



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

Distr.  
GENERAL

CAT/C/SR.776  
25 April 2008

ENGLISH  
Original: FRENCH

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COMMITTEE AGAINST TORTURE

Thirty-eighth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)\* OF THE 776th MEETING

Held at the Palais Wilson, Geneva,  
on Tuesday, 15 May 2007, 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.776/Add.1.

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The meeting was called to order at 3.20 p.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3)

Follow-up procedures (CAT/C/38/R.1)

1. The CHAIRPERSON invited the Committee to consider the report of on follow-up to individual communications as contained in document CAT/C/38/R.1.
2. Mr. SCHMIDT, Petitions Unit, introducing the report, said that it dealt with follow-up activities since the end of the Committee's previous session, 24 November 2006. The cases C. T. and K. M. v. Sweden, Losizkaja v. Switzerland and El Rgeig v. Switzerland should not pose problems because the States parties concerned had applied the Committee's recommendations. With regard to the cases Falcón Riós v. Canada, Suleymane Guengueng and others v. Senegal, Thabti v. Tunisia, Abdelli v. Tunisia and Ltaeif v. Tunisia, the Committee could decide on further follow-up measures. Finally, the document contained a list of States parties that had not replied to the Committee's requests for information. The Committee could thus decide to seek authorization to conduct a follow-up mission to a country which had not discharged its obligations if it felt that the situation called for it.
3. With regard to the Agiza v. Sweden case, the State party had not transmitted any additional information concerning the situation of the complainant during the period under review. However, in a similar case considered by the Human Rights Committee, Alzery v. Sweden, Sweden had indicated that it intended to take the necessary measures to compensate the complainant, to ensure a more thoroughgoing inquiry into the risk of torture arising from forced removal and to review the conditions under which applications for asylum could be denied for reasons of security.
4. Mr. MARIÑO MENÉNDEZ, Rapporteur on follow up to communications, called the Committee's attention to Falcón Riós v. Canada, in which the Committee had, in 2004, found a violation of Article 3 of the Convention and had requested the State party to take interim measures. Canada had reported on 9 March 2005 that the complainant had lodged a new complaint with the competent authorities seeking an assessment of the risk that he might be tortured if he were returned to Mexico. On 5 February 2007, the complainant had transmitted to the Committee the results of that inquiry, indicating that his request had been rejected and that he had to leave the territory of the State party. Accordingly, the Committee could ask the complainant to provide current information on his situation and request the State party to provide updated information on the case.
5. With regard to the Dadar v. Canada case, which was not mentioned in the document under consideration, the State party had sent the complainant back to his country of origin after concluding, contrary to the Committee's observations of 23 November 2005 that he had not demonstrated that he ran a real risk of being tortured if he were returned. The Committee could therefore request information from the State party regarding the complainant's current situation.
6. As far as the Suleymane Guengueng and others v. Senegal case was concerned, the State party had indicated on 7 March 2007 that new legislation had been adopted and that the judicial authorities were henceforth competent to try Mr. Hissen Habré. However, the complainants had

called the Committee's attention to the fact that the new legislation did not contemplate the crime of torture but rather genocide, crimes against humanity and war crimes. The Committee should therefore transmit to the State party a copy of the letter of 24 April 2007 from the complainants in order to elicit its observations, and remind the Senegalese authorities that it was incumbent on them to take necessary steps to discharge their obligations under article 5 of the Convention.

7. Regarding the cases C. T. and K. M. v. Sweden, Losizkaja v. Switzerland and El Rgeig v. Switzerland he proposed that no further follow-up action be taken, as the States parties had granted the complainants residence permits in accordance with the Committee's recommendations.

8. In regard to Thabti v. Tunisia, Abdelli v. Tunisia and Ltaeif v. Tunisia, he recalled that the Committee, in its decision of 20 November 2006, had requested the State party, in keeping with its obligations under articles 12 and 13 of the Convention, to conduct an investigation of the allegations of torture and ill-treatment contained in those three complaints. Tunisia had informed the Committee that one of the complainants having "withdrawn" his complaint, follow-up action as to that complainant should be discontinued, and that there was serious reason for doubt regarding the real motives of the complainants in the other two cases. Moreover, regarding those two cases, the State party was of the view that domestic remedies had not been exhausted. Having learned from counsel for the complainants that the withdrawal of one complainant had been the result of pressures, the Rapporteur proposed that the Committee proceed step by step, first asking the Tunisian authorities to present their observations on the information provided by the complainants within a specific time-frame. The State party should also be reminded of its obligation to proceed with an investigation into the acts of torture alleged. Absent a timely response from the State party, the Committee might authorize the Rapporteur to proceed to a new exchange of views with the Permanent Representative of Tunisia to the United Nations Office at Geneva. If the State party took no action, the Committee could conclude that there had been a breach of articles 12 and 13 of the Convention and ask the State party to take steps to make reparation.

9. Finally, Sweden had transmitted encouraging information to the Human Rights Committee in regard to the Alzery case and it would perhaps be useful to ask the State party whether it intended to follow up on the Committee's conclusions in the same manner with regard to the Agiza case, which was similar.

10. Mr. SCHMIDT, Petitions Unit, said that, since Sweden had provided no follow-up information for over a year, the Committee could indeed ask the State party, based on the information it had provided in the Alzery case, whether it intended to follow up on the Committee's decision in the same manner in the Agiza case. With regard to the Thabti v. Tunisia, Abdelli v. Tunisia and Ltaeif v. Tunisia cases, the Committee might wish to remind the Permanent Representative of Tunisia that, contrary to the commitment he had made at his first meeting of 25 November 2005 with the Committee's Rapporteur on follow-up to communications, no updated information had been provided to the Committee regarding inquiries by the Tunisian authorities into the acts of torture alleged.

11. The CHAIRPERSON, speaking as a member of the Committee, endorsed the suggestions of the Rapporteur and Mr. Schmidt concerning the Agiza case. He noted, however, that beyond a

certain point follow-up action became pointless, especially when the risk of being exposed to acts of torture has disappeared. Concerning the Committee's position towards Tunisia, it should be pointed out to the State party that the withdrawal of his complaint by Mr. Ltaief did not in any way call into question the Committee's observations. Regarding the Thabti and Abdelli cases, the Committee should write to the State party requesting information on its follow-up to the Committee's decision, but it should at all costs avoid re-opening with the Tunisian authorities the issue of admissibility of the complaints, since the Committee had already taken a decision on the merits.

12. Mr. MARIÑO MENÉNDEZ said that his views on the Thabti, Abdelli and Ltaief cases would be along the same lines as the concerns expressed by the Chairperson, since he would propose that the Committee ask the State party to provide its comments on the observations of the complainants regarding the withdrawal of Mr Ltaief's complaint and to inform the Committee of measures taken to discharge the State party's obligations under articles 12 and 13 of the Convention within a specific time, failing which the Committee might request that reparations be made.

13. Concerning the Agiza v. Sweden case, he recognized that follow-up action could not continue indefinitely but felt that the time had not yet come to discharge the State party of its obligations in the case, as the Committee's decision was not so old. Moreover, in view of the encouraging information transmitted by the State party to the Human Rights Committee in a similar case, it was desirable to address a new request to the State party for information on how it intended to follow up the Committee's decision on the Agiza case.

14. The CHAIRPERSON said that if he heard no objection he would take it that the Committee wished to adopt the proposals of the Rapporteur

15. It was so decided.

Follow-up to the Committee's conclusions and recommendations on country reports (document without a symbol, distributed in English only)

16. Ms. GAER, Rapporteur on follow-up to conclusions and recommendations, said that since the establishment of the follow-up procedure, 43 States parties had been reviewed, of which 37 had been asked for additional information and 22 had replied, which was a significant proportion. Those which had not replied had received a reminder, and three examples of reminder letters were presented in the document distributed to the Committee. The first was the more usual model; it had been addressed to Cameroon to request that it send the information that was expected. As was always done in such letters, the relevant paragraphs of the Committee's recommendations were cited in support of the request. The two other reminder letters were tailored to specific cases. The second letter, addressed to Cambodia, pertained to an unusual situation, since the State party had not been present during the consideration of its report. However, the Committee had adopted conclusions and recommendations and had asked for a written reply from the State party, which had not responded. The third reminder letter was addressed to Moldova, whose delegation had arrived late and had provided no information, but which had undertaken to communicate the information very soon; no information having since been received by the Committee, the purpose of the letter was to remind the State part of its commitments.

17. The other letters, copies of which had been distributed to the Committee, were more substantial and requested additional information from States parties that had replied to an initial follow-up measure but whose replies were unclear, incomplete or not well targeted. On the whole, however, replies received had been fairly specific and in one case, that of Morocco, a further reply had even been received already.
18. The information requested pertained to measures which could be taken within a year and which afforded good protection: prompt access to a lawyer, doctor or family member, creation of a distinct organ in charge of considering complaints, compilation of statistics on the workings of the police and judicial apparatus, etc. The problems addressed in the letters of course differed from country to country and most often dealt with prison overcrowding, abuse of power by prison personnel, handling of complaints, deaths occurring during pre-trial detention, etc.
19. The letter addressed to Argentina followed up on the recommendation urging the State party to create a national registry of persons deprived of their liberty. The State party had replied that that measure would be implemented with the creation of a national mechanism of protection, which had been delayed owing in particular to administrative considerations. The follow-up letter therefore stressed the importance of taking the simple measure of creating that registry. The letter addressed to Colombia dealt mainly with measures for protection of human rights defenders, who were very exposed in that country. Finally, New Zealand had complained that the Committee, in its conclusions, had commended it prematurely for considering ratification of the Convention Relating to the Status of Stateless Persons. The Committee replied that the State party had expressed that intention in other fora and commended it for having meanwhile gone ahead with that ratification.
20. Replies from States, once translated, were assigned a symbol and posted on the web site of the Office of the High Commissioner. Letters from the Rapporteur were not available to the public, although non-governmental organizations had made that request. There seemed to be no reason why the Committee should not decide to publish them.
21. The CHAIRPERSON stressed that follow-up activities, both to communications and to conclusions and recommendations, had already begun to bear fruit, since, thanks to contacts with States parties, measures for the protection of human rights had been taken or more vigorously implemented. Before the next session, the two rapporteurs should consider ways of involving national human rights institutions, or indeed non-governmental organizations, in their efforts. Cambodia did not seem to have a representative in Geneva; the Rapporteur should write to the Permanent Mission of that country in Paris to urgently request a meeting with one of its representatives before the thirty-ninth session.
22. Ms. GAER, Rapporteur on follow-up to conclusions and recommendations, said that some States parties had not responded to contacts for a variety of reasons. One State party had included its replies in its next periodic report, and she would examine them just as if they had been addressed to her directly. Another State had provided much information but had not directly answered the questions asked; she would send that State another request. When a State did not comply, there were two possibilities: either to send a reminder letter or to contact its diplomatic mission, which she proposed to do in certain cases. Considerable work was involved in following up on such procedures and maintaining their momentum, both for the rapporteurs and

for the secretariat, and the task would be greatly facilitated if the Committee were to decide that all documents falling under article 19 should be made public.

23. The CHAIRPERSON said that the Committee informally agreed that the Rapporteur take any steps she deemed appropriate in that respect. The secretariat would make it known that letters addressed to States under the follow-up procedures could be published in their original language.

24. Ms. SVEAASS recalled that, at the previous session, the Committee had been given a table showing which States had responded to follow-up action; it would be helpful to update that table. The letters that had recently been presented to the Committee were instructive. Thanks to those letters one could see, for example, that Latvia had communicated some information to the Rapporteur but that certain questions remained pending ; being informed about those questions would facilitate dialogue with the State party at the thirty-ninth session. It was worth noting that country rapporteurs could make good use of those letters in drawing up lists of items to be discussed and in the detailed preparation of reviews of reports.

25. The CHAIRPERSON said that, in preparing lists of items to be addressed, Committee members should indeed be in contact with the rapporteurs on follow-up to communications and on follow-up to conclusions and recommendations.

The public part of the meeting rose at 4.20 p.m.

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