

EQUATORIAL GUINEA

Special Decisions or Action Taken Re: Reporting

CCPR A/59/40 vol. I (2004)

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SUMMARY

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The Committee again deplores the fact that many States parties do not comply with their reporting obligations under article 40 of the Covenant. In 2001, it therefore adopted a procedure for dealing with non-reporting States. Under this procedure, the Committee, during its seventy-ninth and eighty-first sessions, respectively, considered the measures taken by Equatorial Guinea and the Central African Republic to give effect to the rights recognized in the Covenant, in the first case without a report and in the absence of a delegation, in the second case in the absence of a report but in the presence of a delegation. In accordance with rule 69A, paragraph 1, of its revised rules of procedure, the Committee adopted provisional concluding observations on the measures taken by these States parties to give effect to the rights recognized in the Covenant, which were transmitted to the States parties concerned.

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CHAPTER II. METHODS OF WORK OF THE COMMITTEE UNDER ARTICLE 40 OF THE COVENANT AND COOPERATION WITH OTHER UNITED NATIONS BODIES

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46. The Committee first applied the new procedure to a non-reporting State at its seventy-fifth session. It examined the measures taken by the Gambia to give effect to the rights recognized in the Covenant without a report, and in the absence of a delegation from the State party. It adopted provisional concluding observations on the situation of civil and political rights in the Gambia, which were transmitted to the State party. At the seventy-eighth session, the Committee discussed the status of the provisional concluding observations on the Gambia and requested the State party to submit a periodic report by 1 July 2004 that should specifically address the concerns identified in the Committee's provisional concluding observations. Failure to submit such a report within the deadline set by the Committee would result in the conversion of the provisional concluding observations into final ones, and their general dissemination. On 8 August 2003, the Committee amended rule 69A of its rules of procedure to provide for the possibility of converting provisional concluding observations into final and public ones. At its seventy-ninth and eighty-first sessions the Committee examined the situation of civil and political rights in, respectively, Equatorial Guinea and the Central African Republic, in the absence both of a report and a delegation in the first case, and the absence of a report but the presence of a delegation in the second case. Provisional concluding observations were transmitted to the States parties concerned. At the end of the eighty-first session, the

Committee decided to convert the provisional concluding observations on the country situations of the Gambia and Equatorial Guinea into final and public ones. At its seventy-fourth session, the Committee adopted decisions which spell out the modalities for following up on concluding observations.¹ At the seventy-fifth session, the Committee designated Mr. Yalden as its Special Rapporteur for follow-up on concluding observations.

Notes

1/ See *ibid.*, vol. I, annex II, sect. A.

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CHAPTER II. METHODS OF WORK OF THE COMMITTEE UNDER ARTICLE 40 OF THE COVENANT AND COOPERATION WITH OTHER UNITED NATIONS BODIES

A. Recent developments and decisions on procedures

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44. For several years, the Committee has been concerned about the number of overdue reports and non-compliance by States parties with their obligations under article 40 of the Covenant.¹⁰ Two working groups of the Committee proposed amendments to the rules of procedure in order to help States parties fulfil their reporting obligations and to simplify the procedure. These amendments were formally adopted during the seventy-first session, in March 2001, and the revised rules of procedure were issued (CCPR/C/3/Rev.6 and Corr.1).¹¹ All States parties were informed of the amendments to the rules of procedure, and the Committee has applied the revised rules since the end of the seventy-first session (April 2001). The Committee recalls that general comment No. 30, adopted at the seventy-fifth session, spells out the States parties' obligations under article 40 of the Covenant.¹²

45. The amendments introduce a procedure to be followed when a State party has failed to honour its reporting obligations for a long time, or requests a postponement of its scheduled appearance before the Committee at short notice. In both situations, the Committee may henceforth serve notice on the State concerned that it intends to consider, from material available to it, the measures adopted by that State party to give effect to the provisions of the Covenant, even in the absence of a report. The amended rules of procedure further introduce a follow-up procedure to the concluding observations of the Committee: rather than setting in the last paragraph of the concluding observations a date by which the State party's next report should be submitted, the Committee will invite the State party to report back to it within a specified period regarding its follow-up to the Committee's recommendations, indicating what steps, if any, it has taken. The responses received will thereafter be examined by the Committee's Special Rapporteur on follow-up to concluding observations, and a definitive deadline will then be set for the submission of the next report. Since the seventy-sixth session, the Committee has, as a rule, examined the progress reports submitted by the Special Rapporteur on a sessional basis.¹³

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48. At its seventy-ninth and eighty-first sessions (October 2003 and July 2004), the Committee considered the situation of civil and political rights in Equatorial Guinea and the Central African Republic, respectively, in the absence both of a report and a delegation in the first case, and in

the absence of a report but in the presence of a delegation in the second case. Provisional concluding observations were transmitted to the States parties concerned. At the end of the eighty-first session, the Committee decided to make the provisional concluding observations on the situation in Equatorial Guinea final and public, the State party having failed to submit its initial report. On 11 April 2005, in conformity with the assurances it had made to the Committee at the eighty-first session, the Central African Republic submitted its second periodic report. The Committee considered the report at its eighty-seventh session (July 2006) and adopted concluding observations.

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¹⁰ [*Official Records of the General Assembly*], chap. III, sect. B, and *ibid.*, *Fifty-seventh Session, Supplement No. 40 (A/57/40)*, chap. III, sect. B.

¹¹ *Ibid.*, *Fifty-sixth Session, Supplement No. 40 (A/56/40)*, vol. I, annex III, sect. B.

¹² *Ibid.*, *Fifty-seventh Session, Supplement No. 40 (A/57/40)*, vol. I, annex VI.

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CHAPTER II. METHODS OF WORK OF THE COMMITTEE UNDER ARTICLE 40 OF THE COVENANT AND COOPERATION WITH OTHER UNITED NATIONS BODIES

A. Recent developments and decisions on procedures

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⁸ *Ibid.*, *Fifty-sixth Session, Supplement No. 40 (A/56/40)*, vol. I, annex III, sect. B.

⁹ *Ibid.*, *Fifty-seventh Session, Supplement No. 40 (A/57/40)*, vol. I, annex VI.

¹⁰ Except for the eighty-third session, when a new Special Rapporteur was appointed.

¹¹ Rule 70 of the revised rules of procedure.

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Chapter III: Submission of Reports by States Parties under Article 40 of the Covenant

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B. Overdue Reports and Non-compliance by States parties with their Obligations under Article 40

50. The Committee wishes to reiterate that States parties to the Covenant must submit the reports referred to in article 40 of the Covenant on time so that the Committee can duly perform its functions under that article. Those reports are the basis for the discussion between the Committee and States parties on the human rights situation in States parties. Regrettably, serious delays have been noted since the establishment of the Committee.

51. The Committee notes with concern that the failure of States parties to submit reports hinders the performance of its monitoring functions under article 40 of the Covenant. The list below identifies the States parties that have a report more than five years overdue, and those that have not submitted reports requested by a special decision of the Committee. The Committee reiterates that these States are in default of their obligations under article 40 of the Covenant.

52. The Committee once again draws particular attention to the fact that 26 initial reports are overdue (including the 22 initial reports overdue by at least five years listed above). The result is frustration of a crucial objective of the Covenant, namely, to enable the Committee to monitor compliance by States parties with their obligations under the Covenant on the basis of periodic reports. The Committee addresses reminders at regular intervals to all those States parties whose reports are significantly overdue.

53. Owing to the concern of the Committee about the number of overdue reports and non-compliance by States parties with their obligations under article 40 of the Covenant,¹⁰ two working groups of the Committee proposed amendments to the rules of procedure in order to help States parties fulfil their reporting obligations and to simplify the procedure. These amendments were formally adopted during the seventy-first session, in March 2001, and the revised rules of procedure were issued (CCPR/C/3/Rev.6 and Corr.1).¹¹ All States parties were informed of the amendments to the rules of procedure, and the Committee has applied the revised rules since the end of the seventy-first session (April 2001). The Committee recalls that general comment No. 30, adopted at the seventy-fifth session, spells out the States parties' obligations under article 40 of the Covenant.¹²

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¹² *Ibid.*, *Fifty-seventh Session, Supplement No. 40*, vol. I (A/57/40 (vol. I)), annex VI.

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