

MALAWI

Special Decisions or Action taken Re: Reporting, Including Urgent Action Procedure

CERD, A/60/18 (2005)

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Chapter V. Review of the implementation of the Convention in States parties whose reports are seriously overdue

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C. Action taken by the Committee to ensure submission of reports by States parties

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426. At its sixty-sixth and sixty-seventh sessions, the Committee reviewed the question of delays and non-submission of reports by States parties in accordance with their obligations under article 9 of the Convention.

427. At its forty-second session, the Committee, having emphasized that the delays in reporting by States parties hampered it in monitoring implementation of the Convention, decided that it would continue to proceed with the review of the implementation of the provisions of the Convention by the States parties whose reports were overdue by five years or more. In accordance with a decision taken at its thirty-ninth session, the Committee agreed that this review would be based upon the last reports submitted by the State party concerned and their consideration by the Committee. At its forty-ninth session, the Committee further decided that States parties whose initial reports were overdue by five years or more would also be scheduled for a review of implementation of the provisions of the Convention. The Committee agreed that in the absence of an initial report, the Committee would consider all information submitted by the State party to other organs of the United Nations or, in the absence of such material, reports and information prepared by organs of the United Nations. In practice the Committee also considers relevant information from other sources, including from non-governmental organizations, whether it is an initial or periodic report that is seriously overdue.

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429. Following its sixty-sixth session, the Committee decided to schedule at its sixty-seventh session a review of the implementation of the Convention in the following States parties whose initial and periodic reports were seriously overdue: Bosnia and Herzegovina, Malawi, Mozambique, Seychelles and Saint Lucia...The Committee reviewed the implementation of the Convention in Malawi at its 1712th meeting, and in Seychelles and Saint Lucia at its 1719th meeting (see paragraphs 432-434).

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D. Decisions

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432. At its 1712th meeting, held on 9 August 2005, the Committee decided to request the Chairman to send a letter to the Permanent Representative of Malawi to the United Nations. In his letter of 19 August 2005, the Chairman informed the State party that it had reviewed the implementation of the Convention in Malawi in the absence of a report and deeply regretted the fact that Malawi was seriously overdue in the submission of its initial to fifth periodic reports to the Committee, due respectively from 1997 to 2005. In order to assist in the initiation of a dialogue on the measures adopted by Malawi to implement the Convention, the Committee decided to send a list of questions to the State party and requested written responses to this list by 31 January 2006. In the absence of any response from Malawi by that date, the Committee would proceed with the adoption of concluding observations on Malawi under its review procedure.

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468. Following its sixty-eighth session, the Committee decided to schedule at its sixty-ninth session a review of the implementation of the Convention in the following States parties whose initial and periodic reports were seriously overdue: Malawi, Mozambique, Namibia, Seychelles and Saint Lucia...

469. At its 1779th meeting (sixty-ninth session), held on 15 August 2006, the Committee held a preliminary debate with a delegation from Malawi, on the basis of a submission by the State party in response to the list of issues sent by the Committee on 19 August 2005 (CERD/C/MWI/Q/5/Add.1). Following the preliminary debate and the assurances given by the delegation, the Chairperson sent a letter to the State party requesting that the overdue report of Malawi be submitted to the Committee as soon as possible, and no later than 30 June 2007.

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504. At its forty-second session, the Committee, having emphasized that the delays in reporting by States parties hampered it in monitoring implementation of the Convention, decided that it would continue to proceed with the review of the implementation of the provisions of the Convention by the States parties whose reports were overdue by five years or more. In accordance with a decision taken at its thirty-ninth session, the Committee agreed that this review would be based upon the last reports submitted by the State party concerned and their consideration by the Committee. At its forty-ninth session, the Committee further decided that States parties whose initial reports were overdue by five years or more would also be scheduled for a review of implementation of the provisions of the Convention. The Committee agreed that in the absence of an initial report, the Committee would consider all information submitted by the State party to other organs of the United Nations or, in the absence of such material, reports and information prepared by organs of the United Nations. In practice the Committee also considers relevant information from other sources, including from non-governmental organizations, whether it is an initial or periodic report that is seriously overdue.

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509. Following its seventieth session, the Committee decided to schedule at its seventy-first session a review of the implementation of the Convention in the following States parties whose initial and periodic reports were seriously overdue: Malawi, Namibia, Nicaragua, Pakistan and Togo. Namibia, Nicaragua and Togo were withdrawn from the list prior to the seventy-first session following the submission of their overdue reports.

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511. In the case of Malawi, the review was postponed in light of the technical assistance to be provided shortly by the Office of the United Nations High Commissioner for Human Rights. The Committee informed the State party, however, that in case of non-receipt of the report by 30 June 2008, it would examine the situation in Malawi without a report at its seventy-third session and would adopt concluding observations on the basis of other information made available to it, including reports from non-governmental sources.

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