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**Twenty-ninth meeting of Chairs
of the human rights treaty bodies**
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Item 9 of the provisional agenda
Follow-up to concluding observations, decisions and Views

Procedures of the human rights treaty bodies for following up on concluding observations, decisions and Views

Note by the Secretariat*

I. Introduction

1. At their twenty-eighth meeting, held from 30 May to 3 June 2016, the Chairs of the human rights treaty bodies discussed the need to compare practices and further improve the procedures for following up on concluding observations, decisions and Views. Also at that meeting, they decided to include the issue of follow-up procedures in the agenda of their twenty-ninth meeting, to be held in June 2017. The Secretariat prepared the present note to serve as a basis for discussion at that meeting.

2. While it is recognized that the treaty bodies have engaged in a variety of follow-up activities, including country inquiries, workshops at the national and regional levels and country visits, the focus of the present note is essentially on the existing written follow-up procedures adopted by a number of treaty bodies regarding: (a) the concluding observations adopted after the relevant committee has reviewed the reports of States parties; and (b) the decisions and Views adopted on individual complaints. The note contains an overview of the policies and practices on follow-up procedures currently in place and information on how these procedures compare with each other.

II. Background

3. The human rights treaty bodies have regularly underscored the need to improve the procedures for following up on concluding observations, decisions and Views. Notably, at the second inter-committee meeting, held in June 2003, it was recommended that all treaty bodies should examine the possibility of introducing procedures to follow up their recommendations (see A/58/350, annex I, para. 42). That recommendation was reiterated at subsequent inter-committee meetings. In 2009, at the tenth inter-committee meeting, it was reaffirmed that follow-up procedures were an integral part of the reporting procedure and recommended that all treaty bodies should develop modalities for follow-up procedures (see A/65/190, annex I, para. 40).

* The present document was submitted after the deadline in order to reflect the most recent information.



4. Also at the tenth inter-committee meeting, it was suggested that the procedures could consist of one or more mandate holders assessing the information provided by States parties and developing, as necessary, pertinent criteria for analysing the information received. Moreover, a working group on follow-up was established with a view to improving and harmonizing the procedures. In 2011, the working group held its first meeting, at which points of agreement on follow-up to concluding observations, decisions on individual complaints and inquiries were reached (see HRI/ICM/2011/3-HRI/MC/2011/2, para. 61). The points of agreement were submitted to the Chairs of the treaty bodies at their twenty-third meeting, held in June 2011, for approval and subsequent endorsement. The Chairs adopted the document with a minor amendment (see A/66/175, para. 4).

III. Procedures for following up on concluding observations

5. All treaty bodies request States parties to provide, in their periodic reports, information on the implementation of recommendations made in previous concluding observations. In addition, the Human Rights Committee, the Committee against Torture, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of Persons with Disabilities, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Committee on Enforced Disappearances have adopted formal procedures to follow up on the implementation of specific concluding observations or decisions on cases brought under the individual complaints procedures.

6. Follow-up practices and procedures developed by each treaty body, including the criteria for identifying follow-up recommendations and the modalities for assessing follow-up reports, differ from one committee to another. In general, committees appoint a rapporteur or a coordinator on follow-up who is responsible for assessing the follow-up reports of the States parties and presenting them to their committee. The rapporteur assesses the follow-up report, taking into account the information submitted by civil society organizations, national human rights institutions and United Nations entities and agencies, when available. Some members of treaty bodies have undertaken visits to States parties, at the invitation of Governments, in order to follow up on the report and on the implementation of concluding observations.

| <i>Committee</i> | <i>Time frame for follow-up</i> |
|--|--|
| Committee on the Elimination of Racial Discrimination | One year |
| Human Rights Committee | One year |
| Committee against Torture | One year |
| Committee on the Elimination of Discrimination against Women | One-two years (exceptionally, one year) |
| Committee on Enforced Disappearances | One year |
| Committee on the Rights of the Child | No formal follow-up procedure (a procedure was established in 1993 but discontinued in 1999) |
| Committee on the Rights of Persons with Disabilities | One year |
| Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families | Two years |
| Committee on Economic, Social and Cultural Rights | No follow-up procedure |

| <i>Committee</i> | <i>Time frame for follow-up</i> |
|---|---|
| Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment | Does not apply, as States parties reply within six months of the transmittal of the Subcommittee report |

A. Human Rights Committee

7. Under its follow-up procedure, the Human Rights Committee identifies two to four recommendations that require immediate attention and that, in the view of the Committee, can be implemented within one year. States parties have one year to respond to the selected recommendations. The Committee appoints a Special Rapporteur for follow-up on concluding observations and a Deputy Special Rapporteur. The Deputy is tasked with intervening, at the request of the Special Rapporteur, whenever necessary (for example, if the Special Rapporteur is unavailable).

1. Criteria for the selection of recommendations

8. The Committee has established two main criteria for the selection of recommendations for follow-up (see CCPR/C/108/2, para. 6):

- (a) The recommendation is implementable within one year of its adoption;
- (b) The recommendation requires immediate attention because of:
 - (i) The level of gravity of the referred situation;
 - (ii) The emergency of the situation. Such emergency occurs when:
 - The lack of intervention constitutes a major obstacle for the implementation of the International Covenant on Civil and Political Rights;
 - The lack of intervention could threaten the life or security of one or more persons;
 - The issue has been pending for a long time and has not been addressed by the State party (for example, a bill has been pending adoption for an unreasonable length of time).

9. In October 2011, the Committee adopted a set of criteria to assess the replies received from States. The criteria allow for a qualitative assessment of the information provided by States on follow-up and are based on a scale of grades ranging from A to E, with A reflecting the best level of implementation for a recommendation and E the worst. The Committee adopts the grade on the basis of information provided by the State party and others, particularly civil society organizations and national human rights institutions. At its 118th session, held from 17 October to 4 November 2016, the Committee amended the grading criteria for assessing replies from States parties (see table below). The Committee's reports on follow-up to concluding observations and information on grades are available on the Committee's website.¹

¹ http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/FollowUp.aspx?Treaty=CCPR.

2. Criteria for assessing State party replies to recommendations

New criteria for assessing follow-up replies, adopted in November 2016

- A Reply/action largely satisfactory:** The State party has provided evidence of significant action taken towards the implementation of the recommendation made by the Committee: in this case, the Special Rapporteur for follow-up to concluding observations or views requests no additional information from the State party and the follow-up procedure on the particular issue is discontinued.
- B Reply/action partially satisfactory:** The State party took steps towards the implementation of the recommendation but additional information or action remains necessary. In this case, the Special Rapporteur for follow-up to concluding observations or views requests additional information, within a specific time frame or in the next periodic report, on specific points of the State party's previous reply that require clarification, or on additional steps taken by the State party to implement the recommendation.
- C Reply/action not satisfactory:** Response received but actions or information not relevant or do not implement the recommendation. The action taken or information provided by the State party does not address the situation under consideration. In the case of follow-up to concluding observations, information provided by the State party that reiterates information previously made available to the Committee prior to the concluding observations is considered not relevant for these purposes. The Special Rapporteur for follow-up renews the request for information on steps taken to implement the recommendation.
- D No cooperation with the Committee:** No follow-up report received after reminder(s). The State party has not provided a follow-up report after, inter alia, one reminder and a request for a meeting with the Special Rapporteur for follow-up to concluding observations or Views.
- E Information or measures taken are contrary to or reflect rejection of the recommendation:** The State party adopted measures that are contrary to or have results or consequences that are contrary to the recommendation of the Committee or reflect rejection of the recommendation.
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3. Stages of the follow-up procedure

10. The follow-up procedure consists of the following stages:

(a) If the State party fails to submit information, the Special Rapporteur for follow-up on concluding observations sends a reminder. If the Committee does not receive a reply despite a reminder, the Special Rapporteur requests a meeting with a representative of the Permanent Mission of the State party to discuss the status of follow-up, to seek the submission of the outstanding follow-up information within a reasonable time frame and to respond to any questions that may arise. The Special Rapporteur also informs the representative that States parties failing to provide the requested follow-up information are given a D for failure to cooperate with the Committee in the framework of the follow-up procedure and that the grade is made public through inclusion in the Committee's report on follow-up to concluding observations. The follow-up procedure is discontinued for such States parties. The Committee also makes reference to this lack of collaboration during the dialogue;

(b) If the State party submits information, upon receipt of the information and once the deadline for information from other stakeholders has passed, the Secretariat drafts a preliminary analysis of its report that includes a summary of the information provided by the State party and other stakeholders, a suggested evaluation based on the follow-up assessment criteria of the Committee and a recommendation for further action by the Committee;

(c) The Special Rapporteur then presents a follow-up progress report at each session, which is examined, discussed and adopted in plenary. After the adoption of the follow-up progress report, the Special Rapporteur sends letters to the State party, reflecting the analysis and decision adopted by the Committee. The follow-up report is made public on the website of the Committee together with an annex reflecting the status of the follow-up to concluding observations procedure (available in English only);

(d) The follow-up procedure can be discontinued under the following circumstances: (a) if the replies are considered satisfactory; (b) if the State party has provided three substantive replies; (c) if the list of issues (or the list of issues prior to reporting, as appropriate) for the State party is due to be adopted within six months of the adoption of the follow-up progress report (in which case, the follow-up questions that are not addressed in the replies are included in the relevant list); (d) if the subsequent periodic report is due between 6 and 12 months of the adoption of the follow-up progress report (follow-up questions that are not addressed in the response are automatically included in the relevant list of issues); and (e) if the State party does not cooperate, in other words if it fails to provide a follow-up report after, *inter alia*, one reminder and a request for a meeting with the Special Rapporteur (see CCPR/C/108/2, para. 25).

B. Committee against Torture

11. At its thirtieth session, held from 28 April to 16 May 2003, the Committee against Torture adopted a procedure for follow-up to concluding observations (see A/58/44, para. 12). Under that procedure, the Committee identifies a limited number of recommendations for which implementation is a priority and it requests additional information from States parties. The Committee has revised its follow-up procedure periodically. The Committee has appointed a Rapporteur on follow-up to concluding observations on reports submitted under article 19 of the Convention (see A/59/44, para. 15), whose responsibilities touch on a range of issues, from the adoption of concluding observations to the discontinuation of the follow-up procedure.

1. Criteria for the selection of recommendations

12. In 2014, the Committee adopted new guidelines for follow-up to concluding observations, establishing criteria for identifying and selecting recommendations for follow-up. It decided that the recommendations selected for follow-up must contribute to the prevention of torture and the protection of victims, for example, by resulting in:

- (a) The strengthening of legal safeguards for people deprived of their liberty;
- (b) The conduct of prompt and impartial investigations of alleged cases of torture or ill-treatment;
- (c) The prosecution of suspects and the punishment of perpetrators of torture or ill-treatment;
- (d) The provision of redress to victims (see CAT/C/55/3, para. 7).

13. In addition, the Committee selects a maximum of four recommendations for follow-up. Those recommendations must be specific, measurable, attainable, realistic and time-bound and implementable within a year. The selected recommendations are specifically identified in a paragraph at the end of the Committee's concluding observations (see CAT/C/55/3, para. 10). The new procedure also encourages States to come up with plans for implementing the recommendations.

2. Criteria for assessment of follow-up replies

14. The Committee's follow-up procedure incorporates three categories of rankings:

- (a) Category I (0-3) assesses the quality and extent of the information provided by States;

- (b) Category II (A-E) assesses the level of implementation of the recommendations identified for follow-up;
- (c) Category III (A-C) assesses the quality of States' implementation plans.

Category I

15. The Rapporteur uses the following classification to assess the information provided by States parties (see CAT/C/55/3, para. 19):

- (a) The information is thorough and extensive, and relates directly to the recommendations (satisfactory — 3);
- (b) The information is thorough and extensive, but fails to respond fully to the recommendations (partly satisfactory — 2);
- (c) The information is vague and incomplete and/or fails to address the recommendations (unsatisfactory — 1);
- (d) The State party has not addressed the concern or recommendations in the response (no response — 0).

Category II

16. Implementation is assessed using the following categories (see CAT/C/55/3, para. 20):

- (a) The recommendation has largely been implemented (the State party has provided evidence that sufficient action has been taken towards the full or almost full implementation of the recommendation — A);
- (b) The recommendation has been partially implemented (the State party has taken substantive steps towards the implementation of the recommendation but further action is needed — B1);
- (c) The recommendation has been partially implemented (the State party has taken initial steps towards implementation but further action is needed — B2);
- (d) The recommendation has not been implemented (the State party has taken no action to implement the recommendation or the action taken has not addressed the situation — C);
- (e) The information provided is insufficient to assess implementation (the State party has not provided enough information on the measures taken to implement the recommendation — D);
- (f) The recommendation has been counteracted (the State party adopted measures that are contrary or have results contrary to the recommendations of the Committee — E).

Category III

17. Assessment of implementation is graded as follows (see CAT/C/55/3, para. 21):

- (a) The implementation plan largely addresses all of the Committee's recommendations (A);
- (b) The implementation plan addresses some of the Committee's recommendations (B);
- (c) The implementation plan has not been provided (C).

3. Stages of the follow-up procedure

18. The Rapporteur analyses the information submitted by the States parties and evaluates the response in consultation with the country rapporteurs and presents a follow-up progress report in a public plenary.

19. After assessing the information, the Rapporteur communicates with the State party through its Permanent Mission and may ask for supplementary information specifying a time frame for submission or inclusion in the next periodic report. The Rapporteur sends a maximum of two reminders if the State party fails to submit a report; in the second reminder, the Rapporteur requests a meeting with a representative of the Permanent Mission.

20. If the recommendations are partially implemented or not implemented (categories B or C), the Committee encourages the State party to fully implement the recommendation before the next reporting cycle and to provide additional information, within a specific time frame or in the next periodic report, on specific passages of its previous reply that require clarification or on additional steps taken to implement the recommendation (see CAT/C/55/3, para. 23).

21. If the measures taken are contrary to the recommendation of the Committee (category E), the rapporteur regrets that such measures were taken and/or reiterates the Committee's recommendation.

22. The follow-up procedure may be discontinued only if the information submitted by the State party is satisfactory and the recommendations have been largely implemented (category A). In all other cases, the unimplemented recommendations will be incorporated into the subsequent reporting cycle.

23. At each session of the Committee, the Rapporteur reports on the results of the procedure to the Committee, which can be found in the annual report. All follow-up reports, letters and reminders are posted on the Committee's web page.²

C. Committee on the Elimination of Discrimination against Women

24. The Committee on the Elimination of Discrimination against Women first introduced a follow-up procedure at its forty-first session, in July 2008. Under the current follow-up procedure, the Committee requests the State party to provide information within two years or, exceptionally, one year, on steps taken to implement specific recommendations. The Committee selects a maximum of four issues or recommendations for follow-up and requests the State party to submit concise information on the recommendations identified by the Committee (no more than 4,000 words).

1. Criteria for the selection of recommendations

25. The recommendations for follow-up are selected because it is considered that the lack of implementation would constitute a major obstacle to women's enjoyment of their human rights and, therefore, to the implementation of the Convention on the Elimination of All Forms of Discrimination against Women as a whole.³ The Committee has a Rapporteur on follow-up and an alternate rapporteur who review and assess the follow-up information with the help of the Committee member who acted as country rapporteur when the State party presented its periodic report or other Committee members. The Committee also applies a specific follow-up approach for States parties in conflict or post-conflict situations.

2. Criteria for assessment of follow-up replies

26. In January 2010, the Committee adopted procedural guidelines to assess follow-up reports. It reviewed the follow-up methodology at its fifty-fourth session, in February 2013. That methodology, which is similar to the procedures of the Human Rights Committee, the Committee against Torture, the Committee on the Elimination of Racial Discrimination and the Committee on the Rights of Persons with Disabilities, provides for a qualitative assessment based on the following predefined categories:

² See www.ohchr.org/EN/HRBodies/CAT/Pages/Follow-up.aspx.

³ Committee decision 54/IX (see A/68/38, annex III).

(a) “Implemented”: the follow-up information received indicates that the State party has been responsive to the specific recommendations considered and has taken substantial steps to implement the recommendations made by the Committee;

(b) “Partially implemented”: the follow-up information received indicates that the State party has taken some steps to implement the recommendations of the Committee, but also that the State party has failed to address some issues raised by the Committee in its recommendations and concerns. On the basis of the recommendations considered to have been partially implemented, the Committee decides whether to request further clarifications, whether to recommend technical assistance or whether to take any other action;

(c) “Not implemented”: the follow-up information provided indicates that the State party did not take sufficient steps to implement the recommendations. On the basis of the recommendations considered “not implemented”, the Committee selects whether to request further clarifications, whether to recommend technical assistance, whether to consider conducting country visits or whether to take any other action;

(d) “Lack of sufficient information”: if the State party does not provide follow-up information, the Committee will request it to provide information on action taken to implement the selected recommendations.

27. In February 2013, the Committee adopted guidelines for States parties, non-governmental organizations (NGOs), national human rights institutions and other organizations regarding the submission of follow-up reports and information that would improve the quality of the follow-up reports.

3. Stages of the follow-up procedure

28. Upon receipt of the follow-up report, the Rapporteur on follow-up, the alternate and the respective country rapporteur or other members of the Committee, with the support of the Secretariat, assess the report to determine whether or not the State party has adequately addressed the issues raised by the Committee and and/or whether further information is required based on the following categories: implemented; partially implemented; not implemented; and lack of sufficient information received to make an assessment.

29. Unless a recommendation was fully implemented, the Committee, based on the recommendations made by the Rapporteur, can ask for further information to be included in the next periodic report or, alternatively, within a specific time frame.

30. At each session, the Rapporteur briefs the Committee, in a closed meeting, on proposed action or action already taken. The Rapporteur on follow-up transmits the Committee’s assessment in writing to the State party concerned. Letters from the Committee to the States parties, follow-up reports of the States parties, non-confidential reports of NGOs or national human rights institutions are posted on the web page of the Committee after each session.

31. In the absence of a response from the State party, the Rapporteur transmits a first reminder after two months of the information being overdue and a second reminder after four months. If information is not received within six months, the Rapporteur requests a meeting with a representative of the Permanent Mission of the State party to discuss the status of follow-up, to seek the submission of the outstanding follow-up information within a reasonable time frame and to respond to any questions that may arise.

32. Follow-up information on all recommendations contained in the previous concluding observations are systematically included in the next periodic report and outstanding follow-up recommendations are addressed in the list of issues and/or the ensuing dialogue.

D. Committee on the Elimination of Racial Discrimination

33. In line with rule 65 of its rules of procedure, the Committee on the Elimination of Racial Discrimination may request further information or an additional report concerning

any action taken by States parties to implement the Committee's recommendations. In 2004, the Committee decided to strengthen its follow-up procedure and appointed a coordinator and an alternate for a period of two years. The Committee has developed guidelines to follow up concluding observations and recommendations, which are transmitted to the State party together with the concluding observations. The guidelines, however, do not provide guidance to the State party on page limits or any other aspect of the response requested.

34. As for the assessment of follow-up information received from States parties, unlike the Human Rights Committee, the Committee on Enforced Disappearances, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of Persons with Disabilities and the Committee against Torture, the Committee on the Elimination of Racial Discrimination has not adopted defined categories nor does it use a grading system. The Committee either expresses satisfaction with the response or expresses regret that the State party did not comment directly or provide specific details on the implementation of the recommendations. Consequently, it requests the State party to submit additional information in the next periodic report.

1. Stages of the follow-up procedure

35. The Secretariat produces a follow-up summary report that includes a summary of all stakeholders' submissions and a recommendation concerning an action by the Committee. In the absence of information from NGOs and national human rights institutions or of other follow-up reports, the Secretariat includes background research information. The Secretariat sends a draft of the report to the Rapporteur for approval. The Rapporteur consults the country rapporteur on the suggested action, after which the follow-up summary report is presented for discussion and analysis in a public plenary.

36. Once the report has been adopted, follow-up letters are sent to the State party and posted on the Committee's web page. The coordinator is also mandated to send reminders to States parties who fail to submit follow-up information on time.

E. Committee on Enforced Disappearances

37. The Committee on Enforced Disappearances identifies recommendations that are particularly serious, urgent, protective and/or can be achieved within a short period of time. It then requests States parties to provide information on measures taken towards their implementation. In accordance with rule 54 of its rules of procedure, the Committee, in September 2014, adopted the modalities for assessment of information received under its follow-up procedure.

1. Criteria for assessment of follow-up replies

38. The Committee uses the following criteria to assess the information submitted by States parties:

Assessment of replies

A Reply/action satisfactory

Reply largely satisfactory

B Reply/action partially satisfactory

Substantive action taken, but additional information required

Initial action taken, but additional information and measures required

Assessment of replies

C Reply/action not satisfactory

Reply received but action taken does not implement the recommendation

Reply received but not relevant to the recommendations

No reply received concerning a specific matter in the recommendation

D No cooperation with the Committee

No reply received after reminder(s)

E The measures taken are contrary to the Committee's recommendations

The reply reveals that the measures taken are contrary to the Committee's recommendations

2. Stages of the follow-up procedure

39. States parties are supposed to submit information on follow-up to selected recommendations within one year. Rapporteurs on follow-up to concluding observations are appointed to follow-up on the compliance of States parties with the request. In consultation with the country rapporteurs, the Rapporteurs prepare a report on their assessment of the information received, which they submit to the Committee at every session. On the basis of that report, the Committee assesses information on each chosen recommendation and communicates its assessment to the State party concerned through the Rapporteurs. The Committee may request the State party to provide supplementary information by a specific deadline.

F. Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

40. At its twenty-first session, in September 2014, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families established a follow-up procedure under which the country rapporteur identifies three to four priority recommendations and requests States parties to report on their implementation. States parties should submit their reports within two years. The Committee has not adopted predefined categories or a grading system for the assessment of follow-up reports. Each country rapporteur acts as Rapporteur for follow-up to concluding observations (see A/70/48, para. 32). As at the time of writing, the Committee has not received any follow-up report from States parties.

G. Committee on the Rights of Persons with Disabilities

41. The Committee on the Rights of Persons with Disabilities has adopted a follow-up procedure under which it identifies a number of specific recommendations of concern (not exceeding two per country) in its concluding observations and requests the State party concerned to provide additional information, within one year, on their implementation. The Committee appoints one of its members to serve as Rapporteur on follow-up, who submits a report to the Committee within two months of receiving the information from the State party.

42. At its twelfth session, in November 2014, the Committee adopted guidelines on the procedure for following up on its concluding observations.

1. Criteria for the selection of recommendations

43. The Committee applies the following criteria to identify recommendations for follow-up:

- (a) Whether the recommendation can be implemented in the short, medium or long term;
- (b) Whether the issues identified in the recommendation constitute a major obstacle to the enjoyment by persons with disabilities of their human rights and would therefore constitute a major obstacle to the implementation of the Convention on the Rights of Persons with Disabilities as a whole;
- (c) Whether the implementation of the recommendation is feasible and measurable;
- (d) The seriousness of the issues and the feasibility of adopting implementation measures within a calendar year;
- (e) The feasibility of adopting short-term policies to overcome the selected concerns.

2. Criteria for assessment of follow-up replies

44. The Committee has established three categories to assess the replies provided by the State party: satisfactory, partially satisfactory and unsatisfactory:

- (a) Satisfactory replies: if the Committee considers that the reply is satisfactory, the follow-up procedure shall be discontinued and the Secretariat of the Committee shall inform the Permanent Mission of the State party concerned accordingly;
- (b) Partially satisfactory replies: if the Committee considers that the reply is partially satisfactory, when the State party's reply indicates that some measures have been adopted and the Committee considers that the State party could benefit from the technical advice of the Committee, the Committee may offer support to the State party under its capacity-building mandate (art. 37 (2) of the Convention). Should the State party accept to avail itself of the Committee's advisory role under its capacity-building mandate, the follow-up procedure shall be discontinued and the situation shall continue to be addressed under the capacity-building mandate;
- (c) Unsatisfactory replies: if the Committee considers that the State party's reply is not satisfactory, that the measures taken are insufficient or that no change has taken place at all, the Committee may indicate in a formal reply that more needs to be done to achieve implementation and may invite the Permanent Mission of the State party concerned to a private meeting with the rapporteur on follow-up, to explore ways in which the country can move ahead with implementation (see CRPD/C/12/2, para. 4).

3. Stages of the follow-up procedure

45. Once the reply is received from the State party, the rapporteur on follow-up and the country rapporteur of the country concerned analyse all information submitted, propose an assessment to the Committee and ask for further information, if required, from the State party. If the State party has not provided follow-up information by the deadline, the Committee sends a reminder.

46. The Committee meets with the Permanent Mission for the second follow-up meeting and, if no progress is made despite the meeting, the Committee may discontinue its follow-up procedure.

H. Committee on Economic, Social and Cultural Rights

47. 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. At its sixtieth session, in February 2017, the Committee agreed to introduce a written follow-up procedure in its work from its sixty-first session, in May and June 2017. The specific modalities of the procedure will be discussed at the beginning of the sixty-first session, with a view to formally adopting a procedure. The Committee is benefiting from the experience of the other treaty bodies who have already established such a procedure.

I. Committee on the Rights of the Child

48. The Committee on the Rights of the Child does not currently have a written follow-up procedure. The Committee had established a follow-up procedure in 1993, under which it had requested a number of States parties to submit follow-up information (“progress reports”) on specific issues within a deadline set out in the concluding observations. In 1999, the Committee decided to suspend the follow-up procedure as it was no longer considered an optimal approach, for two main reasons: (a) the Committee’s decision to use all its limited meeting time for the consideration of periodic reports given the significant backlog of State party reports pending consideration due to high number of ratification of the treaty; and (b) the significant role that the United Nations Children’s Fund (UNICEF), the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and other United Nations agencies were playing at the country level in the follow-up process to the Committee’s concluding observations.

J. Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

49. The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment carries out monitoring visits to places of detention and other places where persons are or might be deprived of their liberty in the territories of States parties, including police stations, prisons, mental health institutions, migrant retention centres and social care institutions. It also undertakes advisory visits to States parties on the establishment of national preventive mechanisms. At the end of a visit, the Subcommittee communicates its recommendations and observations to the States parties or, if appropriate, to the national preventive mechanism, by means of a confidential report that can be made public at the request of the State party or national preventive mechanism concerned. States parties and national preventive mechanisms have six months to reply to the Subcommittee’s report. If the Subcommittee considers it appropriate, it may propose a short follow-up visit after the main visit. Regular follow-up visits are undertaken to assess implementation by the State party of the Subcommittee’s previous recommendations, including recommendations on the establishment of a national preventive mechanism. Between visits, the Subcommittee follows up on its recommendations through regular confidential contacts with the State party or the national preventive mechanism, as appropriate.

Written follow-up procedures, by committee

| | <i>Human Rights Committee</i> | <i>Committee against Torture</i> | <i>Committee on the Elimination of Racial Discrimination</i> | <i>Committee on the Elimination of Discrimination against Women</i> | <i>Committee on Enforced Disappearances</i> | <i>Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families</i> | <i>Committee on the Rights of Persons with Disabilities</i> |
|--|-------------------------------|-------------------------------------|--|---|---|---|---|
| Number of recommendations identified in each set of concluding observations under follow-up procedure | Up to four | Up to four | Three or four | Two | Not specified | Three or four | One or two |
| Time limit for response by the State party | One year | One year | One year | One to two years | One year | Two years | One year |
| Follow-up/Special Rapporteur/Coordinator | Yes | Yes | Yes (and alternate) | Yes (and alternate) | Yes | Yes | Yes |
| Report of the Follow-up/Special Rapporteur/coordinator examined by the Committee | In a public meeting | In a public meeting | In a private meeting | In a private meeting | In a private meeting | In a private meeting | In a private meeting |
| Report of the Special/Follow-up Rapporteur/coordinator is included in the report to the General Assembly | Yes (only reference is made) | Yes (detailed analysis is included) | Yes | Yes | Yes (only reference is made) | No follow-up report has been received yet | Yes (only reference is made) |
| Qualitative assessment of follow-up report on the basis of categories | Yes | Yes | No | Yes | Yes | No | Yes |

| | <i>Human Rights Committee</i> | <i>Committee against Torture</i> | <i>Committee on the Elimination of Racial Discrimination</i> | <i>Committee on the Elimination of Discrimination against Women</i> | <i>Committee on Enforced Disappearances</i> | <i>Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families</i> | <i>Committee on the Rights of Persons with Disabilities</i> |
|---|--|---|---|--|---|---|---|
| Guidelines for States on follow-up report (format/length) | Yes | Yes | Yes (although no reference is made to the format or the length of the follow-up report) | Yes | No | No | Yes |
| Periodicity of reminders | No periodicity. If no reply is received at the session when the report is due, the rapporteur requests meeting with State party. | Rapporteur sends reminder requesting outstanding report. | One month after deadline. | Two and six months after the deadline. If no reply is received after six months, the rapporteur may hold consultations with the State party | No periodicity. | To be determined. | No specific time frame is specified in the guidelines. |
| Information publicized on the Committee's web page | 1. Follow-up report 2. Information from other sources 3. Letter by the Rapporteur 4. Annex on the status of submission of reports on follow-up (updated after each session) | 1. Follow-up report 2. Information from other sources 3. Communications sent by the Rapporteur 4. Overview of the follow-up procedure (updated after every session) 5. Relevant chapters of the Annual report | 1. Follow-up report 2. Letter by the Chair | 1. Follow-up report 2. Information from other sources 3. Letter by the Rapporteur 4. Reminders to States parties | 1. Follow-up report 2. Follow-up decision adopted by the Committee | - | 1. Follow-up report 2. Information from other sources |

IV. Follow-up procedures for individual complaints

A. Overview

50. Eight treaty bodies currently deal with individual communications: the Human Rights Committee, the Committee on the Elimination of Racial Discrimination, the Committee against Torture, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of Persons with Disabilities, the Committee on Enforced Disappearances, the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child. All of them monitor and encourage the implementation of their decisions on individual complaints of human rights violations. Among them, six (the Human Rights Committee, the Committee on the Elimination of Racial Discrimination, the Committee against Torture, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of Persons with Disabilities and the Committee on Enforced Disappearances) have formal follow-up procedures to assess compliance with decisions. To a large extent, those procedures have been harmonized.

51. At its thirty-ninth session, in July 1990, the Human Rights Committee established the mandate of Special Rapporteur for follow-up on Views (see A/45/40 (vol. II), annex XI). The Committee against Torture and the Committee on the Elimination of Racial Discrimination commenced their follow-up procedure in May 2002 (see A/57/44) and August 2005 (see A/60/18) respectively. In September 2013, the Committee on the Rights of Persons with Disabilities initiated its follow-up procedure. No committee, however, has yet adopted procedural guidelines on how to assess the information received from States parties and complainants under the follow-up procedure. The lack of a written methodology affects the consistency and sustainability of the procedure owing to the turnover of committee rapporteurs and Secretariat staff.

B. Proposed remedies following the finding of violations

52. Upon finding a violation, all committees dealing with individual communications request the States parties concerned to provide information on the steps taken to implement the recommendations within a particular period. The requests appear at the end of the dispositive part of the decisions of all committees. While these technical paragraphs are standard for each committee, they differ from one another.

53. The committees recommend various types of remedies to redress human rights violations. The most common is compensation (the amount is never specified). The committees may also recommend release, investigation, retrial, non-removal of the victim or amendments to legislation, among other options. The remedies suggested to the State party by the Committee on the Elimination of Discrimination against Women, the Committee on Enforced Disappearances, the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of Persons with Disabilities differ somewhat from those suggested by the other committees. While the Committee on the Elimination of Racial Discrimination and the Committee against Torture only suggest a remedy for the particular victim of the violation, the Committee on the Elimination of Discrimination against Women, the Committee on Enforced Disappearances, the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of Persons with Disabilities (and more recently and gradually, the Human Rights Committee) set out recommendations relating to the victim, including on compensation, as well as more general recommendations to prevent and rectify the violation.

54. At times, as in the case of Human Rights Committee and the Committee against Torture, the recommendations are not very detailed and, for example, refer broadly to the provision of an adequate or an effective remedy. Often, however, the recommendations are more specific, and request, for example, the payment of adequate compensation, early

release, the refraining from forcible removal of the victim, a retrial or amendments to legislation.

C. Rapporteurs on follow-up

55. The Human Rights Committee, the Committee against Torture, the Committee on the Rights of Persons with Disabilities and the Committee on the Elimination of Racial Discrimination each elect, from among their members, a Rapporteur or Special Rapporteur on follow-up to Views. The Committee on the Elimination of Discrimination against Women designates two Rapporteurs on follow-up.

D. Analysis of follow-up information

56. All of the committees adopt follow-up decisions based on an analysis of follow-up information provided by States parties and/or complainants. The Human Rights Committee, the Committee on the Elimination of Racial Discrimination, the Committee against Torture, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of Persons with Disabilities have a formal follow-up procedure to assess compliance with decisions.

57. In March 2017, the Human Rights Committee introduced a new, simplified grading system that did away with subgrades and whereby: A — response largely satisfactory; B — action taken, but additional information of measures required; C — response received, but actions or information not relevant or do not implement the recommendation; D — non-cooperation with the Committee and no follow-up report received after reminders; and E — response indicates that the measures taken are contrary to the Committee's recommendation. The system used by the Committee on the Rights of Persons with Disabilities and the Committee on Enforced Disappearances, however, still includes subgrades.

E. Phases of follow-up procedures on individual communications

58. The standard follow-up process typically has the following major phases, although there are some differences among committees in terms of the deadline for submission of information, the assessment of information etc. (see annex II):

(a) When it finds a violation of the Convention, the committee gives the State party a set time limit (between 90 and 180 days) to provide information on measures taken to comply with the committee's recommendation;

(b) If information is received from the State party, it is routinely transmitted to the author, who is given a specified time (generally, two months) to comment on the State party's submission;

(c) Once information has been received from the author, the Rapporteur on follow-up to Views prepares summary of the State party's response and the author's comments and makes a recommendation to the committee, in plenary, on the follow-up measures to be adopted;

(d) If the committee does not receive a reply from the State party within a reasonable time after the deadline, the Rapporteur, through the secretariat, sends up to three reminders to the State party. If the State party does not reply despite the reminders, the Rapporteur requests a meeting with the representative of the State party in Geneva;

(e) Upon receipt of a response by the State party and the author, the Rapporteur presents his or her report on follow-up, including recommendations on further action, to the committee;

(f) The committee sends a letter to the State party and, if appropriate, to the Rapporteur on follow-up, who holds meetings with representatives of the State party in Geneva in order to share the committee's concerns about the implementation of its Views,

listen to the position of the State party in that regard and find possible ways of assisting the State party to implement those Views;

(g) Implementation of the general recommendations contained in the Views of the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of Persons with Disabilities and the Committee on Enforced Disappearances is monitored under the follow-up procedure, unless the committee concerned decides otherwise or decides not to pursue the matter. General recommendations are also examined during the consideration of the next periodic report of the State party. However, the Committee may continue to consider general recommendations as a part of its procedure on follow-up to Views;

(h) Generally, the follow-up procedure is carried forward by the Rapporteur and the committee, in plenary, until such time as a decision is taken not to pursue the matter further.

F. Confidentiality and publication online

59. The Human Rights Committee and the Committee against Torture consider interim follow-up reports in public session, while the Committee on the Rights of Persons with Disabilities, the Committee on the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination against Women hold such meetings in private. All committees consider that information provided in the context of follow-up to their decisions is public. Although the submissions are not accessible to the general public, including on the website, the follow-up reports on Views are posted on the web pages of the committees. The report of the Rapporteur also includes summaries of submissions by States parties. All committees include summaries of interim follow-up information in their annual reports.

Annex I

Assessment criteria

Assessment criteria of the Committee on the Rights of Persons with Disabilities and the Committee on Enforced Disappearances on individual communications

Assessment criteria

Action satisfactory

A Measures taken largely satisfactory

Action partially satisfactory

B1 Substantive action taken, but additional information required

B2 Initial action taken, but additional action and information required

Action not satisfactory

C1 Reply received but actions taken do not implement the Views/recommendations

C2 Reply received but not relevant to the Views/recommendations

No cooperation with the Committee

D1 No reply to one or more recommendations or parts of recommendations

D2 No reply received following reminder(s)

Measures taken are contrary to the recommendations of the Committee

E The reply indicates that the measures taken go against the Views/recommendations of the Committee

New assessment criteria of Human Rights Committee

New criteria for assessing follow-up replies, adopted in November 2016

A **Reply/action largely satisfactory:** The State party has provided evidence of significant action taken towards the implementation of the recommendation made by the Committee: in this case, the Special Rapporteur for follow-up to concluding observations or views requests no additional information from the State party and the follow-up procedure on the particular issue is discontinued.

B **Reply/action partially satisfactory:** The State party took steps towards the implementation of the recommendation but additional information or action remains necessary. In this case, the Special Rapporteur for follow-up to concluding observations or views requests additional information, within a specific time frame or in the next periodic report, on specific points of the State party's previous reply that require clarification, or on additional steps taken by the State party to implement the recommendation.

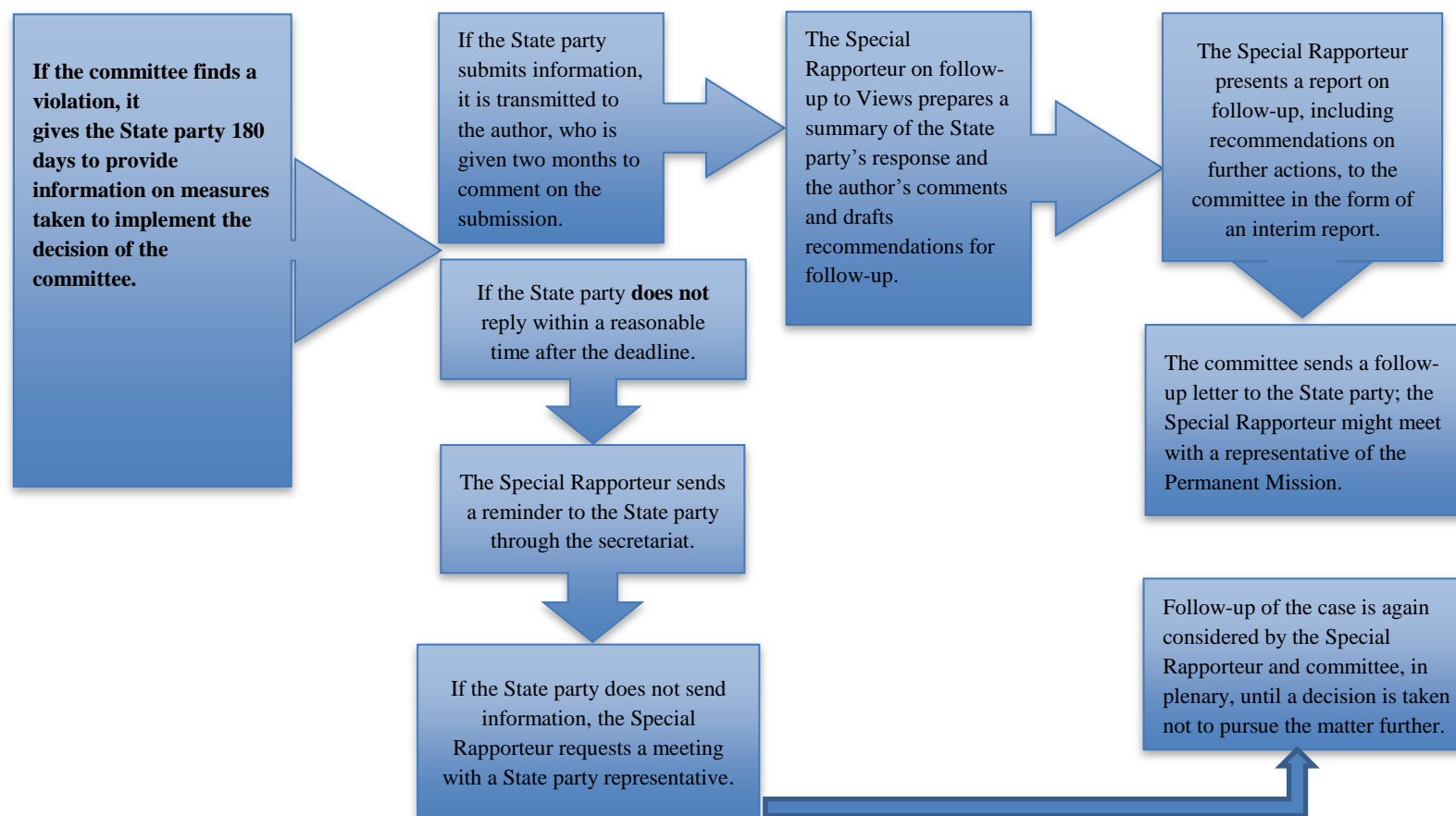
C **Reply/action not satisfactory:** Response received but actions or information not relevant or do not implement the recommendation. The action taken or information provided by the State party does not address the situation under consideration. In the case of follow-up to concluding observations, information provided by the State party that reiterates information previously made available to the Committee prior to the concluding observations is considered not relevant for these purposes. The Special Rapporteur for follow-up renews the request for information on steps taken to implement the recommendation.

New criteria for assessing follow-up replies, adopted in November 2016

- D No cooperation with the Committee:** No follow-up report received after reminder(s). The State party has not provided a follow-up report after, inter alia, one reminder and a request for a meeting with the Special Rapporteur for follow-up to concluding observations or Views.
- E Information or measures taken are contrary to or reflect rejection of the recommendation:** The State party adopted measures that are contrary to or have results or consequences that are contrary to the recommendation of the Committee or reflect rejection of the recommendation.
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Annex II

Typical stages of the procedure for following up on individual communications*



* The procedure followed by the Human Rights Committee is used as an example.