



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture Seventy-sixth session

Summary record of the second part (public)* of the 2004th meeting
Held at the Palais Wilson, Geneva, on Monday, 8 May 2023, at 3 p.m.

Chair: Mr. Heller
later: Mr. Touzé
later: Mr. Heller

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* The summary record of the first part (closed) of the meeting appears as document [CAT/C/SR/2004](#).

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The public part of the meeting was called to order at 4 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Report on follow-up to concluding observations (continued)

1. **Mr. Tuzmukhamedov** (Rapporteur for follow-up to concluding observations) said that, since the Committee's seventy-fifth session, follow-up reports had been received from Bolivia (Plurinational State of), Kyrgyzstan, Nigeria, Serbia and Sweden. The above-mentioned States parties' willingness to provide information about the measures that they had taken to implement their obligations under the Convention was much appreciated.
2. To date, the following States parties whose reports had been reviewed between the fortieth session and the seventy-second session had yet to supply follow-up information that had fallen due: Antigua and Barbuda, Bangladesh, Benin, Cabo Verde, Cambodia, the Congo, Djibouti, Gabon, Ghana, Guinea, the Holy See, Indonesia, Madagascar, Mozambique, Rwanda, Seychelles, Sierra Leone, Sri Lanka, the Syrian Arab Republic, Togo, Yemen and Zambia.
3. During the period under review, the Committee had received alternative follow-up reports from non-governmental organizations and other stakeholders with regard to the follow-up information submitted by Bolivia (Plurinational State of), Kyrgyzstan, Lithuania, Nigeria and Serbia.
4. During that period, assessments of the follow-up information received from States parties had been carried out on an ongoing basis in order to check whether all issues identified for follow-up had been covered by those States parties and whether the information they had provided addressed the Committee's concerns and recommendations. Those assessments were then shared with the States parties in question. Since November 2022, such communications had been sent to Bolivia (Plurinational State of), Nigeria and Sweden. The follow-up reports submitted by Lithuania and Serbia were under consideration, and the follow-up report submitted by Kyrgyzstan was pending consideration.
5. None of the reports submitted during the period under review had demonstrated that the Committee's recommendations had been largely implemented (grade A), but substantive steps had been taken to implement recommendations in four cases (grade B1) and initial steps had been taken in another four cases (grade B2). In two cases, no steps had been taken to implement recommendations or the action taken had not addressed the situation (grade C) and, in two other cases, insufficient information had been provided to allow for an assessment of the implementation of the recommendations (grade D).
6. The follow-up information received from just one State party during that period had contained information on a voluntary plan for the implementation of all or some of the remaining recommendations.

Consideration of communications submitted under article 22 of the Convention *(continued)*

Report on follow-up to communications (continued)

7. **Mr. Liu** (Rapporteur for follow-up to decisions on complaints) said that the follow-up report was a compilation of information on cases in which the State party and the complainant had had at least one round of exchanges since the seventy-fifth session.

Communication No. 573/2013: D.C. and D.E. v. Georgia (CAT/C/60/D/573/2013)

8. **Mr. Liu** said that the follow-up comments and observations received from the complainants and the State party had demonstrated partial implementation of the Committee's recommendations. The Committee had taken note of the compensation awarded to the complainants, of the measures taken towards their medical rehabilitation and of the general measures taken to prevent similar incidents from occurring in the future. However, while the State party had launched an investigation into the incidents in question, no information had been received regarding the completion or result of that investigation. The

Committee had therefore decided to pursue the follow-up dialogue and to consider further steps.

9. *In accordance with rule 109 of the Committee's rules of procedure, Mr. Heller withdrew during the discussion of the follow-up to communication No. 759/2016.*

Mr. Touzé (Vice-Chair) took the Chair.

Communication No. 759/2016: Wooden v. Mexico (CAT/C/71/D/759/2016)

10. **Mr. Liu** said that the follow-up comments had demonstrated partial implementation of the Committee's decision. The Committee had taken note with satisfaction of the measures adopted by the State party to ensure non-repetition and of the amounts that the State party had agreed to pay the complainant and his wife in respect of emerging damage, patrimonial loss, loss of opportunities, general expenses and moral damage. The Committee had also accepted the State party's reasons for refusing to grant the complainant's claim for payment for loss of earnings and for alleged displacement. However, the Committee noted an important discrepancy between the amounts claimed by the complainant for his full rehabilitation and offered by the State party. It invited the State party to explain the grounds for its proposal. The Committee had also taken note of the State party's failure to initiate an impartial, thorough, effective and independent investigation into acts of torture and to prosecute, try and punish appropriately the perpetrators of the violations. The Committee had therefore decided to pursue the follow-up dialogue.

Mr. Heller resumed the Chair.

Communication No. 854/2017: A v. Bosnia and Herzegovina (CAT/C/67/D/854/2017)

11. **Mr. Liu** said that, on 22 November 2019, the State party had informed the Committee that the Ministry of Human Rights and Refugees had requested different national institutions to submit proposals for amending legislation with a view to fulfilling the State party's obligations as set out in the Committee's decision. A bill had been prepared on the basis of those proposals which specified the rights of victims of torture, including the rights to reparation and apologies from public officials.

12. On 7 June 2022, the complainant's counsel had informed the Committee that, since the Committee's issuance of its follow-up report of September 2021, the competent institutions in the State party had not made any significant progress towards implementing the Committee's decision. The follow-up comments and observations had therefore demonstrated a lack of implementation and the Committee had decided to pursue the follow-up dialogue and to consider further steps in the light of the counsel's comments.

13. *In accordance with rule 109 of the Committee's rules of procedure, Mr. Rouwane withdrew during the discussion of the follow-up to communication No. 871/2018.*

Communication No. 871/2018: Abbahah v. Morocco (CAT/C/72/D/871/2018)

14. **Mr. Liu** said that, on 23 May 2022, the State party had stated that neither the investigating judge nor the prosecutor working on the case had identified any signs of torture or ill-treatment, that the complainant was in good health and had declined to attend eight medical consultations outside the prison in which he was being held, that he enjoyed all his rights and that he could not be transferred to a penitentiary closer to his family because his criminal status did not allow him to be incarcerated in the region where his family lived or to be placed in a group regime.

15. On 5 December 2022, the complainant's counsel had noted the ill-treatment, threats, racist insults and provocations to which the complainant was subjected by the prison guards. According to the counsel, the complainant's situation had not improved, and he continued to not receive medical care. Given the discrepancy between the information provided by the State party and by the complainant, the Committee had decided to pursue the follow-up dialogue.

Communication No. 872/2018: Berhane v. Switzerland (CAT/C/73/D/872/2018)

16. **Mr. Liu** said that the follow-up comments had demonstrated full implementation, as the State party had granted temporary admission to the complainant, who was no longer at risk of being deported. The Committee had therefore decided to close the follow-up dialogue and to note its satisfactory resolution.

Communication No. 887/2018: A.Y. v. Switzerland (CAT/C/74/D/887/2018)

17. **Mr. Liu** said that the follow-up comments had demonstrated full implementation, as the State party had granted temporary admission to the complainant, who was no longer at risk of being deported. The Committee had therefore decided to close the follow-up dialogue and to note its satisfactory resolution.

Communication No. 909/2019: Ramírez et al. v. Switzerland (CAT/C/74/D/909/2019)

18. **Mr. Liu** said that the follow-up comments had demonstrated full implementation, as the State party had reconsidered the complainants' asylum claim in the light of the Committee's views and had granted them temporary admission, leaving open the possibility for them to obtain residence permits. The Committee had therefore decided to close the follow-up dialogue and to note its satisfactory resolution.

Communication No. 934/2019: Richards v. New Zealand (CAT/C/73/D/934/2019)

19. **Mr. Liu** said that, on 19 September 2022, the State party had informed the Committee that, in response to the Committee's decision, the police had opened a new investigation into the Child and Adolescent Unit at Lake Alice. As a result, one former staff member of the unit had been charged with eight counts of wilful ill-treatment of a child. While the police had believed that there were grounds for charging two other former staff members, including Dr. Leeks, both individuals had been deemed medically unfit to stand trial, and Dr. Leeks had since died. The trial of the former staff member of the Child and Adolescent Unit was scheduled to take place in August 2023. The State party clarified that, since Dr. Leeks was dead and as the complainant had been unable to provide reliable evidence or other information concerning his claims that he had been injected with paraldehyde and assaulted by another patient, the police were unable to investigate those allegations.

20. While the State party was undertaking significant work to develop a survivor-focused redress system for victims of abuse in State institutions, including through the establishment of an independent body for redress, the complainant considered that there was no real sense of how long the victims would have to wait to receive redress and that the process was likely to be long, bureaucratic and dependent on the legislature. Meanwhile, many of the victims – most of whom were in their 60s – were suffering from poor physical health and psychological problems and would benefit from immediate assistance.

21. The follow-up comments demonstrated a partial implementation of the Committee's decision. The Committee noted the reservation made by the State party to article 14 of the Convention, pursuant to which compensation was awarded to torture victims at the discretion of the Attorney General. The Committee also noted that, although its views had been published on the websites of the police force and the Ministry of Foreign Affairs, they had not been published on the websites of the Ministry of Justice, the Ministry of Health or the child protection services. The Committee had therefore decided to continue the follow-up dialogue.

Communication No. 972/2019: B.T.M. v. Switzerland (CAT/C/75/D/972/2019)

22. **Mr. Liu** said that the follow-up comments demonstrated that the Committee's decision had been fully implemented, with the State party having granted a residence permit to the complainant. The Committee had therefore decided to close the follow-up dialogue in view of its satisfactory resolution.

Communication No. 1081/2021: X and Y v. Switzerland (CAT/C/75/D/1081/2021)

23. **Mr. Liu** said that the follow-up comments demonstrated that the Committee's decision had been fully implemented, with the State party having granted asylum to the complainant. The Committee had therefore decided to close the follow-up dialogue in view of its satisfactory resolution.

24. He noted that, of the 10 cases that he had presented, 5 had involved Switzerland. The Swiss Government was to be commended for implementing all the Committee's decisions satisfactorily.

Organizational and other matters (*continued*)

Report on follow-up to reprisals (continued)

25. **Ms. Racu** (Rapporteur on reprisals) said that no new allegations of reprisals in connection with communications under article 20 or article 22 had been received since the previous session and no requests for protection had been sent to States parties.

26. In 2023, the Committee had received a report that presented allegations of intimidation and reprisals under article 19 in connection with a country review conducted in 2022. The Chair of the Committee and the Rapporteur on reprisals had requested additional information from the source. Information had been received and was currently being assessed.

27. With regard to individual communications under article 22, the Committee was continuing to monitor the situation in two cases involving Morocco in which a risk of reprisals had been identified.

28. In November 2022, she had, in her capacity as Rapporteur on reprisals, given a short presentation about the Committee's mandate concerning reprisals to the newly elected members of the treaty bodies. The focal point on reprisals for the Petitions and Urgent Actions Section had also given a short briefing on avenues for submitting allegations of reprisals to the United Nations Secretariat. In January 2023, the rapporteurs and focal points on reprisals of the human rights treaty bodies had participated in an online meeting to discuss the challenges involved in efforts to prevent and address acts of intimidation and reprisals against individuals who cooperated with the treaty bodies. In February 2023, the focal point on reprisals for the Petitions and Urgent Actions Section had provided input for the report on practices of the human rights treaty bodies in respect of allegations of intimidation and reprisals and on issues for further action. That report would be submitted to the thirty-fifth annual meeting of the Chairs of the human rights treaty bodies.

The public part of the meeting ended at 4.30 p.m.