



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

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Summary record of the first part (public)* of the 1143rd meeting

Held at the Palais Wilson, Geneva, on Monday, 13 May 2013, at 3 p.m.

Chairperson: Ms. Gaer (Vice-Chairperson)
later: Mr. Grossman (Chairperson)

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.1143/Add.1.

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In the absence of Mr. Grossman, Ms. Gaer (Vice-Chairperson) took the chair.

The public part of the meeting was called to order at 3.05 p.m.

Meeting with NGOs

1. **The Chairperson** said that, in the context of efforts to strengthen the treaty body system, a suggestion had emerged that States might establish a sort of electoral platform to promote their candidates in elections to treaty bodies.

Mr. Grossman took the Chair.

2. **Mr. Kjaerum** (International Rehabilitation Council for Torture Victims) welcomed the appointment by the Committee against Torture of two rapporteurs for reprisals under articles 19 and 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and said that clear guidelines on their mandates would be welcome. There was widespread concern that the Committee and other treaty bodies were ill-prepared to respond effectively to decisions due to be taken later in the year by the General Assembly on strengthening the treaty body system.

3. Turning to the matter of involuntary treatment and placement in institutions of persons with psychosocial disabilities, he urged the Committee to focus on establishing when such practices constituted violations of the Convention. It should also examine the measures for prevention and accountability, and options for redress, in place in the State party under consideration.

4. **Ms. Baldwin-Pask** (Amnesty International) said that certain proposals emerging from the intergovernmental process of the General Assembly on strengthening and enhancing the effective functioning of the human rights treaty body system were a source of concern. The proposal to impose a code of conduct and accountability mechanism on the treaty bodies was beyond the scope of the powers of the General Assembly. The Committee should adopt the Addis Ababa guidelines without delay. More information on the mandate of the rapporteur on reprisals and on plans to issue further general comments would be welcome.

5. She asked for an updated assessment of the list of issues prior to reporting procedure and information on planned guidelines to States parties on how to reply to lists of issues. It would be helpful if the Committee's website carried a list of States parties for which the Committee intended to adopt lists of issues at each session. Questions addressed to the delegations of States parties during meetings could be clustered in groups in order to promote immediate and more focused replies, thereby enhancing dialogue.

6. The Committee should ensure that it had input into the work of the intergovernmental expert group that was currently reviewing the United Nations Standard Minimum Rules for the Treatment of Prisoners.

7. **Mr. Sands** (Association for the Prevention of Torture) proposed that articles 3 and 15 of the Convention would be appropriate subjects for future general comments. The multiplicity of issues regarding non-refoulement, extradition and expulsion, and the overlap between the Committee's mandate and that of some other treaty bodies might make it worthwhile considering the issue of a joint general comment on the matter. A general comment on article 15 would provide an authoritative tool to combat the use of information obtained through torture in court. Laws in place in many States ruling out the use of such evidence in court were frequently ignored and the burden of proving that evidence had been obtained under torture was often placed on the victim.

8. In the context of country visits by the Committee under article 20, he asked how countries were selected for such visits and how potential overlaps with other bodies that

carried out country visits, including the Subcommittee on Prevention, national preventive mechanisms, Special Procedures of the Human Rights Council and regional mechanisms, could be avoided.

9. The association was concerned by the position adopted by some States with regard to strengthening of the treaty body system and considered the imposition of a code of conduct on treaty bodies to be illegitimate. It encouraged the Committee to adopt the Addis Ababa guidelines.

10. **Ms. Santegoeds** (World Network of Users and Survivors of Psychiatry) urged the Committee to call for the outright prohibition of involuntary treatment and placement in psychiatric institutions. Exceptions should not be made on any grounds, medical or otherwise.

11. **Ms. Thomasen** (Open Society Justice Initiative) said that her organization shared the concerns of other NGOs with regard to the intergovernmental process on strengthening the human rights treaty body system. The forthcoming meeting of treaty body chairpersons would provide an opportunity for them to prepare a collective response to proposals emerging from that process.

12. **The Chairperson** said that the Committee would act swiftly in cases where people who cooperated with it became victims of reprisals. All the treaty bodies held to the principle of their independence. He was confident that they would present a united front in the dialogue with the international community on the treaty body strengthening process. The Committee could be expected to reach a decision with regard to the Addis Ababa guidelines shortly. He welcomed suggestions on possible subjects for general comments but underlined that it was for the Committee as a whole to decide. The crux of the relationship between the Committee and the Subcommittee on Prevention lay in the sharing of information, the flow of which had improved.

13. **Mr. Bruni** said that the decision to undertake a country visit under article 20 was based wholly on reports of the systematic use of torture in a given State party. He asked whether the Association for the Prevention of Torture was aware of any cases of conflict between treaty bodies visiting a given country. He was unaware of any such problems.

14. **Ms. Gaer** said that it would be useful to know the views of NGOs with regard to specific proposals presented in a recent document by the co-facilitators of the intergovernmental process on strengthening the human rights treaty body system. She drew attention to the Committee's guidelines regarding the Optional Protocol, contained in its annual report of 2003 to the General Assembly (A/58/44). They stated that: "It would be desirable for visits planned by the Committee to examine information submitted under article 20 of the Convention alleging that systematic torture is practised in a State party to have priority over visits of the Subcommittee. Consultations between the two bodies should take place in that regard. If the Subcommittee agrees, the following procedure could be followed. Upon notification that the Committee has adopted the decision to undertake a confidential inquiry, the Subcommittee should modify its schedule of visits ..." The Committee would welcome suggestions on how to ensure that information on systematic violations of the Convention could be brought to its attention.

15. **Mr. Mariño Menéndez** said it was regrettable that there had been no input from NGOs from developing countries. The Committee was aware of the importance of general comments and the need to update the general comment on article 3 of the Convention. He had led two missions to States parties under article 20 of the Convention and had been in contact with NGOs that had reported systematic torture. There had been no overlap or conflict between the work of the Committee under article 20 and that of the Subcommittee on Prevention.

16. **Mr. Tugushi** said that the Committee followed up all reports of reprisals it received and welcomed the cooperation of NGOs in that regard. He urged them to report any such concerns to the Committee as soon as they came to their attention. The Committee remained attentive to the issue of involuntary treatment and placement in psychiatric institutions and constantly reviewed its relevant jurisprudence. He appreciated the suggestions that had been made concerning publicizing the work of the Committee, which it would take into consideration.

17. **Ms. Sveaass** recalled that the Committee made use of the valuable information provided by NGOs in its dialogues with States parties. It would systematically draw delegations' attention to the need to ensure that groups and individuals who provided the Committee with information were not in any way threatened or endangered. She welcomed the comments that had been made on involuntary treatment and placement in psychiatric institutions, which was a complex issue, ranging from forced medication to involuntary hospitalization. The Committee planned to examine that issue further.

18. **Ms. Belmir** said it was disappointing that the NGO community was not paying more attention to current events in the Arab-Muslim world.

19. **Mr. Kjaerum** (International Rehabilitation Council for Torture Victims) said that his association would support the Committee's cooperation with national and regional NGOs from developing countries. He suggested that the Committee could organize a videoconference with such NGOs during its meeting with NGOs at the beginning of the forthcoming session. His association would be willing to give up its time slot at the meeting to facilitate such participation.

20. **Ms. Baldwin-Pask** (Amnesty International) said that the main aim of the treaty body strengthening process should be to enhance the capacity of rights-holders to enjoy their rights. The process should be assessed against that measure.

21. **Ms. Santegoeds** (World Network of Users and Survivors of Psychiatry) said that her association would welcome the opportunity to discuss the various forms of forced treatments with the Committee. The users' perspective should be central to such discussions.

The public part of the meeting was suspended at 4.20 p.m. and resumed at 5 p.m.

Meeting with Romania on the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)

22. *At the invitation of the Chairperson, the delegation of Romania took places at the Committee table.*

23. **The Chairperson** said that the purpose of the meeting was to discuss the postponement of the establishment of the national preventive mechanism (NPM) in Romania, in accordance with the rules of procedure.

24. **Mr. Bejan** (Romania) said that, regarding the postponement of the entry into force of the NPM, Romania acknowledged that it was late with the implementation. The delay was due to the many political changes in Romania. The country was in the final stages of promoting a new law on the Ombudsman and would do its best to have the law in force by the end of the extension period in December 2014.

25. With regard to the submission of the second periodic report under article 19 of the Convention, he said that Romania had received the simplified reporting procedure from the Committee and envisaged being able to provide replies to the list of issues in September 2013.

26. **The Chairperson** asked what was meant by “doing its best” and what steps were being taken to ensure compliance by the end of 2014?
27. **Mr. Bejan** (Romania) said that, first and foremost, a law was needed for the establishment of the NPM within the Office of the Ombudsman. It was difficult to give a specific answer as to when the law might be in place but, once it was in place, a timetable could be provided.
28. **The Chairperson** asked whether the draft law had already been submitted to parliament.
29. **Mr. Bejan** (Romania) said that the draft law had been sent to the new Ombudsman for his comments and suggestions. Once those had been received, it would be forwarded to the necessary institutions for comment before submission to parliament for adoption.
30. **Ms. Gaer** said that the ratification of the Convention and its Optional Protocol brought with it certain obligations, including the submission of reports. Although the Committee had approved the postponement in establishing the NPM, it was concerned about the 16-year delay in the submission of its second periodic report. While Romania could not make a firm commitment about when the NPM would be established, could it commit to submitting the replies to the list of issues by September 2013?
31. **Mr. Tugushi** said that, apart from some elements in the law that were not in compliance with the Optional Protocol, an issue had been raised about the general independence and quality of the Office of the Ombudsman. The independence of the Office of the Ombudsman should be strengthened and it should be provided with sufficient resources. Steps should also be taken to ensure it had relevant expertise, because, for example, it currently had no experience of monitoring places of detention. Was the intention to strengthen the national human rights institution (NHRI) before proceeding with the NPM? He understood that there were plans for the NPM to include officials from the Ministry of Justice, which would be unacceptable. Why was the NHRI not compliant with the Paris Principles?
32. **Mr. Bejan** (Romania) said that the two available options had been: (a) to establish a new institution but, due to the economic and financial crisis, the significant costs involved in creating a new structure were prohibitive; or (b) to establish an independent structure within the Office of the Ombudsman, composed of experts in the various fields that the NPM needed to cover, excluding representatives of the Ministry of Justice. The second option had been agreed by the Government and was the purpose of the new law.
33. **Mr. Tugushi** said that, while he understood the need to have a proper legal framework from the outset that was OPCAT compliant, an ombudsman could have been appointed much earlier as the NPM.
34. **Mr. Bejan** (Romania) said that having representatives from non-governmental organizations and experts from various fields that the NPM needed to cover would ensure the independence of the new structure.
35. **Mr. Tugushi** said that having the involvement of civil society experts was positive and he suggested that Romania might consider the models of other States parties. There were also many organizations, including the Committee, which could provide good advice on NPMs.
36. **Mr. Mariño Menéndez** said that the Committee was there to assist the State party in complying with its obligations. He asked what difficulties Romania was facing. Were they political in the form of parliamentary groups opposed to the establishment of such a mechanism, or were they financial constraints?

37. **Mr. Bejan** (Romania) said that the draft law was ready and only final comments from the Ombudsman were needed, after which it would be forwarded to the relevant institutions and then on to parliament for adoption. There were financial problems, but those could be dealt with once the legal framework was in place. The political will was there and the only constraint was procedural.

38. **Mr. Tugushi** said that it was important for the new law to have a legal safeguard on the provision of funding to ensure that the NPM could rely on sufficient financial and human resources.

39. **Mr. Bejan** (Romania) said that the new law contained a provision on budgeting and resources.

40. **Ms. Gaer** asked for a commitment from Romania that it would submit its second periodic report in September 2013. Did it need any assistance in meeting that deadline?

41. **Mr. Bejan** (Romania) said that Romania had agreed to the simplified reporting procedure and would be ready to submit its report by September 2013.

42. **The Chairperson** said that the objective of the Committee was the implementation of the Convention and it was up to States parties to decide whether they wished to postpone the entry into force of the Convention or its Optional Protocol. The Committee had decided to extend the entry into force of the Optional Protocol for a period of two years on the basis that Romania would establish the NPM within that period and according to a precise schedule. Could the delegation provide the Committee with that precise schedule within the coming six weeks?

43. **Mr. Bejan** (Romania) said that he had no objections and would inform the Government of the Committee's request.

44. **Mr. Gillibert** (Secretariat for OPCAT), speaking as a representative of the Subcommittee on Prevention of Torture (SPT), said that the SPT was ready to provide any assistance to States parties in the establishment of their NPM. Several key principles should be respected during the process, such as the Paris Principles and the SPT Guidelines on NPMs.

The meeting rose at 5.50 p.m.