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Summary record of the 3057th meeting*

Held at the Palais Wilson, Geneva, on Monday, 24 March 2014, at 10 a.m.

Chairperson: Sir Nigel Rodley

Contents

Follow-up to concluding observations on State reports

Follow-up to Views under the Optional Protocol

* No summary record was issued for the 3056th meeting.

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The meeting was called to order at 10.05 a.m.

Follow-up to concluding observations on State reports

Draft report of the Special Rapporteur for follow-up on concluding observations (CCPR/C/110/R.1)

1. **Mr. Salvioli** (Special Rapporteur for follow-up on concluding observations) presented his draft report, prepared together with Ms. Seibert-Fohr, which set out the information received between the 109th and 110th sessions in the framework of the follow-up to the concluding observations concerning Argentina, Armenia, Bosnia and Herzegovina, Estonia, Germany, Lithuania, the Netherlands and Norway.
2. **Ms. Seibert-Fohr** (Deputy Special Rapporteur for follow-up on concluding observations), referring to Argentina, said that the assessment of the follow-up to the recommendations in paragraph 25 of the concluding observations (CCPR/C/ARG/CO/4) should be amended (B2 instead of D1) in view of the fact that the State party had recently provided additional information on measures it had taken to end forced evictions of indigenous communities.
3. **Mr. Salvioli** said that, while he recommended an A assessment for Norway's replies concerning paragraph 12 of the concluding observations (CCPR/C/NOR/CO/6) relating to the detention of minors, the possibility, mentioned by the State party, of placing a minor in detention to prevent the commission of other offences was a cause for concern. That question could be discussed in the next dialogue with the State party.
4. **Mr. Shany** noted that the draft report did not clearly indicate whether the State party had adopted new provisions on the detention of minors following the recommendations of the Committee or whether it had simply refined existing provisions.
5. **Ms. Seibert-Fohr** said the State party had already indicated that it had adopted, as follow-up to the recommendations of the Committee, a new Act to improve the situation of children in conflict with the law. The Committee had subsequently requested clarification of the "urgent need" criterion provided for in that law to curtail the application of pretrial detention to juveniles.
6. **The Chairperson** said that it might be useful if those details, sent earlier by the State party to the Committee, appeared in the report.
7. *It was so decided.*
8. **Mr. Salvioli**, turning to the situation of Bosnia and Herzegovina, said that in response to the recommendation to adopt an electoral system that guaranteed all its citizens, regardless of their ethnic origin, equal exercise of the rights enshrined in article 25 of the Covenant (CCPR/C/BIH/CO/2, para. 6), the State party had repeated what it had said before the adoption of the 2010 concluding observations, namely that it had taken certain constitutional and legislative measures. Its response was unrelated to the recommendation and a C2 assessment was proposed. As to the recommendation to accelerate the proceedings for war crimes and harmonize jurisprudence in those cases, and to guarantee psychological support for victims of sexual violence (para. 7), a B2 assessment of the State party's response was proposed; in other words it was considered that initial action had been taken but additional information and measures were required. Concerning the recommendation to withdraw the obligation on the family of a disappeared person to declare the death of their relative in order to obtain compensation (para. 12), the State party had simply said that it would consider the recommendation. A C2 assessment of its response was therefore proposed.

9. **Mr. Ben Achour** said that the recommendation made in paragraph 6 also invited the State party, as a matter of urgency, to amend its Constitution. In his view, a C1 assessment, signifying action that did not implement the recommendation, would be more appropriate than C2 and would enable the extremely complex question of the revision of the Constitution of Bosnia and Herzegovina to be taken into account.

10. **Mr. Salvioli** explained that the C2 assessment had been chosen because the measures taken by Bosnia and Herzegovina had never resulted in an amendment of the Constitution or the electoral law. Concerning Germany, he recalled that the Committee had recommended that the Act on asylum procedure should be revised and had asked the State party to inform it whether it intended to extend suspension of transfers of asylum seekers to Greece beyond January 2013 (CCPR/C/DEU/CO/6, para. 11). The State party had provided a largely satisfactory response regarding legislative amendments made which merited an A assessment. However, a B2 assessment was proposed for the State party's reply that the suspension of transfers had been extended by one year, as that still left cause for concern. The response of the State party to the recommendation to use post-conviction preventive detention only as a measure of last resort (para. 14) was satisfactory. The information provided by the State party regarding the recommendation in paragraph 15 was substantial but very general, and a B2 assessment of its reply was therefore proposed.

11. **Mr. Flinterman**, referring to the suspension of transfers of asylum seekers to Greece, said that he had expected the Special Rapporteur to propose a B1 assessment of the State party's response, as substantive action had also been taken to implement the Committee's recommendation. The same applied to the State party's response to the recommendation in paragraph 15.

12. **Mr. Salvioli** said he could accept a B1 assessment instead of B2 for the State party's response regarding the suspension of transfers, since measures had in fact been taken. However, he preferred to keep the B2 assessment concerning the violations committed in Saxony, because the State had said only that it had started investigations and had not provided any information on the penalties imposed on the perpetrators.

13. **Mr. Shany** asked why information from NGOs was presented in the reports of some States and not others. In his view, it would be preferable to merge categories C1 and C2 into a single category.

14. **Ms. Chanet** also considered that it would be useful to clarify what was covered by categories C1 and C2. The Committee did not request information from NGOs, but incorporated the information they sent it where appropriate.

15. **Mr. Salvioli** confirmed that NGOs provided information if they wished and that there was no conflicting procedure in that regard.

16. *The draft report of the Special Rapporteur for follow-up on concluding observations, as amended, was adopted.*

Follow-up to Views under the Optional Protocol

Draft report of the Special Rapporteur for follow-up on Views (CCPR/C/110/R.2/Add.2)

17. **The Chairperson** invited the Special Rapporteur for follow-up on Views to present the follow-up to individual communications.

18. **Mr. Iwasawa** (Special Rapporteur for follow-up on Views) proposed that in future the Committee should no longer examine the draft report on follow-up on Views at the July session, as the period between the March and July sessions was not long enough to be able to prepare a new report. He recalled that at its 109th session, the Committee had decided, on an experimental basis, to include an assessment of the States parties' replies, based on

the same criteria as it used for follow-up on concluding observations. The application of those criteria had nevertheless created certain difficulties and they should perhaps be revised in cooperation with the Special Rapporteur for follow-up on concluding observations.

19. In respect of communications Nos. 1917/2009, 1918/2009, 1925/2009 and 1953/2009 concerning forced disappearances in Bosnia and Herzegovina, he wished to insert a sentence indicating that the State party's observations had been received in January 2014 and would appear in the next report.

20. **Mr. Shany** said he wondered whether it would not be preferable, since the State party's observations had not yet been examined, to indicate simply that the dialogue was ongoing.

21. **Mr. Iwasawa** explained that the authors had emphasized that the authorities had not done anything to implement the Views, and recalled that the Committee had already followed that procedure in the past. Turning to the communications regarding Cameroon, he said, with regard to communication No. 1937/2005, that he had met with the representative of the State party the week before. Concerning communication No. 1353/2005, the State party, in its response sent to the Committee in November 2013, regretted that the author had rejected its compensation offer of 20 million CFA francs. He proposed mentioning that the representative of Cameroon had said that the 500 million CFA francs claimed by the author as compensation was exorbitant.

22. **The Chairperson** said he wondered whether it would not be preferable to give the State party's response a B1 assessment (substantive action taken, but additional information required) rather than B2 (initial action taken, but additional information and action required).

23. **Mr. Iwasawa** accepted the change because the amount claimed by the author was indeed substantial (about 20,000 euros). Turning to matters concerning France, and communication No. 1760/2008 in particular, he said that in September 2013 the Committee had received the comments of the author's counsel, who affirmed that the State party had not yet remedied the violation of the Covenant. In its response sent in October 2013, the State party emphasized that appeal proceedings were under way and that it could not make observations at that stage. Regarding case No. 1852/2008, the dissemination of Views was ensured through their publication on the Committee's website and, as to compensation, the laws on the wearing of religious symbols had been judged to be compatible with the principles of religious freedom both at the national level and by the European Court of Human Rights. The State party did not intend to respond to the author's request for compensation. He proposed a C2 assessment of the response concerning publication of the Committee's Views.

24. **The Chairperson** considered that, insofar as the State party rejected all the Views of the Committee, regardless of the subject, its reply should receive an E.

25. **Mr. Iwasawa** said that the Committee had up to now only used an E assessment in cases where the measures really had run counter to its recommendations.

26. **The Chairperson** said that it was therefore preferable to keep to a C assessment for the case in question, but that the assessment criteria should be redefined in the future.

27. **Mr. Iwasawa**, referring to communication No. 1756/2008, proposed stating that he had met with members of the delegation of Kyrgyzstan shortly after the consideration of that country's report, which had taken place during the current session.

28. **Mr. Flinterman** asked whether the Rapporteur had taken the opportunity of that meeting to request that the State party should reply to the letter of the author's counsel of 2

July 2013, which had been transmitted to the Kyrgyz authorities in October of the same year, and to give it a time frame in which to reply.

29. **Mr. Iwasawa** said that he had urged the State party to provide replies on the 13 cases that concerned it, including communication No. 1756/2008. In accordance with the established procedure, the State party had a set deadline by which to reply to the Committee and, if it was not met, the Rapporteur sent it a reminder. Regarding communication No. 1621/2007, the Latvian delegation had indicated that a domestic court had recently granted Mr. Raihman the right to use the original form of his name and that that decision had been made primarily on the basis of the Views of the Committee. He proposed removing the sentence which stated that the recommendation had not been applied, but keeping the one in which the Committee said that the dialogue was ongoing, given that it had not yet received an official reply from the State party informing it of the domestic courts' ruling in favour of Mr. Raihman. As to communication No. 1755/2008, he proposed adding that he had tried unsuccessfully to organize a meeting with representatives of the Permanent Mission of Libya to the United Nations in Geneva. Regarding Nepal (communications Nos. 1469/2006, 1761/2008 and 1863/2009), it was proposed to explain that members of the State party's delegation had said, during both the consideration of the periodic report and a subsequent discussion with the Rapporteur, that the Committee's Views would be fully applied once the transitional justice mechanism was in place.

30. **The Chairperson** said that it would be useful to consider how the information on follow-up to Views communicated orally by States parties in the framework of the consideration of their report should be incorporated into the report. States parties might consider it superfluous to give that information again later for the purpose of follow-up.

31. **Mr. Iwasawa** said that he had encouraged the delegations of the three States parties with which he had met to provide that information to the Committee in a note verbale. The secretariat could also reiterate that request to the missions of the States parties concerned. With regard to communication No. 1542/2007, the Committee might wish to inform the author that its rules of procedure did not provide for claims for the reimbursement of costs incurred through the consideration of the communication.

32. **Mr. Neuman** said he would like to know whether there was actually no provision in the rules of procedure on that subject or whether that was an interpretation of the notion of an effective remedy according to which the costs relating to the submission of a communication were not included in the procedural costs for which the author was entitled to request reimbursement.

33. **The Chairperson** said he understood that no provision existed on that question since the Committee had not yet been confronted with such a case. He suggested that the working group on communications should discuss it when it convened.

34. **Mr. Ben Achour** considered it abnormal that the costs of proceedings brought before the Committee were not reimbursed by the State party when the author had been successful as, in many cases, the compensation granted only just covered those costs. Even though there was no provision on that matter, the Committee could establish that, in principle, where the author of a communication was successful, he or she could claim reimbursement of all legal costs.

35. **Mr. Iwasawa** asked whether the Committee wished to change its decision and consider the dialogue to be ongoing. In his view, it was not appropriate to take that action in the case at hand because the author had received substantial compensation from the Norwegian State.

36. After an exchange of views in which **Mr. Neuman, Ms. Chanet, Mr. Bouzid** and **Mr. Shany** took part, **the Chairperson** proposed removing the reference to the rules of

procedure in the decision and indicating that the Committee considered that reimbursement of the costs of the proceedings brought before it was not covered by the effective remedy that the State party was bound to provide to the author and that, consequently, it considered that the recommendation had been applied satisfactorily and that there was no need for the dialogue to continue.

37. **The Chairperson** emphasized that the Committee should nevertheless discuss in depth the issue raised by the communication in order to determine the approach it wished to adopt subsequently in that regard.

38. *The draft report of the Special Rapporteur for follow-up on Views, as amended, was adopted.*

The meeting rose at 1.05 p.m.