

Distr.: General
8 December 2022

Original: English

Advance unedited version

Human Rights Committee

Note by the Human Rights Committee on the procedure for follow-up on Views*

I. Introduction

1. The Human Rights Committee adopted, in its 136th Session, Guidelines for the follow-up reports on Views, for the purpose of ascertaining the implementation measures taken by States parties to give effect to the Committee's Views.
2. The Guidelines, which draw on the Committee's experience since 1990, are conceived as a roadmap for the future activity of the Committee on this issue and will be progressively implemented. In the absence of adequate human and financial resources in the Secretariat, the Committee does not have the capacity to engage, at this stage, in follow-up to the more than 1,200 cases currently subject to this procedure.
3. Notwithstanding, the new Guidelines on the Follow-up Procedure to Views intend to lay the foundations for a future integrated and complete follow-up procedure to the Views adopted by the Committee.
4. The main improvements of the new Guidelines are the following:
 - the follow-up procedure intends to progressively cover all the Views issued by the Committee, first all new adopted Views and then, the past Views as well, depending on the human resources available;
 - both the State party and the author(s) will be invited to submit information on the follow-up to the adopted Views, according to specific criteria, in a first stage by email, and later by using the portal being designed to that effect by the OHCHR, as soon as this portal becomes operational;
 - the Committee may also receive information from other stakeholders;
 - once the Guidelines are fully tested and operational, new adopted cases will be included in two lists: the first list (1-2 years) will cover cases where information for follow-up is still being received from the parties; the second list (3-5 years) will include those cases where such information has already been received but the follow-up procedure is still ongoing;
 - past cases may be selected for follow-up, taking into account the following elements: (i) gravity of the harm suffered by the victim(s)/author(s); (ii) urgency of the remedies to be provided; (iii) systematic nature of the violations; (iv) subsequent deteriorating situation after the adoption of the Views;
 - the Committee will decide when, how and why to close the follow-up procedure (for example, when the implementation has been satisfactory or partially satisfactory) or

* This note on the procedure for follow-up on Views is adopted by the Committee at its 136th session (10 October – 4 November 2022).

to suspend it (for example, in cases for which no further information has been provided in the past five years either by the author or his/her representative).

- The new Guidelines will bring many advantages to the Committee's work.
 - It will be possible, for example, to have information available for the preparation of List of Issues (LOIs) and List of Issues Prior to Reporting (LOIPR) for the periodic review of States party and for the preparation of Concluding Observations following such review.
 - Such information will also be available to other treaty bodies, to the Human Rights Council for the preparation of Universal Periodic Review cycles, to mandate-holders of relevant Special Procedures and to the OHCHR regional and/or country offices.
 - The information will finally be available to concerned stakeholders (States parties, civil society, National Human Rights Institutions, NGOs).
5. Being a pilot project, the Committee will assess the advantages and shortcomings of such an initiative, which may prove useful for other treaty bodies as well.
6. The implementation of the new Guidelines will be aligned and integrated with the new case management system that the OHCHR is currently developing for handling individual communications, so that the information needed for the follow-up procedure is duly collected and processed by such a system.
7. In the first phase of the implementation of the new Guidelines, the current reporting procedure will continue to be followed (2 reports on follow-up to Views per year), although the new criteria will already be applied in the selection of cases for such reports.

II. Guidelines on Follow-up on Views

8. Bearing in mind that, in 2011, the Inter-Committee Meeting of the human rights treaty bodies recommended that common procedural guidelines should be drafted with the purpose of complementing the existing rules of procedure and practice on follow-up in respect of individual complaints (HRI/ICM/2011/3-HRI/MC/2011/2, para. 61, B (a)), the Committee adopted, at its 136th session, the present guidelines on the follow-up to Views on the basis of the practice developed by the Committee to promote the effective implementation of the Views. The guidelines will be implemented progressively once the new case management system of the Secretariat becomes fully operational.

III. Introduction to the Follow-up Procedure to Views

9. Pursuant to article 2 of the Covenant, States parties to the Covenant have undertaken to ensure to all individuals within their territories and subject to their jurisdiction the rights recognized in the Covenant and to provide them with an effective remedy when it has been determined that a violation has occurred. In addition, by becoming a party to the Optional Protocol, States parties have recognized the competence of the Committee to determine, when considering communications from individuals subject to their jurisdiction who claim to be victims of a violation of any of the rights set forth in the Covenant, whether there has been a violation of the Covenant or not. In light of those obligations from States parties, the Committee takes decisions on individual communications and, when deciding on the merits, issues Views, who are then forwarded to the State party and to the individual concerned. The Committee may, in this regard, prepare follow-up reports on Views adopted under article 5 (4) of the Optional Protocol, for the purpose of ascertaining the implementation measures taken by States parties to give effect to the Committee's Views.

10. As referred to in the last report of the Secretary General to the General Assembly on the "*Status of the human rights treaty body system*", of 8 August 2022 (A/77/279 Annexes, p. 51), "*A significant aspect of the effectiveness of treaty bodies to protect human rights and ensure a direct impact of their decisions relates to their ability to follow-up to on the implementation of those decisions in which they found that the State party violated treaty provisions*".

IV. The Special Rapporteurs on Follow-up to Views

11. At its thirty-ninth session (9–27 July 1990), the Human Rights Committee established a procedure and designated a Special Rapporteur to monitor follow-up on its Views adopted under article 5 (4) of the Optional Protocol. In accordance with Rule 106, paragraph 3, of the Committee’s Rules of Procedure (CCPR/C/3/Rev.12), the Special Rapporteur for follow-up to Views prepares regularly a report which is submitted to the Committee and published in the Committee’s annual report. At its 130th session, the decision was adopted to appoint a Deputy Special Rapporteur in addition to a Special Rapporteur.

A. Definition of Assessment Criteria for Follow-up to Views

12. At its 109th session (14 October–1 November 2013), the Committee decided to include in its reports on follow-up to Views an assessment of the information received from and action taken by States parties, taking into account also the information received by the author(s) and/or counsel. This assessment was based on criteria similar to those applied by the Committee in the procedure for follow-up to its concluding observations on State party reports. At its 118th session (17 October–4 November 2016), the Committee decided to revise its previous assessment criteria.

B. Initial Process of the Follow-up to Views and timeframe for submission of follow-up observations by the State party and of comments by the author

13. The Views should be submitted both to the author(s) and the State Party within 30 days of their adoption or within 30 days after the reception of any dissenting opinions. When the Committee adopts Views finding that a State party has violated the rights of the author(s) under the Covenant, it requests the State party to submit, within 180 days, follow-up observations about the measures taken to give effect to the reparation recommended in the Views (“observations” from the State party).

14. A Special Rapporteur and a deputy Special Rapporteur for follow-up on Views (Special Rapporteurs), upon receiving the observations from the State party, transmit them to the author(s) and/or counsel with the request to submit comments on the observations (“comments” from the author(s)) within 90 days. If the State party has failed to submit the observations in the designated deadline, the Special Rapporteurs inform the author(s) and/or counsel of this fact.

15. The Committee may also receive information from other stakeholders on the implementation of the Views within the same period (90 days) for which the author is allowed to submit the comments.

C. Guidelines on the drafting of the observations from the State party

16. When sending Views to the State party, the Committee refers the State Party to the present Guidelines, published on the web page of the Committee, which explain the drafting of the observations the State party is requested to submit. It is important that:

- (a) The observations shall be concise and focus specifically on the remedy indicated in the Views adopted by the Committee;
- (b) The observations should in general not exceed a maximum length of 3,500 words;
- (c) The observations should include the following elements:
 - (i) Date and minutes of any meetings with the author(s) and/or representative (counsel);
 - (ii) Specification of authorities in the State party responsible for the implementation of each reparative measure recommended in the Views;
 - (iii) Concrete measures the State party has taken and/or plans to take to comply with the Views and timeframes;

(d) The observations shall be submitted before the deadline indicated in the Views, which is 180 days after its transmission to the State party;

(e) The State party shall submit the observations in one of the official United Nations languages;

(f) The State party shall send the observations in Word format to the following e-mail address: ohchr-fuccpr@un.org.¹

D. Guidelines on the comments from the author and on information submitted by other stakeholders

17. Comments by the author and information submitted by other stakeholders, according to the present Guidelines, are as follows:

(a) The author(s) and stakeholders shall provide relevant comments and information on the measures taken by the State party and/or any plans included in the observations received from the State party and on the priority of their implementation;

(b) The comments and information shall be concise and focus specifically on the remedy indicated in the Views adopted by the Committee;

(c) The comments and information shall not exceed a maximum length of 3,500 words;

(d) The author(s) and stakeholders shall submit the comments and information in one of the official United Nations languages;

(e) The author(s) and stakeholders shall send the comments and in Word format to the following e-mail address: ohchr-fuccpr@un.org.²

E. Assessment of the observations received from the State party, comments from the author and information from other stakeholders

18. The Special Rapporteurs assess the observations provided by the States party and the comments from the author(s) and information from other stakeholders, and report to the Committee on the steps taken by the States party to provide full reparation to the affected individuals. The follow-up report is presented and discussed in a public meeting of the plenary of the Committee.

19. The Special Rapporteurs may designate “focused cases” which require a particular attention of the Committee³. The summaries of observations and comments of those focused cases are included in the follow-up report on Views, while other cases are listed in Lists A and B with an assessment of the steps taken by the States party.

20. The Special Rapporteurs choose the focused cases by taking into account mainly the following elements:

(i) Gravity of the harm suffered by the victim(s)/author(s);

(ii) Urgency of the remedies to be provided;

(iii) Systematic nature of the violations;⁴

(iv) Subsequent deteriorating situation after the adoption of the Views.

¹ Explanatory note: We may consider the possibility of other formats, for instance PDF – for the future automatic feeding of the database management system of petitions unit.

² Explanatory note: Same to the above.

³ Explanatory note: Each follow-up report will include around six to seven Focused cases. Information included should be more concise than that included in the current report.

⁴ Explanatory note: Some of these cases may be handled in clusters, whenever they relate to the same type of violations.

IV. Guidelines on the Report on follow-up to Views

21. The Report on follow-up to Views comprises the following elements:
- (a) Main report;
 - (b) Summaries of the focused cases;
 - (c) The list of Views concerning which the deadline for the comments from the author(s) expired in the last two years (List A);
 - (d) The list per State party of Views adopted in the last five years which are moved from List A when two years expire after the Committee accepted the comments from the author(s) mentioned in paragraph 6 (List B).⁵
22. All documents mentioned in the Report on follow-up are to be posted on the Committee's web page.

A. Main report

23. The main report contains a general introduction, the assessment criteria and an evaluation of the measures taken by the State party to comply with the recommendations in each of the Views contained in the report.
24. The information provided and/or measures taken by the State party are assessed in accordance with the following grading system:

A	Information/action largely satisfactory: The State party has provided evidence of significant action taken towards the implementation of the measures recommended in the View.
B	Information/action partially satisfactory: The State party has taken steps towards the implementation of the recommendation, but additional information or action remains necessary.
C	Information /action not satisfactory: A response has been received, but the action taken or information provided by the State party is not relevant or does not implement measures recommended in the View.
D	No observations have been provided by the State party in the designated deadline thereto.
E	Information or measures taken are contrary to or reflect rejection of the recommendation.

B. Summary of the focused cases

25. Each case summary contains the concise description of the relevant information, the Committee's assessments and its decision, namely concerning the follow-up measures still to be taken and their order of priority.
26. The Committee's assessments are based on the criteria adopted by the Committee to monitor the implementation of Views (see assessment criteria mentioned in paragraph 15). The Committee may add a concise explanatory note to indicate the reason(s) for the grade given. The Committee may require further "follow-up measures" from the State party, as mentioned in paragraph 27, for promoting the full implementation of the recommendations contained in the Views.

⁵ Explanatory note: All the Views adopted by the Committee are on List A for two years. Then, the Views in List A are moved to List B where they remain for another three years.

C. List A⁶

27. List A includes all of the Views concerning which the deadline for the comments from the author expired in the last two years. List A contains (a) case number; (b) name of the author; (c) name of the State party; (d) date of adoption of Views; (e) designated dates for the submission of the observations by the State party and the comments by the author; (f) date of the receipt of the observations from the State party or the date due for its submission; (g) date of the receipt of the comments from the author or date due for its submission; (h) date of the receipt of the information submitted by other stakeholders; (i) reparative measures recommended in the View; (j) meetings or consultation with the author (yes or no); (k) measures planned by the State party; (l) measures actually taken; (m) assessment by the Committee; and (n) Status of the case or further follow-up measures to be required by the Committee and their order of priority.

D. List B

28. List B includes the Views which are moved from List A when two years expire after the Committee accepted the comments from the author(s) mentioned in paragraph 6. List B is a State-by-State list of Views and shows the situation of their implementation for three years from the time of movement from List A. The purpose of List B is to continue monitoring the implementation of Views, even if no or little information is provided by the State party, or no or little reparative measure has been taken by the State party beyond the two years referred to in List A. The Committee may require further follow-up measures to be taken for promoting the implementation of Views, if it deems it necessary for the particular State party. List B contains (a) name of the State party; (b) case number; (c) name of the author(s); (d) date of adoption; (e) assessments by the Committee; (f) Status of the case or further follow-up measures to be taken by the Committee.

IV. Procedure of adoption of the Report on follow-up to Views

29. The secretariat drafts a preliminary analysis of all information received from the State party, the author(s) and other stakeholders which is reviewed and approved by the Special Rapporteurs. The draft follow-up report is discussed and adopted at the subsequent session of the Committee. The Committee adopts three follow-up reports to Views per year (one at each session).⁷

30. The Committee may receive additional information from the State party, the author/representative (counsel) and other stakeholders after the initial process of the follow-up ends. In light of the additional information received, the secretariat updates List A and List B at each session. Updated information should be highlighted in the follow-up report.

31. In light of the updated information, the Special Rapporteurs may propose a new grading or new follow-up measures to be taken by the Committee in the follow-up report to be discussed and adopted in the subsequent sessions of the Committee.

A. Linkage of the follow-up process with the periodic reporting procedure

32. If a State party has one or more pending cases given grade(s) other than A in List A or List B, the List of Issues (LOIs) or the List of Issues Prior to Reporting (LOIPR) for the periodic review of that State party shall automatically include questions concerning the implementation of Views of those cases. The LOIs or LOIPR may eventually also include questions concerning the cases of grade A if the Committee deems it necessary.

⁶ Explanatory note: After the Guidelines are approved and the new case management system within OHCHR is fully operational, all new adopted cases by the Committee will be eligible to be included in the lists. In the first stage of the implementation of these Guidelines, , the Lists will not include cases adopted before the approval of the Guidelines in light of the conceivable excessive burden on the Secretariat.

⁷ Explanatory note: The system of three reports per year will start after the new case management system comes into operation. Until then, the system of two reports per year will continue.

33. The concluding observations by the Committee on the review of States party's reports shall include an evaluation of implementation of the Views in light of the replies received by the State party to the LOI or LOIPR and the information provided in the constructive dialogue.

B. Closure and suspension of the follow-up procedure

34. The Committee may close the follow-up procedure for the cases in which it has determined that implementation has been satisfactory or partially satisfactory. As to those cases, the Committee indicates "closed" in the column (n) in List A or the column (f) in List B and the reasons for the closure.

35. The Committee may suspend the procedure for the cases for which no further information has been provided in the past five years either by the author or his/her representative (counsel). As to those cases, the Committee indicates "suspended" in the column (f) in List B and the reasons for it. The Committee is not expected to ensure any proactive follow-up measures on these suspended cases, unless the author and/or representative submits relevant updated information.

C. Further Follow-up measures by the Committee

36. In the follow-up report, the Committee may, as further follow-up measures, decide to:

(a) remind the State party to provide the observations, or request the State party and the author to provide further information;

(b) designate a case as a "focused case" and make public the details of the case in the subsequent follow-up report;

(c) request a meeting with a representative of the State party in Geneva;

(d) transmit the relevant information to the Human Rights Council in order for the Council to deal with the issue of effective reparation for victims in the next UPR process for the State party in question;

(e) transmit the information to the mandate-holders of the relevant Special Procedures in order for them to use it in their "country visits" and/or other contacts with the State party in question;

(f) transmit the information to other relevant human rights treaty bodies in order for them to use it in their periodic reporting procedure;

(g) transmit the information to the relevant OHCHR regional and/or country offices with a request to monitor progress and undertake advocacy to encourage the implementation of Views;

37. The Committee may take those measures concurrently. If it deems it appropriate, the Committee may decide to take other appropriate measures in addition to those mentioned in the previous paragraph for promoting the implementation of Views.
