ADVANCE EDITED VERSON

UNITED NATIONS

HRI

International Human Rights Instruments

Distr.
GENERAL

HRI/ICM/2009/6
10 November 2009

Original: ENGLISH

Tenth inter-committee meeting
of the human rights treaty bodies
Geneva, 30 November to 2 December 2009

FOLLOW-UP TO CONCLUDING OBSERVATIONS

Overview of follow-up procedures

1. All treaty bodies request States parties to provide information on implementation of the recommendations contained in the previous concluding observations in their subsequent reports or during the constructive dialogue. Several treaty bodies also have formal procedures to monitor more closely implementation of specific concluding observations.

2. The **Human Rights Committee** systematically applies a follow-up procedure whereby it identifies a number of specific recommendations in its concluding observations as requiring immediate attention, and requests the State party to provide additional information on their implementation within a set period of one year. The concluding observations set a provisional date for submission of the next periodic report. At each session and in a public meeting, the Committee examines and adopts the Special Rapporteur's follow-up progress report, which reflects the information received from States parties, the activities undertaken by the Special Rapporteur between sessions and the recommendations of the Special Rapporteur for further activities. The annual report of the Committee also includes a chapter on follow-up, reflecting the information received, an assessment of steps taken to implement recommendations and the activities undertaken by the Special Rapporteur during the reference period. The Committee receives information from non-governmental organizations (NGOs)[1] which is taken into consideration when analysing the information received from States parties.

3. At its ninety-fifth session in March 2009, the Committee discussed and adopted a paper submitted by the Special Rapporteur which included several recommendations to strengthen the follow-up procedure (CCPR/C/95/3), in particular through the qualitative assessment of follow-up

[1] This information is often facilitated through the Centre for Civil and Political Rights (CCPR Centre).

information received from States parties. Such assessment is carried out on the basis of the following categories: satisfactory, incomplete, recommendation(s) not implemented, receipt acknowledged or no response. The Committee also decided that the letters and reminders sent by the Special Rapporteur would be made public. Furthermore, it endorsed the current practice of sending reminders for overdue information after two and four months and, in case no information is received, of requesting a meeting with a representative of the State party after a delay of six months. The website of the Office of the United Nations High Commissioner for Human Rights (OHCHR) includes a page dedicated to the Committee's follow-up procedure,[2] thus making all relevant documents publicly accessible, including the information sent by States parties, NGO reports and the letters sent by the Special Rapporteur, as well as the most recent follow-up progress report (currently CCPR/C/96/2).

4. The **Committee on the Elimination of Racial Discrimination** has a long-standing procedure, set out in rule 65 of its rules of procedure, whereby the Committee may request further information or an additional report concerning action taken by States parties to implement the Committee's recommendations. Typically, the Committee requests States parties to report within a year on action taken to implement a number of specific recommendations considered to be an immediate priority. Two members of the Committee, who are appointed by the Committee as follow-up coordinators for a two year-period, work in cooperation with the respective country rapporteurs in assessing responses received from States parties under the follow-up procedure. A working paper clarifying the terms of reference of the coordinators was adopted by the Committee at its sixty-sixth session in 2005 (CERD/C/66/Misc.11/Rev.2). Guidelines on follow-up (CERD/C/68/Misc.5/Rev.1) were adopted in 2006, and are regularly sent to States parties following the consideration of their respective periodic reports, together with the concluding observations.

5. The **Committee against Torture** identifies a limited number of recommendations that warrant a request for additional information following the review and discussion with the State party concerning its periodic report and requests follow-up reports within one year. Such "follow-up" recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year (rule 68, paragraph 1). The Committee has appointed a Rapporteur to monitor the compliance of States parties with these requests, who sends reminders to States parties whose reports are overdue by more than one year. Once follow-up replies are received, the Rapporteur on follow-up undertakes a substantive analysis of the information provided and requests clarifications from the States parties in the form of letters. Such letters are made public on the website of the Committee per session and country. The position of follow-up Rapporteur was established in 2003 and since 2005 the Rapporteur has presented progress reports to the Committee on the results of the procedure. In Chapter IV of the Committee's annual report for 2004-2005 (A/60/44), it described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations. In each annual report, the Committee has presented information on its experience in receiving information from States parties from the initiation of the procedure in May 2003. Chapter IV of the Committee's most recent annual report for 2008-2009 (A/64/44) updated the Committee's experience up to May 2009, the end of its forty-second session.

[2] http://www2.ohchr.org/english/bodies/hrc/followup-procedure.htm

6. At its forty-first session in July 2008, **the Committee on the Elimination of Discrimination against Women** decided to introduce a follow-up procedure whereby it would include a request to individual States parties in its concluding observations for information on steps taken to implement specific recommendations contained in those concluding observations. Such follow-up items are selected because it is considered that their lack of implementation constitutes a major obstacle for the implementation of the Convention as a whole and their implementation is seen as feasible within the suggested time frame. The request would call upon States parties to provide such information to the Committee within a period of one or two years. The Committee has decided to assess the experience of its follow-up procedure in 2011 and appointed a Rapporteur on follow-up at its forty-fourth session in July/August 2009.

7. The **Committee on Economic, Social and Cultural Rights** has included a reference to its procedures on follow-up in all its annual reports since 1993. The Committee may, in its concluding observations, make a specific request to a State party to provide more information or statistical data prior to the date on which the next periodic report is due. Information provided in accordance with this procedure will be considered at the next pre-sessional working group, which, based on that information, can recommend that the Committee take note of the information, adopt specific additional concluding observations in response to that information, recommend that the matter be pursued through a request for further information, or authorize the Chairperson to inform the State party, in advance of the next session, that the Committee will take up the issue at that session, preferably in the presence of a representative of the State party. If the additional information requested in accordance with these procedures is not provided by the specified date, or is considered to be unsatisfactory, the Chairperson, in consultation with the Bureau, may pursue the matter with the State party, but this procedure is rarely used. Where the Committee has been unable to obtain the information it requires, it may request that the State party accept a technical assistance mission consisting of one or two Committee members, an approach which it has applied in relation to two States parties. In cases where the State party is unwilling to accept the proposed mission, the Committee may make appropriate recommendations to the Economic and Social Council. The Committee entrusts its country rapporteurs with the task of following up on the countries for which they served as rapporteur in the inter-sessional period until the next time they appear before the Committee.

8. The **Committee on the Rights of the Child** established a follow-up procedure in 1993. Under this procedure, the Committee requested a number of States parties to submit follow-up information (“progress reports”) on specific issues within a deadline explicitly referred to in the concluding observations. From 1994 to 1998 the Committee regularly published and updated a table (most recent version CRC/C/27/Rev.11), reflecting all requests made to States parties, the date and deadline of the request and the status of submission. Between 1993 and the end of 1997, the Committee made 27 such requests and received 16 follow-up responses from States parties. In 1998, the Committee decided to suspend the follow-up procedure as it was no longer considered an optimal approach for two main reasons, notably, (a) due to the backlog of State party reports pending consideration, the Committee decided to use all its limited time for the consideration of periodic reports and (b) the significant role that the United Nations Children’s Fund (UNICEF) and

other United Nations agencies were playing at country level in the follow-up process to the Committee's concluding observations.

9. Since 1998, the Committee has not used a written follow-up procedure, nor does it identify priority issues for follow-up in its concluding observations for the reasons noted above and given the burden of considering reports under three treaties (the Convention on the Rights of the Child and its two Protocols). Committee members also regularly participate in follow-up activities at national and regional level, with the support of OHCHR and UNICEF, as well as others. The significant role played by civil society in this respect is also noteworthy. However, the Committee is aware of the discussions that are taking place in the other treaty bodies and acknowledges that the issue of follow-up is crucial. It has emphasized that it is open to a discussion on follow-up procedures but that the establishment of such a written procedure is linked to the general problem of lack of human and financial resources.

10. The **Committee on Migrant Workers** has yet to establish a follow-up procedure. It discussed this issue at its tenth session in April 2009 and decided not to establish a follow-up procedure for initial reports. Spontaneous follow-up replies received will be examined on an ad hoc basis.

11. The **Committee on the Rights of Persons with Disabilities**, being the youngest Committee, is currently discussing its working methods and has yet to establish a follow-up procedure.