

## MONACO

### Follow-up - State Reporting

#### i) Action by Treaty Bodies

CAT, A/60/44 (2005)

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#### CHAPTER IV. FOLLOW-UP ON RECOMMENDATIONS AND OBSERVATIONS ON STATES PARTIES REPORTS

115. At its thirtieth session, in May 2003, the Committee began a routine practice of identifying, at the end of each set of concluding observations, a limited number of recommendations that are of a serious nature and warrant a request for additional information following the dialogue with the State party concerning its periodic report. The Committee identifies conclusions and recommendations regarding the reports of States parties which are serious, can be accomplished in a one-year period, and are protective. The Committee has requested those States parties reviewed since the thirtieth session of the Committee to provide the information sought within one year.

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118. The Rapporteur has welcomed the follow-up information provided by six States parties as of 20 May 2005, when its thirty-fourth session concluded, indicating the commitment of the States parties to an ongoing process of dialogue and cooperation aimed at enhancing compliance with the requirements of the Convention. The documentation received will be given a document number and made public. The Rapporteur has assessed the responses received particularly as to whether all of the items designated by the Committee for follow-up (normally between three and five issues) have been addressed, whether the information provided is responsive, and whether further information is required.

119. With regard to the States parties that have not supplied the information requested, the Rapporteur will write to solicit the outstanding information. The chart below details, as of 20 May 2005, the conclusion of the Committee's thirty-fourth session, the status of follow-up replies to concluding observations since the practice was initiated. As of that date, the replies from seven States parties remained outstanding.

120. As the Committee's mechanism for monitoring follow-up to concluding observations was established in May 2003, this chart describes the results of this procedure from its initiation until the close of the thirty-fourth session in May 2005.

<u>State party</u>	<u>Date due</u>	<u>Date reply received</u>	<u>Further action taken/required</u>
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Monaco	May 2005		Reminder to State party
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**CAT, A/61/44 (2006)**

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**CHAPTER IV. FOLLOW-UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS**

38. In Chapter IV of its annual report for 2004-2005 (A/60/44), 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. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2005. This chapter updates the Committee's experience to 19 May 2006, the end of its thirty-sixth session.

39. 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. As in the past, Ms. Gaer presented a progress report to the Committee in May 2006 on the results of the procedure.

40. The Rapporteur has emphasized that the follow-up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment," as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

41. Since its thirtieth session in May 2003, the Committee began the practice of identifying a limited number of these recommendations that warrant a request for additional information following the review and discussion with the State party concerning its periodic report. 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 within one year information on the measures taken to give effect to its "follow-up recommendations" which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' report under article 19.

42. Since the procedure was established at the thirtieth session in May 2003 through the end of the thirty-sixth session in May 2006, the Committee has reviewed 39 States for which it has identified follow-up recommendations. Of the 19 States parties that were due to have submitted their follow-up reports to the Committee by 1 May 2006, 12 had completed this requirement (Argentina, Azerbaijan, Czech Republic, Colombia, Germany, Greece, Latvia, Lithuania, Morocco, New Zealand, United Kingdom, and Yemen). As of May, seven States had failed to supply follow-up information that had fallen due (Bulgaria, Cambodia, Cameroon, Chile, Croatia, Moldova, Monaco), and each was sent a reminder of the items still outstanding and requesting

them to submit information to the Committee.

43. With this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

44. The Rapporteur has expressed 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 of the items designated by the Committee for follow-up (normally between three to six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Where further information is needed, she writes to the State party concerned with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she writes to solicit the outstanding information.

45. Each letter responds specifically and in detail to the information presented by the State party, which is given a formal United Nations document symbol number.

46. 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 not addressed but which are deemed essential in the Committee's ongoing work in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

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48. The chart below details, as of 19 May 2006, the end of the Committee's thirty-sixth session, the state of the replies with respect to follow-up.

#### **A. Follow-up reply due before 1 May 2006**

State party	Date due	Date reply received	Document symbol number	Further action taken/required
...				
Monaco	May 2005	-		Reminder to State party
...				

**CAT, A/62/44 (2007)**

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IV. FOLLOW UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS

46. 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 conclusions and recommendations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2006. This chapter updates the Committee's experience to 18 May 2007, the end of its thirty eighth session.

47. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow up to conclusions and recommendations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2007 on the results of the procedure.

48. The Rapporteur has emphasized that the follow up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

49. Since its thirtieth session in May 2003, the Committee began the practice of identifying a limited number of these recommendations that warrant a request for additional information following the review and discussion with the State party concerning its periodic report. 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 within one year information on the measures taken to give effect to its "follow up recommendations" which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

50. Since the procedure was established at the thirtieth session in May 2003, through the end of the thirty eighth session in May 2007 the Committee has reviewed 53 States for which it has identified follow up recommendations. Of the 39 States parties that were due to have submitted their follow up reports to the Committee by 18 May 2007, 25 had completed this requirement (Albania, Argentina, Austria, Azerbaijan, Bahrain, Canada, Chile, Czech Republic, Colombia, Croatia, Ecuador, Finland, France, Germany, Greece, Latvia, Lithuania, Monaco, Morocco, New Zealand, Qatar, Sri Lanka, Switzerland, United Kingdom and Yemen). As of 18 May, 14 States had not yet supplied follow up information that had fallen due (Bulgaria, Bosnia and Herzegovina, Cambodia, Cameroon, Democratic Republic of the Congo, Georgia, Guatemala, Republic of Korea, Moldova, Nepal, Peru, Togo, Uganda and United States of America). In March 2007, the Rapporteur sent a reminder requesting the outstanding information to each of the States whose follow up information was due in November 2006, but had not yet been submitted, and who had not previously been sent a reminder.

51. The Rapporteur noted that 14 follow up reports had fallen due since the previous annual report (A/61/44). However, only 4 (Austria, Ecuador, Qatar and Sri Lanka) of these 14 States had submitted the follow up information in a timely manner. Despite this, she expressed the view that the follow up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow up to the review of the periodic reports. While comparatively few States had replied precisely on time, 19 of the 25 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non governmental organizations, many of whom had also encouraged States parties to submit follow up information in a timely way.

52. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

53. The Rapporteur has expressed 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 is needed, she writes to the State party concerned with specific requests for further clarification. With regard to States that have not supplied the follow up information at all, she writes to solicit the outstanding information.

54. At its thirty eighth session in May, the Committee decided to make public the Rapporteur's letters to the States parties. These would be assigned a United Nations document symbol number and placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies (these symbol numbers are under consideration) to the follow up and also place them on its website.

55. 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.

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57. The chart below details, as of 18 May 2007, the end of the Committee's thirty eighth session, the state of the replies with respect to follow up.

## **Follow up procedure to conclusions and recommendations from May 2003 to May 2007**

...  
**Thirty second session (May 2004)**

<b>State party</b>	<b>Information due in</b>	<b>Information received</b>	<b>Action taken</b>
... Monaco	May 2005	6 April 2006 CAT/C/MCO/CO/4/Add.1	Reminder Response under review
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#### **CHAPTER IV. FOLLOW-UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS**

46. In this chapter, the Committee updates its findings and activities that follow-up on the conclusions and recommendations adopted under article 19 of the Convention, in accordance with the recommendations of its Rapporteur on Follow-Up to Country conclusions. The Rapporteur's activities, responses by States parties, and the Rapporteur's views on recurring concerns encountered through this procedure are presented below, and updated to through May 2008, following the Committee's fortieth session.

47. 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 conclusions and recommendations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2008.

48. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to conclusions and recommendations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2008 on the results of the procedure.

49. The Rapporteur has emphasized that the follow-up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

50. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information specifically for this procedure. 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 within one year information on the measures taken to give effect to its follow-up recommendations which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

51. Since the procedure was established at the thirtieth session in May 2003, through the end of the fortieth session in May 2008, the Committee has reviewed 67 States for which it has identified follow-up recommendations. Of the 53 States parties that were due to have submitted

their follow-up reports to the Committee by 16 May 2008, 33 had completed this requirement (Albania, Argentina, Austria, Azerbaijan, Bahrain, Bosnia and Herzegovina, Canada, Chile, Czech Republic, Colombia, Croatia, Ecuador, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Republic of Korea, Latvia, Lithuania, Monaco, Morocco, Nepal, New Zealand, Qatar, Russian Federation, Sri Lanka, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America and Yemen). As of 16 May, 20 States had not yet supplied follow-up information that had fallen due (Bulgaria, Burundi, Cambodia, Cameroon, Democratic Republic of the Congo, Denmark, Guyana, Italy, Japan, Luxembourg, Mexico, Moldova, the Netherlands, Peru, Poland, South Africa, Tajikistan, Togo, Uganda and Ukraine). In March 2008, the Rapporteur sent a reminder requesting the outstanding information to each of the States whose follow-up information was due in November 2007, but had not yet been submitted, and who had not previously been sent a reminder.

52. The Rapporteur noted that 14 follow-up reports had fallen due since the previous annual report.<sup>3</sup> However, only 2 (Hungary and the Russian Federation) of these 14 States had submitted the follow-up information in a timely manner. Despite this, she expressed the view that the follow-up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow-up to the review of the periodic reports. While comparatively few States had replied precisely on time, 25 of the 33 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non-governmental organizations, many of whom had also encouraged States parties to submit follow-up information in a timely way.

53. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

54. The Rapporteur expressed 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.

55. At its thirty-eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties. These would be placed 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 (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

56. 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.

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58. The chart below details, as of 16 May 2008, the end of the Committee's fortieth session, the state of the replies with respect to follow-up.

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3/ *Official Records of the General Assembly, Sixty-second Session, Supplement No. 44 (A/62/44).*

**Follow-up procedure to conclusions and recommendations  
from May 2003 to May 2008**

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**Thirty-second session (May 2004)**

State party	Information due in	Information received	Action taken
...			
Monaco	May 2005	30 March 2006 CAT/C/MCO/CO/4/Add.1	Request for further clarification
...			

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**CAT, A/64/44 (2009)**

#### **IV. FOLLOW UP ON CONCLUDING OBSERVATIONS ON STATES PARTIES REPORTS**

53. In this chapter, the Committee updates its findings and activities that follow-up to concluding observations adopted under article 19 of the Convention, in accordance with the recommendations of its Rapporteur on follow-up to concluding observations. The Rapporteur's activities, responses by States parties, and the Rapporteur's views on recurring concerns encountered through this procedure are presented below, and updated through 15 May 2009, following the Committee's forty-second session.

54. 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. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2009.

55. 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. As in the past, Ms. Gaer presented a progress report to the Committee in May 2009 on the results of the procedure.

56. The Rapporteur has emphasized that the follow up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and ill-treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

57. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information specifically for this procedure. 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 within one year information on the measures taken to give effect to its follow-up recommendations which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

58. Since the procedure was established at the thirtieth session in May 2003, through the end of the forty-second session in May 2009, the Committee has reviewed 81 States for which it has identified follow up recommendations. Of the 67 States parties that were due to have submitted their follow up reports to the Committee by 15 May 2009, 44 had completed this requirement. As of 15 May 2009, 23 States had not yet supplied follow up information that had fallen due. The

Rapporteur sends reminders requesting the outstanding information to each of the States whose follow up information was due, but had not yet been submitted, and who had not previously been sent a reminder. The status of the follow-up to concluding observations may be found in the web pages of the Committee (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

59. The Rapporteur noted that 14 follow up reports had fallen due since the previous annual report. However, only 4 (Algeria, Estonia, Portugal and Uzbekistan) of these 14 States had submitted the follow up information in a timely manner. Despite this, she expressed the view that the follow up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow up to the review of the periodic reports. One State party (Montenegro) had already submitted information which was due only in November 2009. While comparatively few States had replied precisely on time, 34 of the 44 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non governmental organizations, many of whom had also encouraged States parties to submit follow up information in a timely way.

60. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

61. The Rapporteur expressed 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.

62. At its thirty eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties. These would be placed 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 (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

63. 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.

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65. The chart below details, as of 15 May 2009, the end of the Committee's forty-second session, the state of the replies with respect to follow up.

**Follow-up procedure to conclusions and recommendations from May 2003 to May 2009**

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**Thirty-second session (May 2004)**

<b>State party</b>	<b>Information due in</b>	<b>Information received</b>	<b>Action taken</b>
...			
Monaco	May 2005	30 March 2006 CAT/C/MCO/CO/4/Add.1	Request for further clarification
...			

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**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**

...

#### **Thirty-second session (May 2004)**

<b>State party</b>	<b>Information due in</b>	<b>Information received</b>	<b>Action taken</b>
...			
Monaco	May 2005	30 March 2006 CAT/C/MCO/CO/4/Add.1	Reminder  Request for further clarifications
...			

## **ii) Action by State Party**

**CAT/C/MCO/CO/4/Add.1 (2006)**

### **Comments by the Government of the Principality of Monaco to the conclusions and recommendations of the Committee against Torture**

[30 March 2006]

#### **Introduction**

1. The Committee against Torture considered the second periodic report of the Principality of Monaco (CAT/C/38/Add.2) on 5 and 6 May 2004.
2. The Committee published its conclusions and recommendations on 14 May 2004. After welcoming the fact that “the State party sent a high-level delegation which provided clear answers to the questions put to it and evinced a spirit of frank cooperation”, it found that the Principality was broadly complying with the obligations of the Convention.
3. The Committee noted with satisfaction:
  - (a) The absence of any allegations that the Principality had violated the Convention;
  - (b) The fact that Monaco was in the process of becoming a member of the Council of Europe;
  - (c) The reform of the Criminal Code and the Code of Criminal Procedure to bring them into line with European human rights standards;
  - (d) The contributions made every year since 1994 by Monaco to the United Nations Voluntary Fund for Victims of Torture.
4. In order to improve existing arrangements in the Principality for the implementation of the Convention, the Committee issued a number of recommendations in paragraph 5, namely, that the State party should:
  - (a) Establish in its domestic criminal law a definition of torture that was fully consistent with article 1 of the Convention;
  - (b) Enact in its domestic law a prohibition on the invocation of exceptional circumstances or orders received from a superior officer or public authority as a justification of torture;
  - (c) Ensure that individuals were expelled or returned only to France and that no one would be returned to a third country where there might be a risk of torture;

- (d) Guarantee the right of individuals in detention to have access to a lawyer of their choosing and inform their next of kin within the first few hours of being detained;
- (e) Adopt regulations requiring the use of registers in police premises in conformity with the relevant international agreements, particularly the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment;
- (f) Monitor physical prison conditions and how prisoners were treated in French penitentiary establishments;
- (g) Consider ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, whose prevention objectives are very important.

5. In paragraph 7 of its recommendations, the Committee requested the Principality of Monaco to provide, within one year, information on the action that it had taken on the recommendations contained in paragraphs 5 (c), (d) and (f).

6. The purpose of the present document is to notify the members of the Committee of the decisions and steps adopted by the Monegasque authorities in the light of the above-mentioned recommendations.

### **Additional information**

#### **Recommendation (c)**

7. This recommendation is worded: “Respect the principle laid down in article 3 of the Convention, including in cases involving the expulsion and return (refoulement) of foreigners, and establish that appeals against deportation orders which mention the risk of torture in the country of destination automatically have suspensive effect. The Committee, noting that individuals are expelled or returned only to France, reminds the State party that it must satisfy itself that no one will be returned to a third country where there might be a risk of torture.”

8. Article 3 of the convention in question, namely the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 10 December 1984, states:

“1. No State Party shall expel, return (‘refouler’) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.”

9. The Monegasque authorities are aware of this provision of the Convention. On the one

hand, expulsions and returns are always effected from the territory of the Principality to the territory of the French Republic, since Monaco is geographically surrounded by French territory. France has been a party to the Convention since 1986. As it is bound by the same obligations as the Principality, persons expelled or returned to French territory are unlikely to be expelled or returned to a State where the risk of torture exists. Moreover, to date the Monegasque authorities have no knowledge of any persons being expelled or returned to a State where they would have been exposed to a risk of this nature.

10. In addition, bilateral agreements on extradition which have recently been signed by the Principality of Monaco with foreign States incorporate a provision authorizing the Monegasque authorities to turn down any request for extradition when there are substantiated reports or serious suppositions pointing to the existence of a risk that the person whose extradition is requested might be subjected to torture or cruel, inhuman or degrading treatment or punishment.

11. Thus, article 7.5 of the extradition treaty concluded between the Government of His Serene Highness the Prince of Monaco and the French Republic on 11 May 1992 stipulates that extradition may be refused “if, for humanitarian reasons, the handing over of the requested person might have exceptionally serious consequences for that person because of their age or state of health”.

12. Similarly, article 4.2 of the extradition treaty concluded between the Government of His Serene Highness the Prince of Monaco and the Government of Australia on 19 October 1988, lays down that extradition shall not be granted, “(b) when there are substantial grounds for believing that a request for extradition for an ordinary criminal offence has been made for the purpose of prosecuting or punishing a person on account of that person’s race, religion, nationality or political opinion, or that that person’s position may be prejudiced for any of those reasons”.

13. Save where otherwise provided by a treaty, the applicable norm is article 6, paragraph 2, of Law No. 1.222 relating to extradition of 28 December 1999, which specifies that “Extradition may also be refused if the offence for which it is requested is subject to the death penalty under the law of the requesting State, unless this State gives assurances deemed adequate by the Principality that the person being prosecuted will not be sentenced to death or, if such a sentence has been passed, that it will not be executed or that the person being prosecuted will not be subjected to treatment that harms his or her physical integrity”.

14. Given the current norms of international and domestic law, expulsion and return measures decided by the Monegasque authorities are not, therefore, likely to expose the persons concerned to the kind of treatment prohibited by the Convention.

#### **Recommendation (d)**

15. This was to “Guarantee the right of individuals in detention to have access to a lawyer of their choosing and inform their next of kin within the first few hours of being detained”.

16. Since the Monegasque authorities are aware that the provisions of the Code of Criminal

Procedure are not consonant with the requirements of international standards, notably the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted on 10 December 1984, they have embarked on the procedure for amending incompatible provisions of the Code. The law reform process is, however, taking longer than initially anticipated.

17. The present version of the bill amending the Code of Criminal Procedure lays down that:

(a) Persons in police custody must be immediately informed of the acts under investigation, about which they are being questioned;

(b) Persons in police custody have the right to be examined by a doctor, who must express an opinion on whether they are fit enough to remain in custody;

(c) Persons in police custody may immediately have their close relatives or employer informed by telephone that they have been detained;

(d) Persons in police custody may, as soon as they are detained, ask to see a lawyer of their choosing or an officially appointed lawyer, who must be informed of the nature and presumed date of the offence and who, upon conclusion of the interview, the confidentiality of which is guaranteed, submits observations which are attached to the file;

(e) The record of the statement made by any persons held in police custody must state the date and time when custody commenced and, if appropriate, was extended, the date and time at which the persons in custody were informed of their rights and the date and time at which they availed themselves of their rights, the length of each period of questioning and the times at which they were able to eat and the date and time at which they were released or brought before the Attorney General. These entries must be initialled by the person held in custody and must be recorded in a special register.

18. Furthermore, Sovereign Ordinance No. 69 of 23 May 2005 (enclosed), regulating the prison of the Principality of Monaco, thoroughly revised the legal provisions governing the organization and functioning of the Principality's prison and, consequently, the legal rules covering persons detained in this prison, to bring them into line with international standards in this sphere.

### **Recommendation (f)**

19. It is worded "Monitor physical prison conditions and how prisoners are treated in French penitentiary establishments".

20. Under article 14 of the Convention on good-neighbourliness between France and Monaco of 18 May 1963, persons who have been sentenced by Monegasque courts may be transferred to penal institutions in French territory to serve part of their custodial sentence there.

21. Such transfers concern only a few people. They may be justified either by the length of detention, or in order to bring the prisoner closer to the place of residence of his or her family or close relatives.

22. Under the above-mentioned article, prisoners are subject “to the system applied in these institutions, in accordance with the provisions of the Code of Penal Procedure”. This provision is itself consistent with the general principle of the territoriality of national law, in this case, French law.

23. At the same time, persons imprisoned in France are not completely and irrevocably excluded from the effects of the Monegasque authorities’ decisions, since article 14 also provides that “Pardons or reductions of sentence granted by His Serene Highness the Prince of Monaco shall be communicated through the diplomatic channel to the French Government, which shall make the necessary arrangements to see that those measures are carried out”. Conversely, the same article states that “the French authorities shall indicate to the Government of Monaco, as appropriate, which prisoners, in its view, are deserving of pardon or parole and which minors can, based on their behaviour in the reform centres, be granted a provisional release or any other favourable treatment”. In this case, the decision rests with the Monegasque authorities.

24. Nevertheless, motivated by its concern at “The absence of any mechanism to monitor the treatment and physical conditions of detention of foreign prisoners who have been sentenced by Monegasque courts to long terms of imprisonment in French penitentiary establishments”,<sup>1</sup> the Committee advocates that physical prison conditions and treatment should be monitored.

25. First, this recommendation entails the need to determine the precise elements of monitoring the treatment and physical conditions of detention from the point of view of the above-mentioned provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

26. Second, this recommendation means that any arrangements for monitoring treatment and physical conditions of detention must be compatible with respect for each State’s law and the exercise of its authority.

27. Given these two requirements, the Monegasque authorities have embarked on consultations aimed at reconciling both States’ sovereignty with the action recommended by the Committee, since the recommendation must of necessity be implemented by means of an inter-State agreement and not through measures unilaterally adopted by the authorities of one State. Owing to the complexity of the process of setting up this mechanism, the period of time needed to complete it will be lengthy and, at the outset, impossible to predict.

## **Conclusion**

28. As the Committee noted in the conclusions that it drew from its consideration of the State party’s report and as the decisions and measures adopted by the Monegasque authorities show, the latter are committed to honouring the international undertakings which the Principality of Monaco has given. To this end, they are adapting domestic law rules to international legal

norms, which take precedence in the legal order of the Principality of Monaco.

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1/ Translator's note: Part of the translation of this subparagraph appears to be missing in the English version of CAT/C/CR/32/1.