

LIECHTENSTEIN

Follow-up - State Reporting

i) Action by Treaty Bodies, including reports on missions

CAT, A/65/44 (2010)

Chapter IV. Follow-up to concluding observations on States parties' reports

65. In this chapter, the Committee updates its findings and activities that constitute follow-up to concluding observations adopted under article 19 of the Convention, in accordance with the procedure established on follow-up to concluding observations. The follow-up responses by States parties, and the activities of the Rapporteur for follow-up to concluding observations under article 19 of the Convention, including the Rapporteur's views on the results of this procedure, are presented below. This information is updated through 14 May 2010, the end of the Committee's forty-fourth session.

66. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. In that report and each year thereafter, the Committee has presented information on its experience in receiving information on follow-up measures taken by States parties since the initiation of the procedure in May 2003.

67. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. In November 2009 and May 2010, the Rapporteur presented a progress report to the Committee on the results of the procedure.

68. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific measures to prevent acts of torture and ill-treatment. Thereby, the Committee assists States parties in identifying effective legislative, judicial, administrative and other measures to bring their laws and practice into full compliance with the obligations set forth in the Convention.

69. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information within one year. Such follow-up recommendations are identified because they are serious, protective and are considered able to be accomplished within one year. The States parties are asked to provide information within one year on the measures taken to give effect to the follow-up recommendations. In the concluding observations on each State party report, the recommendations requiring follow-up within one year are specifically identified in a paragraph at the end of the concluding observations.

70. Since the procedure was established at the thirtieth session in May 2003, through the end of

the forty-fourth session in May 2010, the Committee has reviewed 95 reports from States parties for which it has identified follow-up recommendations. It must be noted that periodic reports of Chile, Latvia, Lithuania and New Zealand have been examined twice by the Committee since the establishment of the follow-up procedure. Of the 81 States parties that were due to have submitted their follow-up reports to the Committee by 14 May 2010, 57 had completed this requirement. As of 14 May 2010, 24 States had not yet supplied follow-up information that had fallen due: Republic of Moldova, Cambodia, Cameroon, Bulgaria, Uganda, Democratic Republic of the Congo, Peru, Togo, Burundi, South Africa, Tajikistan, Luxembourg, Benin, Costa Rica, Indonesia, Zambia, Lithuania (to the 2009 concluding observations), Chad, Chile, Honduras, Israel, New Zealand, Nicaragua and the Philippines.

71. The Rapporteur sends reminders requesting the outstanding information to each of the States for which follow-up information is due, but not yet submitted. The status of the follow-up to concluding observations may be found in the web pages of the Committee at each of the respective sessions. As of 2010, the Committee has established a separate web page for follow-up (<http://www2.ohchr.org/english/bodies/cat/follow-procedure.htm>).

72. Of the 24 States parties that did not submit any information under the follow-up procedure as of 14 May 2010, non-respondents came from all world regions. While about one-third had reported for the first time, two-thirds were reporting for a second, third or even fourth time.

73. The Rapporteur expresses appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow-up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she requests the outstanding information.

74. At its thirty-eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties which are posted on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow-up and also place them on its website.

75. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

76. Among the Rapporteur's activities in the past year, have been the following: attending the inter-committee meetings in Geneva where follow-up procedures were discussed with members from other treaty bodies, and it was decided to establish a working group on follow-up; addressing the Committee on the Elimination of Discrimination against Women at its August 2009 meeting in New York concerning aspects of the follow-up procedure; assessing responses from States parties and preparing follow-up letters to countries as warranted and updating the information collected from the follow-up procedure.

77. Additionally, the Rapporteur initiated a study of the Committee's follow-up procedure, beginning with an examination of the number and nature of topics identified by the Committee in its requests to States parties for follow-up information. She reported to the Committee on some preliminary findings, in November 2009 and later in May 2010, and specifically presented charts showing that the number of topics designated for follow-up has substantially increased since the thirty-fifth session. Of the 87 countries examined as of the forty-third session (November 2009), one to three paragraphs were designated for follow-up for 14 States parties, four or five such topics were designated for 38 States parties, and six or more paragraphs were designated for 35 States parties. The Rapporteur drew this trend to the attention of the members of the Committee and it was agreed in May 2010 that, whenever possible, efforts would henceforth be made to limit the number of follow-up items to a maximum of five paragraphs.

78. The Rapporteur also found that certain topics were more commonly raised as a part of the follow up procedure than others. Specifically, for all State parties reviewed since the follow-up procedure began, the following topics were most frequently designated:

Ensure prompt, impartial and effective investigation(s)	76 per cent
Prosecute and sanction persons responsible for abuses	61 per cent
Guarantee legal safeguards	57 per cent
Enable right to complain and have cases examined	43 per cent
Conduct training, awareness-raising	43 per cent
Ensure interrogation techniques in line with the Convention	39 per cent
Provide redress and rehabilitation	38 per cent
End gender-based violence, ensure protection of women	34 per cent
Ensure monitoring of detention facilities/visit by independent body	32 per cent
Carry out data collection on torture and ill-treatment	30 per cent
Improve condition of detention, including overcrowding	28 per cent

79. In the correspondence with States parties, the Rapporteur has noted recurring concerns which are not fully addressed in the follow-up replies and her concerns (illustrative, not comprehensive) have been included in prior annual reports. To summarize them, she finds there is considerable value in having more precise information being provided, e.g. lists of prisoners, details on deaths in detention and forensic investigations.

80. As a result of numerous exchanges with States parties, the Rapporteur has observed that there is need for more vigorous fact-finding and monitoring in many States parties. In addition, there is often inadequate gathering and analysing of police and criminal justice statistics. When the Committee requests such information, States parties frequently do not provide it. The

Rapporteur further considers that conducting prompt, thorough and impartial investigations into allegations of abuse is of great protective value. This is often best undertaken through unannounced inspections by independent bodies. The Committee has received documents, information and complaints about the absence of such monitoring bodies, the failure of such bodies to exercise independence in carrying out their work or to implement recommendations for improvement.

81. The Rapporteur has also pointed to the importance of States parties providing clear-cut instructions on the absolute prohibition of torture as part of the training of law-enforcement and other relevant personnel. States parties need to provide information on the results of medical examinations and autopsies, and to document signs of torture, especially including sexual violence. States parties also need to instruct personnel on the need to secure and preserve evidence. The Rapporteur has found many lacunae in national statistics, including on penal and disciplinary action against law-enforcement personnel. Accurate record keeping, covering the registration of all procedural steps of detained persons, is essential and requires greater attention. All such measures contribute to safeguard the individual against torture or other forms of ill-treatment, as set forth in the Convention.

82. The chart below details, as of 14 May 2010, the end of the Committee’s forty-fourth session, the replies with respect to follow-up. This chart also includes States parties’ comments to concluding observations, if any.

Follow-up procedure to concluding observations from May 2003 to May 2010

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Forty-fourth session (May 2010)

<i>State party</i>	<i>Information</i>	<i>Information received (including</i>	<i>Action taken</i>
...			
Liechtenstein	May 2011	-	
...			

...

Follow-up - State Reporting
(ii) Action by State Party

CAT, CAT/C/LIE/CO/3/Add.1 (2009)

Comments by the Government of Liechtenstein to the Concluding Observations of the Committee against Torture (CAT/C/LIE/CO/3)

[22 December 2009]

1. The Government of the Principality of Liechtenstein welcomes the opportunity to pursue its dialogue with the Committee against Torture by submitting the following comments and clarifications in respect of the conclusions and recommendations adopted by the Committee at its 938th meeting.

2. The Liechtenstein Government appreciates the high level of interest shown by the Committee towards the situation in Liechtenstein regarding torture and other forms of ill-treatment. The fact that all members of the Committee actively participated in the dialogue with the Liechtenstein delegation is a clear expression of this interest. The Liechtenstein Government notes with satisfaction that the Committee considered the replies provided by the Liechtenstein delegation as extensive and precise.

3. Against this background, the Liechtenstein Government, however, expresses concern at the selective and inaccurate quotation (in paragraph 19 of the concluding observations) of replies given orally and in written form in respect of the 1982 treaty between Liechtenstein and Austria on the accommodation of prisoners. The Liechtenstein Government wishes to emphasize that this cooperation is firmly anchored in an extensive legal and structural framework composed of the European Convention on Human Rights and Fundamental Freedoms, the European Convention on the Prevention of Torture, as well as the UN Convention against Torture. The same kind of cooperation is also embodied in the 1983 Council of Europe Convention on the Transfer of Sentenced Persons. In addition, it must be stressed that the Austrian Corrections Commission(s) - as noted in paragraph 19 of the concluding observations - is indeed competent with regard to Liechtenstein prisoners serving their sentences in Austria. The Liechtenstein Government is therefore of the view that it is inaccurate to speak of a complete absence of procedures or mechanisms to ensure that the rights of persons imprisoned in Austria are upheld.

4. As regards the handout of legal instructions on legal safeguards for persons who have been arrested, it must be stressed that apart from the issue of consular protection, no distinction is made between Liechtenstein and foreign nationals. The document submitted to the Committee constitutes the English translation of the original German text which clearly provides for the right of all persons deprived of their liberty to have access to an independent doctor as from the very outset of their detention. Similarly, the handout also guarantees the right of all persons deprived of their liberty to have access to a lawyer and to inform a family member from the very outset of their detention. The relevant chapter of the handout is in fact entitled Notification of a

family member or another person of trust and an attorney-at-law (defence lawyer). The wording of the information contained therein is clear in that it refers to both the right to have access to a lawyer, and the right to inform a family member.

5. With respect to the removal of prisoners from prison by police for interrogation (paragraph 22 of the concluding observations), the Liechtenstein Government would like to stress that the current practise is provided for in article 90, paragraph 1 of the Execution of Sentences Act and that it is therefore inaccurate to refer to this practise as “contrary to applicable domestic law.” Furthermore, the Government wishes to reiterate that this practise should be assessed in the context of the limited holding capacity and shortage of space and personnel resources of Vaduz National Prison.

6. Finally, the Liechtenstein Government wishes to recall that during the reporting period, Liechtenstein was visited twice by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and once by the Commissioner for Human Rights of the Council of Europe. All three independent visits confirmed that there have been no cases of torture or inhuman or degrading treatment or punishment in Liechtenstein. During the dialogue, a Committee member explicitly acknowledged that *“the fact that no allegation of torture or ill-treatment had been submitted to the judicial authorities of the State party since the Convention’s entry into force was a very encouraging sign.”* Also, in its concluding observations, following consideration of the second periodic report of Liechtenstein, the Committee had deemed the non-occurrence of cases of torture or ill-treatment to be a positive aspect. It is therefore surprising that the Committee did not mention this fact under the positive aspects of its concluding observations following consideration of Liechtenstein’s third periodic report.

7. The Liechtenstein Government looks forward to the continuation of dialogue with the Committee against Torture and is committed to providing information on additional steps to further strengthen the prevention of torture and ill-treatment in Liechtenstein within the defined timeline for follow-up.