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Summary record of the 3223rd meeting
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Chairperson: Mr. Salvioli

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The meeting was called to order at 10.10 a.m.

Follow-up to concluding observations on State party reports

Draft report of the Special Rapporteur for follow-up to concluding observations (CCPR/C/115/R.3)

1. **The Chairperson** invited the Special Rapporteur for follow-up to concluding observations to present her report.

2. **Ms. Cleveland** (Special Rapporteur for follow-up to concluding observations) expressed regret at the fact that the limit of 10,700 words imposed on the report meant that information on Iceland could not be included and that some information from States parties had had to be excluded. She recalled that a C2 assessment applied in situations where a State party had responded to a request for further information by providing the same information as prior to the dialogue.

3. **Mr. Rodríguez-Rescia** said that having to exclude the assessment of a State's follow-up to concluding observations, merely owing to a word limit, was a matter of concern. The limit did not do justice to the Committee's work with respect to such follow-up, which was one of the most crucial aspects of the review process with States parties. It was imperative to hold a discussion regarding the possibility of waiving the word limit for follow-up reports.

4. **The Chairperson** said he agreed that the word limit reduced the effectiveness of the Committee's work. The issue had been raised two years earlier, when follow-up information that had been prepared had to be excluded from the report.

5. **Ms. Cleveland**, drawing attention to the evaluation of Armenia's follow-up to the concluding observations (CCPR/C/ARM/CO/2), said that Armenia had been examined in 2012 and had responded to the concluding observations in 2013 and 2015. Concerning the Committee's request in paragraph 12, she said that the State party had failed to take measures to guarantee that the victims of the events of 1 March 2008 received adequate reparation, and an evaluation of C2 was therefore proposed.

6. An evaluation of C2 had also been proposed with respect to paragraph 14, because the State party had failed to provide any additional information on the establishment of an independent system for receiving complaints regarding torture in places of imprisonment, and information was also required on the status of the draft law on making amendments to the Criminal Code.

7. The State party's response to the request to ensure the independence of the judiciary, made in paragraph 21, should be given an evaluation of B1, as the State party had amended the Judicial Code and had strengthened the independence of the judiciary from the executive and legislative branches. The Committee nevertheless required further information on the appointment procedure for judges and the impact of the amendments to the Judicial Code. In support of its evaluation, the Committee had referred to the report on the draft law on amendments by the European Commission on Democracy through Law (Venice Commission).

8. **The Chairperson** drew attention to the extensive work entailed by the evaluation of a recommendation that required numerous measures, such as the above paragraph on judicial review. He urged the Committee to bear in mind, during its selection of paragraphs for follow-up, the evaluative work generated by each recommendation. He took it that the Committee wished to adopt the proposals made by the Special Rapporteur with regard to Armenia.

9. *It was so decided.*

10. **Ms. Cleveland**, turning to the Committee's evaluation of the follow-up to its concluding observations on Kenya (CCPR/C/KEN/CO/3), said that the State party's replies had been received late, in February 2015. She proposed a rating of B2 for the State party's reply to paragraph 6, since the National Gender and Constitutional Commission was undertaking a survey on the how the "two thirds gender rule" was being applied in the private sector: comprehensive data was expected to be included in the State party's next report. However, women remained underrepresented in the public sector. Additional information was required on measures taken to strengthen efforts to increase the participation of women in both the public and private sector and on allegations of violence faced by women who had been running for election in 2013.

11. With regard to paragraph 13, a rating of C1 was proposed, as data from the State party had shown that only a small number of cases of post-2007 election violence had been prosecuted, and convictions had been rare. The Committee was requesting additional information on measures taken to implement its recommendation in that regard and on the number of cases pending since 25 July 2012, as well as updated information on the initiative to establish the International Crimes Division of the High Court.

12. With regard to paragraph 16, concerning reports of overcrowding and torture by law enforcement personnel in places of detention, she said that a rating of B2 was proposed because overcrowding in detention centres had been alleviated and the use of alternatives to detention had increased. However, information was required on guarantees of the use of alternatives to imprisonment and the criteria for eligibility for the different forms of alternative measures. Updated statistics were also required on the number of inmates in detention centres. She therefore proposed a rating of C2, owing to the scant information provided concerning measures to investigate and prosecute allegations of torture, other than on the establishment of the Independent Policing Oversight Authority. The Committee noted with concern that, despite a large number of reports of torture and ill-treatment, no police officer had been charged under the relevant legal provision. With reference to the incorporation of the Istanbul Protocol into police training, an assessment of B2 was proposed and, additionally, the Committee requested details on the relevant training sessions and their impact. She proposed amending the assessment of the implementation of the bill on the prevention of torture from C2 to B2, given that the State party had responded to the Committee's request to include in the bill a definition of torture in line with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

13. **Mr. Seetulsingh** asked for clarification regarding the establishment of the International Crimes Division of the High Court.

14. **Mr. Politi** said he, too, felt the need for clarification. The final clause of the Committee's evaluation of the follow-up to paragraph 13 implied that, under the principle of complementarity, a decision had been taken by the International Criminal Court in The Hague to leave the prosecution of suspects in post-election violence to the High Court of Kenya. He therefore proposed that the clause should read "… which would try those suspected of the most serious crimes under international law".

15. **Ms. Cleveland** said that the reference in question had been severely edited to conform to the word count, which accounted for the lack of clarity. The State party had provided further information, to the effect that plans had been made to set up an International Crimes Division of the High Court to try those suspects who had not yet been taken to The Hague, under procedures similar to those of the International Criminal Court. The final clause accurately cited the information from the State party, but she agreed that it contained a degree of ambiguity, and she would confer with the secretariat with a view to clarifying it.

16. **The Chairperson** suggested that the final clause should be placed in quotation marks, to render explicit the citation of the State party's replies. He took it that the Committee wished to adopt the proposals made by the Special Rapporteur with regard to Kenya.

17. *It was so decided.*

18. **Ms. Cleveland**, referring to the second reply of Paraguay to the concluding observations on its third report (CCPR/C/PRY/CO/3), said that the Committee's assessment of the State party's reply to the recommendation in paragraph 8 was divided into three parts. The Committee had asked the State party to ensure that all the cases of serious human rights violations committed during the dictatorship of Alfredo Stroessner (1954-1989) and during the transitional period up to 2003, as documented by the Truth and Justice Commission, were duly investigated, and to hold accountable all those responsible. An evaluation of C1 was proposed for the information provided by the State party on the actions taken by the Human Rights Directorate of the Prosecutor General's Office to classify the files of missing persons. However, additional information was required regarding the progress of current judicial cases, the cases reviewed by the Human Rights Directorate of the Supreme Court of Justice and the initiative to strengthen search procedures for disappeared persons. She proposed an evaluation of C1 with respect to the reparations granted to victims, since further information was required, including on the new criteria for granting compensation established by the Attorney General's Office. Lastly, with regard to the allocation of funds to the national team to investigate, search for and identify persons detained and disappeared or extrajudicially executed from 1954 to 1989 (ENABI) in order to start identifying the bodies of disappeared persons, a B1 rating was proposed: additional information was required on the progress of that identification process.

19. Turning to paragraph 14, wherein the State party had been requested to review the functioning of the neighbourhood watch committees, hold their members accountable for all criminal acts for which they were allegedly responsible and provide appropriate compensation for their victims, an assessment of C2 was proposed, since no new information had been submitted.

20. An evaluation of C1 was proposed in relation to paragraph 23. The State party's reply regarding the investigations into acts of torture and the deaths of 17 people during a police raid in Curuguaty on 15 June 2012 had been unclear. The Committee needed additional information on the progress of the criminal proceedings and of investigations into those alleged acts of torture.

21. **The Chairperson** said that, although he agreed with the evaluation proposed, it exemplified the inadequacy of the criteria for responding to replies in which the formal and substantive aspects of a request had been met to differing degrees. It would be useful to hold a discussion to develop more appropriate criteria at a future date.

22. **Ms. Cleveland** said she fully agreed that it would be helpful to engage in discussions with an eye to simplifying the criteria, as they sometimes rendered the follow-up to the more complicated recommendations difficult.

23. **The Chairperson** said he took it that the Committee wished to adopt the proposals made by the Special Rapporteur with regard to Paraguay.

24. *It was so decided.*

25. **Ms. Cleveland** said that Albania had been examined in 2013 and had responded to the concluding observations (CCPR/C/ALB/CO/2) in 2015. The Committee had recommended, in paragraph 9 of the concluding observations, that the State party should take steps to conclude its criminal investigations into the January 2011 demonstrations. A C1 evaluation was proposed because the investigations were

ongoing and additional information was required on measures taken to expedite them and to ensure compliance with international standards. An evaluation of D1 was proposed regarding the State party's failure to provide information on measures taken to compensate victims, including information on the pension which, according to some NGOs, was to be granted to victims' families.

26. With regard to the recommendation in paragraph 13 on proper implementation of pre-screening procedures at the border and inside the country, a B1 evaluation was proposed, in light of the information provided on training conducted in conjunction with the Office of the United Nations High Commissioner for Refugees (UNHCR) and other measures. Additional information was requested on the implementation of pre-screening procedures. A B1 evaluation was proposed in respect of the recommendation to refrain from detaining asylum seekers. The State party claimed that they were not held in closed centres, but further information was requested on measures taken to limit the use of detention centres and on the number of aliens detained in reception facilities. A B2 evaluation was proposed in respect of the recommendation to improve conditions in transit reception facilities. Further details were requested on the restructuring of such facilities and on the date when the improvements in living conditions were expected to be completed.

27. **The Chairperson** said he took it that the Committee wished to adopt the Special Rapporteur's proposals with regard to Albania.

28. *It was so decided.*

29. **Ms. Cleveland** said that Finland had been examined in 2013 and had responded to the concluding observations (CCPR/C/FIN/CO/6) in 2014 and 2015. With regard to paragraph 10, a B1 evaluation was proposed in respect of the recommendation to use alternatives to the detention of asylum seekers and irregular migrants, since the State party had amended existing legislation regarding detention. The Committee requested additional information on the amendments and on various projects launched by the Ministry of the Interior and the National Police Board to implement the amended legislation. A C2 evaluation was proposed in respect of the recommendation regarding the Metsälä detention facility, which the Committee reiterated on account of its persistent concerns.

30. With regard to paragraph 11 concerning the duty to bring a detained person before a judge within 48 hours of apprehension and to guarantee the right to a lawyer from the moment of apprehension, a C1 evaluation was proposed. While the Committee acknowledged efforts by a working group to examine the possibility of introducing alternatives to remand imprisonment, it regretted that the State party had not ensured that all suspects were brought before a judge within 48 hours of their arrest and reiterated its recommendation in that regard. An A evaluation was proposed in respect of the amendments to the Criminal Investigation Act aimed at providing persons deprived of their liberty with written notification of their right to retain counsel.

31. With regard to paragraph 16 concerning the rights of the Sami people, a C1 evaluation was proposed because of the withdrawal of the bill revising the Act on the Sami Parliament. The Committee reiterated its recommendation regarding the strengthening of the decision-making powers of Sami representative institutions. A B2 evaluation was proposed in respect of the measures taken to ensure that the Sami people participated in the discussion of policy measures affecting them and the initiative to ratify the International Labour Organization (ILO) Indigenous and Tribal People's Convention, 1989 (No. 169).

32. **Sir Nigel Rodley** said that it was unclear from the State party's reply to the recommendation concerning access to a lawyer in paragraph 11 whether persons

deprived of their liberty were entitled to retain counsel as soon as they were arrested. The A evaluation might not be appropriate until that point had been clarified. The Committee had also recommended that detainees should be transferred from police custody as soon as possible. The State party referred in its reply to alternatives to remand imprisonment: if arrested persons were removed from police custody within 48 hours, there was less need to insist that they should be brought before a judge within that time period.

33. **Ms. Cleveland** said that the information provided by the State party seemed to indicate that the amendments to the Criminal Investigation Act included the right to free legal aid and a counsellor. Further information on the implementation of those amendments had been requested. According to the State party, the maximum time limit of four days for being brought before a judge was consistent with the established practice of the European Court of Human Rights, and most arrested persons were in fact released within 48 hours. The State party argued that any shortening of the maximum time limit would lead to unnecessary remand requests and merely extend the duration of deprivation of liberty. The working group appointed by the Ministry of Justice was considering the introduction of alternatives to remand detention and of transferring responsibility for the custody of remand prisoners from the Ministry of the Interior, and hence the police, to the Ministry of Justice.

34. **Sir Nigel Rodley** proposed that the Committee should encourage the proposed transfer from police custody to custody with the Ministry of Justice.

35. **Ms. Cleveland** said that she was willing to include wording to that effect.

36. **Ms. Santana** (Secretariat) said that although the State party had not explicitly stated that arrested persons had the right to counsel from the moment of apprehension, the information provided indicated that the right was guaranteed by law.

37. **The Chairperson** said he took it that the Committee wished to adopt the Special Rapporteur's proposals with regard to Finland, with the changes just agreed on.

38. *It was so decided.*

39. **Ms. Cleveland** said that Tajikistan had been examined in 2013 and had responded to the concluding observations (CCPR/C/TJK/CO/2) in 2015. With regard to paragraph 16, a C1 evaluation was proposed for the recommendation concerning registration of detainees and measures to ensure that all arrested persons enjoyed their rights under the Covenant. The Committee noted the Supreme Court's ruling on legal provisions regulating detention, but requested additional information concerning the implementation of the ruling; the moment at which a person was recognized as a detainee entitled to legal guarantees; the efforts of law enforcement bodies to ensure that detainees were informed of their rights; and reports that administrative detention was used by the police to avoid detainee protection. Mr. Shany had suggested that the C1 evaluation might be amended to B2 in light of the Supreme Court ruling. However, civil society organizations had informed the Committee that it was merely a recommendation and not legally binding. A C1 evaluation was proposed for the recommendation in the same paragraph concerning the establishment of an independent mechanism for inspection of detention facilities by international humanitarian organizations and independent NGOs, since the State party had merely replied that the recommendation was under consideration.

40. With regard to paragraph 18, a C1 evaluation was proposed with respect to the recommendation on protection of the independence of judges. The Committee requested further information on the content and implementation of the Judicial Reform Programme for 2014-2016. A D1 evaluation was proposed for the recommendation concerning conditions of membership of the Bar, since no

information had been provided. A C1 evaluation was proposed for the recommendation concerning the creation of a State-subsidized legal aid system, since the proposed Ministry of Justice policy framework on legal aid had not yet been implemented.

41. With regard to paragraph 23, a C2 evaluation was proposed in respect of both the recommendation concerning the alignment of the law applicable to NGOs with the Covenant and the recommendation concerning the reinstatement of NGOs that had been unlawfully shut down, since no information had been provided on measures to amend the law and to reinstate NGOs.

42. **The Chairperson** said he took it that the Committee wished to adopt the Special Rapporteur's proposals with regard to Tajikistan.

43. *It was so decided.*

44. **Ms. Cleveland** said that Nepal had been examined in 2014 and had responded to the concluding observations (CCPR/C/NPL/CO/2) in 2015. With regard to paragraph 5 (a), a B2 evaluation was proposed for the recommendation concerning the prohibition of gross human rights violations. The Committee welcomed the draft legislation described in the information from the State party but requested additional information on the definitions of human rights violations it contained, the sanctions prescribed, the statutory limitations and progress towards enactment. With regard to paragraph 5 (b), a C1 evaluation was proposed for the recommendation concerning political interference in the criminal justice system and prosecution of gross human rights violations, because no information had been received on measures taken since March 2014. With regard to paragraph 5 (c), a B2 evaluation was proposed concerning the recommendation to establish a transitional justice mechanism. The Committee welcomed the establishment of the Commission on Investigation of Disappeared Persons and the Truth and Reconciliation Commission, but requested information on whether they were functioning and provided with adequate financial and human resources. With regard to paragraph 5 (e), a C2 evaluation was proposed for the recommendation concerning vetting guidelines, since no vetting mechanisms had been introduced.

45. With regard to paragraph 7, a C1 evaluation was proposed with respect to the recommendation concerning the amendment of the National Human Rights Act and the procedures governing the appointment of Commissioners to the National Human Rights Commission. The Committee requested information on how the Chairperson and Commissioners had been selected and on measures taken to amend the National Human Rights Act.

46. With regard to paragraph 10, a C2 evaluation was proposed concerning the recommendation to prevent the excessive use of force by law enforcement officials, since no clear information had been provided regarding measures taken since March 2014. A B2 evaluation was proposed for the recommendation concerning measures to eradicate torture and ill-treatment. The Committee requested information on whether the bill submitted to Parliament fully complied with international human rights standards, including the definition of torture. A C1 evaluation was proposed for the recommendation concerning training for law enforcement personnel in the prevention and investigation of torture and ill-treatment. Further information was requested regarding the training provided and the integration of the Istanbul Protocol into all training programmes. A D1 evaluation was proposed for the recommendation concerning the investigation of allegations of unlawful killings, torture and ill-treatment by law enforcement personnel, since no information had been provided by the State party.

47. **Mr. Seetulsingh**, referring to paragraph 7, noted that NGOs had stated that the appointment by the Government of Commissioners to the National Human Rights Commission had been a relatively transparent process. He therefore suggested that the C1 evaluation should be amended to B2.

48. **Ms. Cleveland** said that the State party had been asked to amend the procedures governing the appointment of Commissioners to ensure a fair and inclusive process. It had failed to do so and contended that the National Human Rights Commission already enjoyed full independence in line with the Paris Principles. One civil society organization had stated that the appointment of the Commissioners had been relatively transparent, but others had alleged that the appointment had not been based on predetermined and objective criteria. She therefore considered that a C1 evaluation was more appropriate.

49. **The Chairperson** said he took it that the Committee wished to adopt the Special Rapporteur's proposals with regard to Nepal.

50. *It was so decided.*

51. **Ms. Cleveland**, turning to the Committee's concluding observations on Georgia (CCPR/C/GEO/CO/4), said that, in response to the recommendation in paragraph 13 regarding the reform of its system of administrative detention, the State party had amended the Code of Administrative Offenses in August 2014 and had established a governmental commission for the reform of the administrative system in November 2014. The Commission had, among other things, advised that administrative offenses should be treated as minor criminal offences. She proposed a B1 rating in respect of the reforms carried out to date and a B2 rating with regard to the initiative to place administrative offences under the Criminal Code, pending clarification of the offences in question and of the initiative's compliance with articles 9 and 14 of the Covenant. With reference to the steps taken by the State party to reform the jury trial system, as recommended in paragraph 14, she proposed an evaluation of B2. A letter should be sent to the State party reflecting the analysis of the Committee.

52. **Sir Nigel Rodley**, noting that all the recommended actions involved sending letters to the States parties concerned, asked whether the Committee had abandoned its practice of engaging directly with States or whether it simply considered that such action was not appropriate in the cases under review.

53. **Ms. Cleveland** said that priority had been given to arranging meetings with States parties that had failed to respond to follow-up requests after two notifications. She had held meetings with two such States at the previous session, with positive results.

54. **The Chairperson** said that he took it that the Committee wished to adopt the proposals made by the Special Rapporteur with regard to Georgia.

55. *It was so decided.*

The meeting was suspended at 11.45 a.m. and resumed at 11.50 a.m.

Follow-up to Views under the first Optional Protocol to the Covenant

Progress report by the Special Rapporteur on follow-up to Views (CCPR/C/115/R.2)

56. **Mr. Rodríguez-Rescia** (Special Rapporteur on follow-up to Views), introducing his report, said that Mr. Shany had submitted a number of written proposals for amendments, to which he would refer to during discussion of the various cases, as appropriate.

57. With respect to cases Nos. 1924/2010 (*Boudehane v. Algeria*), 1974/2010 (*Bouzaout v. Algeria*), 1931/2010 (*Bouzenia v. Algeria*) and 1964/2010 (*Fedsi v. Algeria*), he said that the State party had failed to respond to the Committee's requests for follow-up information, in spite of the reminders that had been sent. The authors' counsel had indicated that some members of the victims' families had been subjected to measures that amounted to acts of pressure and intimidation. He proposed that the Committee should consider the follow-up dialogue to be ongoing and that a reminder should be sent to the State party before evaluating its follow-up action. It might also be useful to seek a meeting during the Committee's next session with officials from the State party's Permanent Mission in Geneva. With regard to the alleged acts of intimidation, Mr. Shany had suggested that the matter should be brought to the attention of the Committee's Special Rapporteur on Reprisals.

58. **Sir Nigel Rodley**, supported by **Ms. Waterval**, endorsed Mr. Shany's proposal.

59. **Ms. Cleveland** said that she, too, endorsed the proposal to refer the matter to the Special Rapporteur on Reprisals. The Committee might also like to suggest that the latter should consider the possibility of organizing a meeting with the State party, together with the Special Rapporteur on follow-up to Views, during the Committee's March 2016 session.

60. **The Chairperson** said that he took it that the Committee wished to adopt the Special Rapporteur's proposals regarding the four cases concerning Algeria and to refer the question of the alleged intimidation of family members of the victims to the Special Rapporteur on Reprisals.

61. *It was so decided.*

62. **Mr. Rodríguez-Rescia** referring to cases Nos. 2094/2011 and 2136/2012 (*M.M.M. et al v. Australia*), said that the State party had largely failed to respond to the Committee's substantive concerns. It had stated that the four dependent children who were authors of the communication were not required by law to remain in immigration detention with their parents. However, it had not indicated whether they were actually still in detention. Since the State party's response was not really relevant to the Committee's recommendation on release of authors still in detention, he had initially proposed a C2 evaluation. However, he tended to agree with the proposal by Mr. Shany to give an E rating, on the grounds that the State party's action — or inaction — ran counter to the Committee's recommendation. He proposed a mention of "no information" on the publication of Views and a C2 rating on the guarantee of non-repetition. He also proposed that the Committee should consider the follow-up dialogue to be ongoing.

63. **Mr. Seetulsingh** asked whether any of the authors had in fact been released from detention.

64. **Ms. Hadjoudj** (Secretariat) said that, following a review of several cases, the State party had released a total of 12 adult authors.

65. **The Chairperson** said that, as some of the authors had been released, he was not in favour of giving an E rating.

66. **Ms. Seibert-Fohr** said that the Committee did not have sufficient information to warrant giving an E evaluation on the release of the authors. She disagreed with the "no information" evaluation on the publication of Views, which in her opinion called for a D1 rating.

67. **Mr. Iwasawa** said that an E rating was reserved for measures that were contrary to the recommendations of the Committee, and it was therefore not appropriate for situations where a State party had failed to comply with its recommendations. The

Committee should perhaps review its follow-up criteria with a view to establishing an additional category that would encompass such situations. Similarly, it might be helpful if the Committee were to revisit the ratings given for the failure to publish its Views.

68. **Mr. Rodríguez-Rescia** said that he had no problem with retaining the C2 rating in respect of the measures taken, as he had initially proposed. As for the publication of Views, he would welcome guidance from the Committee on the ratings to be given where States parties failed to provide the necessary information.

69. **The Chairperson**, speaking in his capacity as a Committee member, said that the publication of Views formed an integral part of the remedy recommended by the Committee. Consequently, it was important that the Committee should properly evaluate a State party's failure to provide information in that regard. He was in favour of giving a D1 rating in the current case, as had been proposed by Ms. Seibert-Fohr.

70. **Mr. Rodríguez-Rescia** said that he had no objection to a D1 rating regarding the publication of Views in the case under discussion. Given that the "no information" rating had been used in respect of several cases considered in the report, it might be appropriate for the Committee to review that practice.

71. **Sir Nigel Rodley** said that the Committee should certainly, at some future opportunity, review its evaluation criteria, including the possibility of replacing point-by-point assessments with an overall assessment.

72. **The Chairperson** suggested that the Special Rapporteur should cover the question of modifications to the criteria in his next report.

73. He took it that the Committee wished to adopt the proposals made by the Special Rapporteur regarding cases Nos. 2094/2011 and 2136/2012.

74. *It was so decided.*

75. **Mr. Rodríguez-Rescia**, referring to cases Nos. 1956/2010 (*Durić v. Bosnia and Herzegovina*), 1966/2010 (*Hero v. Bosnia and Herzegovina*), 1970/2010 (*Kožljak v. Bosnia and Herzegovina*), 1997/2010 (*Rizvanović v. Bosnia and Herzegovina*) and 2003/2010 (*Selimović et al v. Bosnia and Herzegovina*), all of which concerned enforced disappearances, said that, in view of the considerable efforts made by the State party, he proposed B1 ratings for the State party's efforts (a) to establish the fate or whereabouts of the victims, (b) to bring to justice those responsible by the end of 2015 and (c) to abolish the obligation for family members to declare their missing relatives dead as a condition for obtaining social benefits and measures of reparations. He proposed a C1 rating for its efforts to ensure adequate compensation, a mention of "no information" for the publication of Views and a C1 rating regarding the guarantee of non-repetition.

76. **Sir Nigel Rodley** said that the information provided on case No. 1956/2010 (*Durić*) was inadequate. It was stated under a draft law on amendments to the legislation on the rights of veterans and members of their families, family members were no longer to be required to declare relatives who were missing as being dead in order to benefit from social allowances. But it was not made clear whether that was now the situation.

77. Regarding another case, No. 2003/2010 (*Selimović*), he said that if the accused person had indeed been indicted and sentenced, then the B2 rating for bringing to justice those who had been responsible for the author's disappearance should be upgraded to B1.

78. **Mr. Rodríguez-Rescia** said that he would not object to changing the Committee's assessment in *Selimović* to B1. With regard to the draft law to amend the

legislation on veterans, he said that it was still being processed in Parliament. The law as it stood still required family members to declare missing relatives as being dead if they wished to claim social allowances. Until such time as the Committee was informed that the draft law had been adopted, the C1 assessment for ensuring adequate compensation should be maintained.

79. **The Chairperson** said that since in case No. 2003/2010 (*Selimović*) the information provided by the State party would warrant it being granted a B1 rating for bringing to justice those who had been responsible for the author's disappearance, he took it that the Committee wished to follow the suggestion by Sir Nigel Rodley to that effect.

80. *It was so decided.*

81. **Mr. Rodríguez-Rescia**, referring to case No. 1995/2010 (*Al Gertani v. Bosnia and Herzegovina*), said that it concerned measures to restrict the author's movement. The Committee still required fuller information on the case. He agreed with Mr. Shany's proposal that the assessment for consideration of the reasons for the author's removal to Iraq and the effects thereafter on his family life, prior to any attempt to return the author to his country of origin, should be altered to B1, because substantive information on that matter had been provided by the State party. He proposed that adequate compensation should be rated as C1, that publication of Views should be assessed as A and that non-repetition should be graded as C1.

82. **The Chairperson** said that he took it that the Committee wished to adopt the ratings proposed by the Special Rapporteur.

83. *It was so decided.*

84. **Mr. Rodríguez-Rescia**, moving on to case No. 1611/2007 (*Bonilla Lerma v. Colombia*), said that the Committee was still awaiting the State party's reply. It should therefore continue the dialogue and send a reminder to the State party. He suggested that a bilateral meeting should be held with the Colombian authorities on that case.

85. **The Chairperson**, speaking in his capacity as a member of the Committee, said that the fact that the Committee was not giving an evaluation in 2015, despite having adopted Views on the case some four years earlier, meant that a State party which had provided no information was benefiting from the situation. That was another issue requiring careful consideration on another occasion. Perhaps it might be possible to alter the Committee's practice so that an assessment might be awarded if some time had elapsed without receipt of any information on a case.

86. He took it that the Committee wished to adopt the decision proposed by the Special Rapporteur in respect of case No. 1611/2007.

87. *It was so decided.*

88. **Mr. Rodríguez-Rescia**, referring to case No. 2007/2010 (*X. v. Denmark*), said that, as the State party had complied with the Committee's recommendation that a residence permit should be granted to the author, an effective remedy had been provided. He was therefore proposing that the follow-up dialogue should be closed.

89. Case No. 2243/2013 (*Husseini v. Denmark*), which was linked to the right to family reunification, was more complicated. Recent information indicated that the Government had looked into the circumstances of the case, but had decided that the author must return to his country of origin. He had been deported to Afghanistan but, on his arrival there, had been returned to Denmark because there was no proof of his identity. He had now been back in Denmark since 15 June 2015. The State party contended that it had complied with the Committee's recommendation because it had reviewed the case. Perhaps the Committee should hold a more in-depth debate about

asylum issues in general in order to be able to reach clearer decisions on the actions that States should take in such cases. He proposed that, in *Husseini*, the State party should be awarded B1 for an effective remedy, including review of the decision to expel the author with a permanent re-entry ban; A for publication of the Committee's Views; and B1 for non-repetition.

90. **Mr. Seetulsingh** said that since it appeared that the Danish authorities had reconsidered the case, in line with the Committee's recommendation, he thought it merited an A rather than a B1 for effective remedy.

91. **Ms. Seibert-Fohr** said that she also thought the State party's response warranted an A for effective remedy. The State party had not been asked to give the author a permanent residence permit but to reconsider the decision to expel him. It appeared from the information provided by the Special Rapporteur that that had indeed been done.

92. **Mr. Rodríguez-Rescia** said that it would be difficult to give an A assessment, as the case had been complicated by the author's deportation and subsequent return to Denmark. He would therefore prefer to retain the B1 grade for effective remedy.

93. **The Chairperson** said that he took it that the Committee wished to retain the ratings of B1 for effective remedy, A for publication of Views and B1 for non-repetition.

94. *It was so decided.*

95. **Mr. Rodríguez-Rescia**, referring to case No. 238/1987 (*Bolaños v. Ecuador*) said that the State party had carried out even more measures of reparation than those requested by the Committee. The State party's response to the Committee's recommendation regarding release and compensation therefore deserved an A.

96. **The Chairperson** said he took it that the Committee endorsed that evaluation and was prepared to close the dialogue with the State party.

97. *It was so decided.*

98. **Mr. Rodríguez-Rescia**, referring to case No. 1620/2007 (*J.O. v. France*), said that the author had informed the Committee that his criminal conviction had not been reviewed and that he had received no compensation. The State party had not replied to the Committee's request for information. It might be wise, at some time in the future, to examine how to deal with a State party's failure to provide submissions. In the present case, he proposed that the Committee should continue the follow-up dialogue.

99. In case No. 1760/2008 (*Cochet v. France*), the State party had merely reiterated its previous submission that it did not intend to substitute itself for the judicial authorities which were seized of the matter. For that reason, he proposed that the Committee's assessment of the remedy should be C1 and that it should continue the dialogue.

100. Case No. 1876/2009 (*Ranjit Singh v. France*), concerning the reconsideration of the author's application for a renewal of his passport, was complicated. The State party's response was unsatisfactory. The Committee's recommendation was to continue with the follow-up dialogue and to send a reminder to the State party. He considered however, that the Committee should have graded the State party's insufficient degree of compliance.

101. **Mr. Seetulsingh** said that the three aforementioned cases raised the fundamental issue of what action should be taken in cases when the State party relied on the principle of the separation of powers and independence of the judiciary as an excuse

for inertia. He wondered if there was any point in continuing the follow-up dialogue in the *Cochet* and *Ranjit Singh* cases, in view of the State party's attitude.

102. **Mr. Iwasawa** said that in the past, if a continuing dialogue served no useful purpose, it could be suspended, but the report then indicated that the Committee's recommendations had not been implemented. In *Ranjit Singh*, no assessment could be given, because there was no information from the State party. In the event of a substantial delay in the provision of information by the State party, some kind of assessment might be warranted, but that could not be done under the Committee's current practice.

103. **Sir Nigel Rodley** said that in the *Cochet* case, the Committee's assessment of the remedy should be C2. The State party was under an obligation to comply with the Covenant, and its response to the Committee's recommendation was inadequate.

104. **Mr. Rodríguez-Rescia** said that C1 and C2 could sometimes apply to the same situation. In *Cochet*, the Committee had received a reply, but the State party clearly had no intention of implementing the Committee's recommendation. That was the reason why he was suggesting C1. Replying to Mr. Iwasawa's remarks, he said that suspending the dialogue was tantamount to a reward, whereas dialogue should act as a spur.

105. **The Chairperson** suggested that, in a meeting devoted to methods of work, the Special Rapporteur should put forward proposals on how to clearly distinguish between situations where a C1 or C2 assessment should be given.

106. **Ms. Seibert-Fohr**, **Mr. Politi** and **Ms. Cleveland** supported Sir Nigel Rodley's proposal to downgrade the Committee's assessment of the State party's remedy in *Cochet* to C2.

107. **The Chairperson** said that he took it that the Committee wished to adopt that proposal.

108. *It was so decided.*

109. **Mr. Rodríguez-Rescia** said that case No. 2104/2011 (*Valetov v. Kazakhstan*) concerned cruel treatment in breach of article 7 of the Covenant and lack of compensation. In case No. 2137/2012 (*Toregozhina v. Kazakhstan*), failure to comply with the Committee's Views could be ascribed to the fact that the author was waiting to receive their translation into Russian in order that they might be submitted to the national courts for the purposes of reviewing the case. In both cases, he proposed that the Committee should decide to continue the ongoing dialogue.

110. **The Chairperson** said that he took it that the Committee wished to pursue the ongoing dialogue in the two aforementioned cases.

111. *It was so decided.*

112. **Mr. Rodríguez-Rescia**, referring to case No. 2097/2011 (*Timmer v. Netherlands*), said that the State party had informed the Committee that the Code of Criminal Procedure was being amended and that the recommendations in the Committee's report would be studied in the process. He proposed that the Committee's assessment of the review of the author's conviction and sentence by a higher tribunal or other measures and compensation should be C1, that its efforts to bring the relevant legal framework into conformity with article 14, paragraph 5 should be awarded a B1 and that it deserved a B1 for non-repetition.

113. **The Chairperson** said that he took it that the Committee wished to adopt the grading proposed by the Special Rapporteur.

114. *It was so decided.*

115. **Mr. Rodríguez-Rescia**, referring to case No. 1320/2004 (*Pimental v. Philippines*), said that the case, which turned on the award of compensation to victims, had been pending for eight years. Hence he proposed that the follow-up dialogue should continue.

116. **The Chairperson** said that he took it that the Committee wished to adopt that proposal.

117. *It was so decided.*

118. **Mr. Rodríguez-Rescia**, referring to case No. 1304/2004 (*Khoroshenko v. Russian Federation*), said that the case related to violation of due process and cruel and inhuman treatment. The only information available was that which had been received from the author, which showed that the Committee's Views had not been heeded. He therefore recommended continued dialogue with the State party.

119. **The Chairperson** said that he took it that the Committee wished to follow that recommendation.

120. *It was so decided.*

121. **Mr. Rodríguez-Rescia**, referring to cases Nos. 1945/2010 (*Achabal Puertas v. Spain*) and 2008/2010 (*Aarrass v. Spain*), said that the Permanent Mission of Spain to the United Nations Office and other international organizations in Geneva had been unable to provide any new information on the two cases under consideration. The mission had confirmed that the preamble of the amended version of the Code of Criminal Procedure contained a reference to article 14 of the Covenant and that the amended text would provide for the remedy of an appeal.

122. In the *Achabal Puertas* case, the Ombudsman had basically instructed the State not to comply with the Committee's recommendations because it lacked the jurisdiction to review a case which had previously been brought before the European Court of Human Rights and because the State party had entered a reservation in respect of article 5, paragraph 2. That was a most unusual position. The State party had indicated that it could not comply with the Committee's Views on account of the ongoing debate in Spain regarding the application of the Covenant. He therefore proposed that the State's investigation of the facts, prosecution and punishment of those responsible should be assessed as C1, its reparation and compensation should be graded as C1, its provision of assistance as B2, its efforts to enact measures to end incommunicado detention as B2 and its publication of the Committee's Views as A, and that it should be awarded B2 for non-repetition.

123. The *Aarrass* case raised the issue of compensation for treatment by a foreign State, and the State party was questioning the merits of the case on the grounds that it could not be held responsible for torture which may have been committed by another State. Apparently there had been some cooperation with Morocco over the case. Mr. Shany had therefore suggested that the B2 assessment of steps taken to cooperate with the Moroccan authorities to ensure effective oversight of the author's treatment in Morocco should be upgraded to B1.

124. **Sir Nigel Rodley**, referring to the important *Achabal Puertas* case, said that it should be referred to the International Coordinating Committee of Nations Institutions for the Promotion and Protection of Human Rights, because the State party's Ombudsman had essentially impugned the Committee's competence to consider the case. He welcomed the fact that under the draft amendments to the Criminal Procedure Act, a decision on whether to place a person in incommunicado detention would have to be taken within 24 hours. However, he wondered whether the detainee would have to be brought before a court, as that requirement would constitute a very important safeguard for the individual concerned. He also suggested that in the course of the

follow-up dialogue, the question should be raised of whether there was any possibility of introducing an external review of incommunicado detention or of making an audiovisual recording of interrogations.

125. **The Chairperson** proposed that the consideration of State parties' follow-up to the Committee's Views should be continued at the next meeting.

126. *It was so decided.*

The meeting rose at 1.05 p.m.