

**Committee against Torture**

**Decision of the Committee against Torture, adopted at its seventy-third session (19 April – 13 May 2022), on the request of Australia, under article 24, paragraph 2, of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

1. Australia ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 8 August 1989 and its Optional Protocol on 21 December 2017, with a declaration that it would postpone the establishment of its national preventive mechanism for three years, in accordance with article 24, paragraph 1, of the Optional Protocol.
2. Considering that the Optional Protocol entered into force for Australia on 20 January 2018, the deadline for the State party to establish its national preventive mechanism was postponed to 20 January 2022.<sup>1</sup>
3. The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment received a letter from the Australian Government, dated 20 December 2021, requesting the postponement under article 24 (2) of the Optional Protocol of its obligation to establish its national preventive mechanism for one further year.
4. The main reasons cited for the request were the coronavirus (COVID-19) pandemic, considerations relating to the country's federal system of government and to resources. Among other things, Australia indicated that the extension would allow it to ensure that all states and territories are given the opportunity to take the action necessary for Australia to ensure that it will be in a position to comply fully with its obligations under the Optional Protocol, and that the many member bodies will have commenced operations and will be working effectively with the Office of the Commonwealth Ombudsman, in its capacity as mechanism's coordinator.
5. Following established practice, further to discussing the matter at its forty-sixth session in February, the Subcommittee transmitted Australia's request to the Committee against Torture for its consideration on 1 March 2022. Pursuant to rule 62 of the Rules of Procedure of the Committee, consultations between the Committee and the Subcommittee regarding this request, which are required in order to comply with the provisions of article 24 (2) of the Optional Protocol, were held in private on 25 April 2022, in the course of the seventy-third session of the Committee. In this context, the Committee invited a representative of Australia to attend a private meeting on the same date to discuss the grounds for the above-mentioned request, with the presence of the Subcommittee's Chairperson.
6. After further consulting the matter with the Subcommittee, the Committee decided to accept the request of the State party and extends the postponement of the State party's obligations under part IV of the Optional Protocol for an additional year, in accordance with article 24 (2) of the Optional Protocol.

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<sup>1</sup> One year, under article 17, and three years under the declaration of article 24 of the OPCAT.

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7. While noting the elements invoked by Australia in seeking the current extension, the Committee takes this decision on the assumption that the State Party will establish its national preventive mechanism in full adherence to the provisions of part IV of the Optional Protocol, especially concerning its independence and resources, as per article 18 of the OPCAT, in order to have a mechanism in full compliance under the Protocol.

8. To this effect, the State party should ensure the operational autonomy of the national preventive mechanism and guarantee that the mechanism's Coordinator and member bodies are independent and receive sufficient resources to discharge their prevention mandate independently and effectively, in accordance with the Optional Protocol and the guidelines on national preventive mechanisms (CAT/OP/12/5, especially paragraphs 5 to 15).

9. In application of this decision, the Committee invites the State party to present as soon as possible a plan of action for the establishment of the national preventive mechanism, as well as an oral progress report on the measures taken to establish the mechanism during the consideration of its sixth periodic report (CAT/C/AUS/6), including at the level of states and territories, scheduled for consideration by the Committee at its seventy-fifth session, which will be held at the United Nations Office at Geneva, from 31 October to 25 November 2022. A representative of the Subcommittee will be invited to attend that meeting.

10. This decision is made public after having being brought to the attention of the Subcommittee on Prevention and the State Party.

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