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Summary record (partial)* of the 3475th meeting**

Held at the Palais des Nations, Geneva, on Tuesday, 27 March 2018, at 10 a.m.

Chair: Ms. Jelić (Vice-Chair)

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* No summary record was prepared for the rest of the meeting.

** No summary record was issued for the 3474th meeting.

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In the absence of Mr. Iwasawa, Ms. Jelić (Vice-Chair) took the Chair.

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

Follow-up to Views under the Optional Protocol to the Covenant *(continued)*

Progress report by the Special Rapporteur for follow-up to Views (continued)
([CCPR/C/122.R1](#))

1. **Ms. Cleveland** said that she would welcome information on progress made in attempts to identify States parties that had never submitted follow-up reports, so as to prepare them for receiving a D grade.
2. **Ms. Edelenbos** (Office of the United Nations High Commissioner for Human Rights) said that, owing to understaffing, the secretariat had not made much progress in the identification of States parties that had never submitted follow-up reports. However, it would be updating its records in the coming months, which would allow it to identify and send reminders to those States parties.
3. **Ms. Pazartzis** (Special Rapporteur for follow-up to Views), referring to case No. 2216/2012 (*Campbell v. Australia*), said that, following the publication of its Views in March 2017, the Committee had received a submission from the State party indicating that it had amended its legislation in September 2017 to allow for same-sex marriage and divorce. However, no information had been received from the author. She proposed that the Committee should award an A grade for the category of non-repetition, with a note that no information had been received with regard to adequate compensation. She further proposed that the Committee should consider the follow-up dialogue to be ongoing while the petitions unit sought clarification from the author on the issue of compensation.
4. **Ms. Cleveland** said that it was a pleasure to see such prompt compliance with the Committee's Views. Given that the Committee was considering the case very soon after it had received follow-up information from the State party, she wondered whether the author had been afforded an opportunity to respond. Without any input from the author, the Committee's assessment of the case seemed premature. It would also be interesting to know whether the State party had submitted any follow-up information on case No. 2172/2012 (*G. v. Australia*), in which similar issues had been raised. She wished to point out that the Committee's practice was to assign a C grade when no information was received on the implementation of a particular recommendation. The appropriate grade for the category of adequate compensation in case No. 2216/2012 was therefore a C.
5. **Ms. Pazartzis** said she agreed that the Committee's assessment of the case was premature, but only because the State party had submitted positive information so promptly. Perhaps the Committee could keep the follow-up dialogue open and await clarification from the author before awarding grades. However, her intention in proposing an A grade for the category of non-repetition had been to recognize the State party's prompt action.
6. **Ms. Krumova** (Office of the United Nations High Commissioner for Human Rights) said that no further information on case No. 2172/2012 had been received. With regard to the case under consideration, she confirmed that the State party's latest submission had been transmitted to the author on 19 February 2018, but that no response had been received as yet.
7. **Mr. Shany** said that the State party had not always engaged positively in the follow-up procedure, but had dramatically changed its policy following the Committee's recommendations in the case at hand. It would be a shame not to recognize such a positive development. Moreover, the Committee had a precedent for tentatively awarding grades that it then reconsidered in the light of new information.
8. **Ms. Cleveland** said it was important that both parties were afforded a reasonable opportunity to reply, in accordance with the Committee's general practice.
9. **Ms. Pazartzis** said that the author had not had much time to respond. Although no information on the issue of compensation had been received from either party, she agreed that a C grade could be awarded for that category.

10. **Mr. Santos Pais** proposed adding a footnote to provide justification for the C grade, explaining that the Committee had requested further information from the author on the issue of compensation.

11. **The Chair** said she took it that the Committee wished to award an A grade for the category of non-repetition and a C grade for the category of adequate compensation, as well as to insert a footnote in line with Mr. Santos Pais's proposal and to consider the follow-up dialogue to be ongoing in view of the fact that a reasonable opportunity to respond should be given to all parties.

12. *It was so decided.*

13. **Ms. Pazartzis**, referring to case No. 1875/2009 (*M.G.C. v. Australia*), proposed that the Committee should award an E grade for the categories of adequate compensation and non-repetition. She further proposed that the Committee should suspend the follow-up dialogue, with a note on the unsatisfactory implementation of the Committee's recommendation.

14. **The Chair** said she took it that the Committee wished to adopt the Special Rapporteur's proposal regarding case No. 1875/2009.

15. *It was so decided.*

16. **Ms. Pazartzis**, referring to case No. 1397/2005 (*Engo v. Cameroon*), proposed maintaining the assessments awarded in the previous progress report, namely an A grade for the release of the author and a B grade for the provision of adequate ophthalmological treatment. No information had been received on non-repetition, but as the implementation of the Committee's Views had been raised with the State party at the Committee's 121st session, she proposed closing the follow-up dialogue, while noting the partially satisfactory implementation of the Committee's recommendation.

17. **Ms. Cleveland** proposed awarding a C grade for non-repetition and including a footnote to indicate that the Rapporteur had met with the State party since the publication of the previous progress report.

18. **Mr. Shany** said that, to justify the Committee's decision to close the follow-up dialogue, it would be useful to indicate that the State party's most recent periodic report had been reviewed by the Committee since the publication of the previous progress report. That information would help readers to understand the Committee's methodology.

19. **Mr. Santos Pais** asked why a B grade had been awarded for the provision of adequate ophthalmological treatment.

20. **Ms. Edelenbos** (Office of the United Nations High Commissioner for Human Rights) said that, according to a report by the non-governmental organization REDRESS, the State party had submitted information in 2014 explaining that the author had been provided with access to an ophthalmologist and that his overall health was deemed satisfactory. That was why the Committee had decided to award a B grade for that particular category.

21. **Mr. Santos Pais** said that, in that case, the rating should be changed from B to A. After all, no further information was lacking.

22. **Mr. Koita** agreed that the Committee should award an A grade for the provision of ophthalmological treatment, as the State party had done all it could to ensure that the author had access to treatment.

23. **Ms. Cleveland** said that the rating of B should be maintained. The REDRESS report only included some short excerpts from the progress report ([CCPR/C/112/R.3](#)) adopted by the Committee at its 112th session, which presented what the State party had submitted regarding the author's access to an ophthalmologist but not what the author had said in that regard. It was therefore still unclear what information the Committee had used as the basis for awarding a B grade.

24. **Ms. Pazartzis** said that the Committee should decide whether it would include case No. 1397/2005 in its report or leave it for the next session, when more information might be available.

25. **The Chair** said that she believed the Committee had enough information already. She took it that the Committee wished to award a C grade for non-repetition and that all the other grades should remain as they were, and to indicate that it had held a dialogue with the State party at its 121st session, in line with Mr. Shany's proposal to make the Committee's methodology clearer.

26. *It was so decided.*

27. **Ms. Pazartzis**, referring to case No. 16/1977 (*Mbenge v. Democratic Republic of the Congo*), proposed that the Committee should award a D grade for the categories of compensation and non-repetition and should suspend the follow-up dialogue, with a note on the unsatisfactory implementation of the Committee's recommendation. A dialogue with the State party had been held at the Committee's 121st session, during which the issue of non-implementation of the Committee's Views had been raised.

28. **The Chair** said she took it that the Committee wished to adopt the Special Rapporteur's proposal regarding case No. 16/1977.

29. *It was so decided.*

30. **Ms. Pazartzis**, referring to case No. 2244/2013 (*R.I. and W.I. Dassum v. Ecuador*), proposed that the Committee should award the State party C grades for full reparation and for ensuring due process and should consider the follow-up dialogue to be ongoing in view of the need to obtain a response from the State party to the information recently supplied by the authors.

31. **Mr. de Frouville** said that both the State party and the authors had drawn attention to genuine ambiguities in the Committee's Views on the communication. As far as he was aware, the Committee did not have a procedure for handling requests for clarification of the content of its Views.

32. **Mr. Shany** said that the Committee's Views on individual communications varied in terms of the specificity of their recommendations. The Committee had no procedure for amending Views that had already been adopted. By assigning C grades and keeping the dialogue open, the Committee would be signalling to the State party that the measures it had taken were inadequate. In due course, the Committee could, if necessary, take additional measures to ensure compliance with its Views.

33. **Ms. Cleveland** said that the points raised by the State party seemed to have some basis. She noted that, in paragraph 9 of the Committee's Views on the communication, the Committee had not used its standard language on reparation.

34. **Ms. Pazartzis** said that the proposed grades simply reflected the information contained in the State party's submission. Her overall proposals for the case were in line with the approach that the Committee had adopted in previous cases in which a response from one of the parties was pending.

35. **Mr. de Frouville** said that the rating proposed for full reparation reflected an interpretation on the part of the Committee of the form that such reparation should take. In his view, the rating assigned for full reparation should be deleted, as the manner in which the Committee's Views on the communication had been drafted suggested that full reparation could be made by ensuring due process.

36. **Mr. Shany** said that he was very reluctant to agree to the deletion of the rating proposed for full reparation, as it would represent a retrospective reinterpretation of the Committee's Views on the communication. The Committee had chosen to treat the issue of full reparation and that of ensuring due process separately for good reason. The authors had suffered severe financial damage. It was thus necessary for the State party to make full reparation for past events in addition to ensuring due process in future suits at law.

37. **Ms. Pazartzis** said the Committee had recommended that the State party should make full reparation to the persons whose rights under the Covenant had been violated and

to ensure that due process was followed in relevant suits at law. The Committee often merged procedural and substantive issues in its follow-up to Views. She would urge the Committee to adopt her original proposal.

38. **Mr. de Frouville** said that, owing to time constraints, he would defer to the Special Rapporteur's judgment in the case at hand. However, he wished it to be noted that, in the Committee's Views on the communication, due process was identified as the means by which full reparation should be made.

39. **The Chair** said she took it that the Committee wished to adopt the Special Rapporteur's proposals with regard to case No. 2244/2013 and to note Mr. de Frouville's comments in that connection.

40. *It was so decided.*

41. **Ms. Pazartzis**, drawing attention to the two E grades proposed for case No. 1620/2007 (*J.O. v. France*), proposed that the Committee should suspend the follow-up dialogue, with a note on the unsatisfactory implementation of its recommendation.

42. **The Chair** said she took it that the Committee wished to adopt the Special Rapporteur's proposal with regard to case No. 1620/2007.

43. *It was so decided.*

44. **Ms. Pazartzis** said that cases Nos. 2324/2013 (*Mellet v. Ireland*) and 2425/2014 (*Whelan v. Ireland*) both concerned termination of pregnancy. It was pertinent to the Committee's follow-up that a proposal to hold a referendum on the Eighth Amendment to the Irish Constitution, which recognized the equal right to life of the mother and the unborn child, had recently been approved. The referendum was scheduled for May 2018.

45. She proposed that the Committee should award the State party an A grade for reparation and a B grade for non-repetition; that it should suspend the follow-up dialogue for individual measures, with a note on the unsatisfactory implementation of its recommendations in that regard; and that, for non-repetition, the Committee should continue its follow-up within the framework of the reporting procedure.

46. **Mr. Shany** said that he agreed with the proposed grades. However, he would not recommend suspending the follow-up dialogue. Although it currently seemed likely that the forthcoming referendum would produce a result that the Committee would welcome, the situation in the State party was evolving very rapidly.

47. **Ms. Cleveland** said that she was strongly in favour of keeping the follow-up dialogue open. The two cases at hand had featured prominently in the debate currently taking place in the State party. Indeed, they had been cited in a December 2017 report of the Joint Committee on the Eighth Amendment of the Constitution as evidence of the State party's continuing and ongoing breach of its international human rights obligations. By suspending the follow-up dialogue, the Committee would risk giving the wrong impression, particularly as the referendum had not yet been held. In addition, the Committee still had a concern about general measures, relating to the Regulation of Information (Services Outside the State for Termination of Pregnancies) Act 1995 and its effect on health-care providers in Ireland.

48. **Mr. de Frouville** said that he, too, was in favour of keeping the follow-up dialogue open. He agreed that, pending the outcome of the forthcoming referendum, the proposed B grade for non-repetition was appropriate. He proposed that a grade should also be assigned for the State party's implementation of a third recommendation contained in the Committee's Views on the two communications, namely the recommendation to take measures to ensure that health-care providers were in a position to supply full information on safe abortion services. He would suggest a C grade in that respect.

49. **Ms. Pazartzis** said that she had no objection to the proposal to keep the follow-up dialogue open, although, in her view, the Committee should not predetermine the outcome of the referendum. It should be noted that the State party's submission of 2015 had contained information on access to information on abortion services.

50. **Mr. Shany** said that, as was clear from the manner in which the Committee's Views on the two communications had been drafted, the recommendation relating to access to information was covered under the general recommendation to take steps to prevent similar violations in the future. For that reason, there was no need to include a separate grade for access to information.

51. **Ms. Cleveland** said that the Committee's recommendation relating to access to information was subject to ongoing monitoring. The State party had provided some information on its implementation of that recommendation, including information on the content of the 2016 National Standards for Bereavement Care following Pregnancy Loss and Perinatal Death. The Committee was not seeking to predetermine the outcome of the forthcoming referendum. In its Views on both communications, the Committee had recommended only that the State party should amend its law on voluntary termination of pregnancy, including, if necessary, its Constitution, to ensure compliance with the Covenant. That was the general measure that the Committee was seeking to monitor.

52. **The Chair** said she took it that the Committee wished to adopt the Special Rapporteur's proposed grades with regard to the cases concerning Ireland and to consider the follow-up dialogue to be ongoing.

53. *It was so decided.*

54. **Ms. Pazartzis**, drawing attention to the across-the-board E ratings proposed for case No. 1412/2005 (*Butovenko v. Ukraine*), proposed that the Committee should suspend the follow-up dialogue, with a note on the unsatisfactory implementation of its recommendations.

55. **The Chair** said she took it that the Committee wished to adopt the Special Rapporteur's proposals with regard to case No. 1412/2005.

56. *It was so decided.*

57. *The progress report by the Special Rapporteur for follow-up to Views, as a whole, as amended, was adopted.*

58. **Mr. de Frouville** said it was regrettable that the progress report had been made available to Committee members in English only.

The discussion covered in the summary record ended at 11.35 a.m.