adopted by the Committee are on list A for two years. Thereafter, the Views on list A are moved to list B, where they remain for another three years.

### **C. List A**

28. List A includes all the Views for which the deadline for submission of comments from the author(s) has expired in the last two years. List A contains 14 columns indicating: (a) the case number; (b) the name of the author(s); (c) the name of the State party; (d) the date of adoption of the Views; (e) the designated dates for the submission of the State party's observations and author(s)' comments; (f) the date of receipt of the State party's observations or the due date; (g) the date of receipt of the author(s)' comments or the due date; (h) the date of receipt of any information submitted by other stakeholders; (i) the reparative measures recommended in the Views; (j) an indication of whether there have been any meetings or consultation with the author(s); (k) the measures planned by the State party; (l) the measures actually taken by the State party; (m) the Committee's assessment; and (n) the status of the case or further follow-up measures required by the Committee and their order of priority.

### **D. List B**

29. List B includes the Views that have been moved from list A after the end of the two-year period mentioned for list A. List B is a list of Views, in alphabetical order by State party, that shows the situation of their implementation for three years from the time of movement from list A. The purpose of list B is to continue monitoring the implementation of Views, even if little or no information is provided by the State party, or few or no reparative measures have been taken by the State party after the initial two years referred to in list A. The Committee may require further follow-up measures to be taken in order to ensure implementation of the Views, if it deems it necessary for the particular State party. List B contains: (a) the case number; (b) the name of the author(s); (c) the name of the State party; (d) the date of adoption of the Views; (e) the Committee's assessment; (f) the status of the case or further follow-up measures to be taken by the Committee.

## **VI. Procedure for the adoption of the report on follow-up to Views**

30. The secretariat drafts a preliminary analysis of all information received from the State party, the author(s) and other stakeholders, which is then reviewed and approved by the Special Rapporteurs for follow-up on Views. The draft follow-up report is discussed and adopted at the subsequent session of the Committee. The Committee adopts three reports on follow-up to Views per year (one at each session).<sup>8</sup>

31. The Committee may receive additional information from the State party, the author(s)/representative (counsel) and other stakeholders after the initial process of the follow-up ends. In the light of the additional information received, the secretariat updates list A and list B at each session. Updated information should be highlighted in the follow-up report.

32. In the light of the updated information, the Special Rapporteurs may propose that the Committee attribute new grading or take new follow-up measures in the follow-up report to be discussed and adopted in the subsequent sessions of the Committee.

### **A. Linkage of the follow-up process with the periodic reporting procedure**

33. If the Committee assesses a State party's follow-up to one or more pending cases in list A or list B to merit grade(s) other than A, the Committee will automatically include on the list of issues or the list of issues prior to reporting for the periodic review of that State party questions concerning the implementation of the recommendations contained in those Views. If the Committee deems it necessary, it might also include questions on the list of

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<sup>8</sup> The system of three reports per year will start after the new OHCHR case management system comes into operation. Until then, the system of two reports per year will continue.

issues or list of issues prior to reporting concerning cases in which it assessed the follow-up as meriting grade A.

34. The Committee's concluding observations on the review of State party reports will include an evaluation of the implementation of the Committee's Views in the light of the State party's replies to the list of issues or list of issues prior to reporting and the information provided in the constructive dialogue.

## **B. Closure and suspension of the follow-up procedure**

35. The Committee may close the follow-up procedure for the cases in which it has determined that implementation has been satisfactory or partially satisfactory. In those cases, the Committee indicates "closed" in column (n) of list A or column (f) of list B and the reasons for the closure.

36. The Committee may suspend the procedure for the cases in which no information has been provided in the past five years by either the author(s) or his, her or their representative (counsel). In those cases, the Committee indicates "suspended" in column (f) of list B and the reasons for the suspension. The Committee will not take any proactive follow-up measures on suspended cases unless the author(s) and/or representative submit relevant updated information.

## **C. Further follow-up measures that may be taken by the Committee**

37. In the follow-up report, the Committee may decide to take further follow-up measures. It may decide:

- (a) To remind the State party to provide its observations or to request the State party and the author(s) to provide further information;
- (b) To designate a case as a focused case and to make public the details of the case in the subsequent follow-up report;
- (c) To request a meeting in Geneva with a representative of the State party;
- (d) To transmit the relevant information to the Human Rights Council in order for the Council to deal with the issue of effective reparation for victims in the next universal periodic review of the State party in question;
- (e) To transmit the information to the relevant special procedure mandate holders in order for them to use it in their country visits and/or other contact with the State party in question;
- (f) To transmit the information to other relevant human rights treaty bodies in order for them to use it in their periodic reporting procedure;
- (g) To transmit the information to the relevant OHCHR regional and/or country offices with a request to monitor progress and undertake advocacy to encourage the implementation of its Views.

38. The Committee may take those measures concurrently. If it deems it appropriate, the Committee may decide to take other appropriate measures in addition to those mentioned in the previous paragraph in order to promote the implementation of its Views.