

[INFORMAL DOCUMENT]

**Committee on the Elimination of Discrimination
against Women**

Seventy-first session

(22 October – 9 November 2018)

Annex I

**Report of the Working Group on Communications under the Optional
Protocol to the Convention on the Elimination of All Forms of
Discrimination against Women on its forty-second session**

1. The Working Group on Communications under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women held its forty-second session from 17 to 19 October 2018 in Geneva. Its five members attended the session: Ms. Gladys Acosta Vargas, Ms. Yoko Hayashi, Ms. Lia Nadaraia, Ms. Aruna Devi Narain, and Ms. Patricia Schulz (Chair).

2. At the beginning of the session, the Working Group adopted its agenda, see Annex I, at the end of the document.

3. The Working Group examined the situation in all registered cases and decided on the actions to be taken. It also appointed case Rapporteurs in all newly registered cases. To date, 135 cases have been registered, out of which 49 are pending and 23 are procedurally ready for decision.

4. The Working Group examined the situation in all cases where the follow-up dialogue is ongoing and decided on a number of actions to be taken. It decided to recommend to the Plenary to close the follow up dialogue in case 36/2012, *De Blok et al v. the Netherlands* with partially satisfactory resolution of the Committee's recommendations; and in case 45/2012, *Belousova v. Kazakhstan*, with unsatisfactory resolution of the Committee's recommendations. It also took note of important developments in case 47/2012, *Gonzales Carreno v. Spain*, where the Supreme Court of Spain in August 2018, after recognising the binding nature of the Committee's views, ordered the Government to pay a compensation to the author in the amount of 600000 Euro.

5. The Working Group decided to have meetings organised at its next session with the Permanent Missions to the United Nations Office at Geneva of Georgia, Mexico and Spain to discuss follow-up matters. To date, there are 11 cases remaining under follow up scrutiny: *L.C. v. Peru*, 22/2009; *Gegidze and Chuadze v Georgia*, 24/2009; *Gonzales Carreno v Spain*, 47/2012; *Stephen, Charles v Tanzania*, 48/2013; *L.R. v. Moldova*, 58/2013; *Medvedeva v the Russian Federation*, 60/2013; *D.S. v. Slovakia*, 66/2014; *Reyes et al. v. Mexico*, 75/2014; *Maria de Lourdes v Timor-Leste*, 88/2015; *O.G. v the Russian Federation*, 91/2015 and *Iitti Sirpa v. Finland*, 103/2016.

6. During its present session, the Working Group met with representatives of the Permanent Mission of Moldova on 19 October 2018 and discussed follow up to case 58/2013, *L.R. v. Moldova*. During the Committee's session, the Working Group will meet with representatives of the Permanent Missions of Slovakia (t.b.c.), and Tanzania to the Office of the United Nations in Geneva to discuss follow-up matters.

7. The Working Group next discussed and decided, by consensus, to refer two communications for adoption to the Plenary, as follows: Nos. 81/2015, *M.K.M. v. Denmark* and 101/2016, *S.A.O. v. Denmark*, both non refolement cases, proposed inadmissibility drafts.

8. The Working Group also, following a thorough discussion, decided to refer for adoption three decisions to discontinue the examination of communications No. 73/2014, *R.G. v Denmark* (non-refoulement); 83/2015, *M.S.C. v. Ecuador* (non-refoulement); and 112/2017, *L.P. v. Austria* (non-refoulement). In the first case and third case, authors no longer

reside in Denmark or Austria, respectively. In the second case, the author has been issued a permanent residence visa and does not risk deportation any longer.

9. The Working Group held a preliminary discussion in a case against Ukraine.

10. The Working Group then dealt with a preliminary query by an NGO in a case against a war-torn country, where the issue was possible submission of a communication on behalf of anonymous alleged victims. The Working Group asked the Secretariat to prepare a reply to the authors, indicating that no anonymous complaints can be accepted under the Optional Protocol (and pointing to alternative mechanisms).

11. Taking into account the priority to be given to cases with interim measures in place, the chronological order of registration, regional representation, thematic issues of importance for the Committee's jurisprudence and other factors, the Working Group elaborated a tentative list for adoption of cases for the next three sessions. It placed the following five communications on its agenda for the 43rd session: communication No. 65/2014, *S.T. against the Russian Federation*, gender-based discrimination, domestic violence and failure to punish the alleged perpetrator; No. 82/2015, *K.I.A. against Denmark*, non-refoulement; No. 84/2015, *D.A. v. Denmark*, non-refoulement; 87/2015, *O.M. v. Ukraine*, child custody dispute; and *K. v. the Russian Federation*, 98/2016, discrimination based on sexual orientation. In this connection, the Working Group expresses deep appreciation of the work of the Petitions Unit (OHCHR) in trying to increase the number of drafts adopted per session.

12. The Working Group also discussed several issues concerning working methods which it has now compiled in a unified document to be presented to the Plenary for endorsement before being rendered public. Among the issues, discussed were aspects regarding modalities for submission of third parties interventions; friendly settlements; rounds of submissions by the parties in registered cases in order to avoid endless set and forth between the parties, etc.

13. The Working Group decided to continue efforts to increase the visibility of individual communications, whose recommendations have been positively implemented. The Petitions and Inquiries Section will further explore ways of cooperation on the matter with the OHCHR Press Unit. Specific and visible part of the Committee's webpage must be dedicated to follow up and best practices regarding individual cases and recently adopted jurisprudence. In particular, the Working Group decides to have a press release issued in connection to a case versus Spain where a 600'000 Euro compensation was ordered by the Supreme Court in August 2018 and where the Supreme court of Spain has recognised the binding nature of the Committee's views.

14. The Working Group appreciates having received the draft recommendations in individual cases and the Note by the Secretariat ahead of the session, in particular considering the resource shortages of the Petitions and Inquiries Section.

15. Members of the Working Group expressed appreciation of the work of two prominent members of the Working Group, Ms Patricia Schulz (Chair) and Ms Yoko Hayashi (former Chair), whose mandates terminate at the end of the year. The Working Group requests the Committee to appoint two members of the Committee to act as ad-hoc members for the Working Group's 43rd session in February 2019 in replacement of the above two members.

Actions taken at the present session:

16. The Working Group decided, inter alia:

(a) To refer, for adoption by the Committee, two recommendations in communications Nos. 81/2015, *M.K.M. v. Denmark* and 101/2016, *S.A.O. v. Denmark* (inadmissibility drafts, non-refoulement);

(b) To refer for adoption by the Committee three recommendations to discontinue the examination of communications Nos. 73/2014, *R.G. v Denmark* (non-refoulement);

83/2015, *M.S.C. v. Ecuador* (non-refoulement); and 112/2017, *L.P. v. Austria* (non-refoulement);

(c) To request the Secretariat to prepare five draft recommendations for the 43rd session of the Working Group concerning communication No. 65/2014, *S.T. against the Russian Federation*, gender-based discrimination, domestic violence and failure to punish the alleged perpetrator; No. 82/2015, *K.I.A. against Denmark*, non-refoulement; No. 84/2015, *D.A. v. Denmark*, non-refoulement; 87/2015, *O.M. v. Ukraine*, child custody dispute; and *K. v. the Russian Federation*, 98/2016, discrimination based on sexual orientation;

(d) To put the follow-up dialogue to a close in two communications: No. 36/2012, *De Blok et al v. the Netherlands* with partially satisfactory resolution of the Committee's recommendations; and No. 45/2012, *Belousova v. Kazakhstan*, with unsatisfactory resolution of the Committee's recommendations;

(e) To request the Secretariat to arrange a meeting, for the next session, with representatives of the Permanent Missions of Georgia, Mexico and Spain, to discuss follow-up to the Committee's views adopted against these State parties.

(f) To ask the Secretariat to send a reply regarding a preliminary query by an NGO on the admissibility of anonymous communications;

(g) To request the Secretariat to continuously update the list of pending and adopted cases on the OHCHR website;

(h) To ask the Committee to appoint two ad-hoc members for the Working Group's 43rd session, in February 2019.

17. The Working Group decided to hold its forty-third session from 12 to 15 February 2018 in Geneva.

Appendix I

Agenda

Working Group on Communications under the Optional Protocol

Forty-first session (Geneva 27-29 June 2018)

Room XVI, Palais des Nations

1. Adoption of the agenda and organization of work
2. Review of steps and activities undertaken since the last session
3. New communications registered and appointment of case rapporteurs
4. Update on communications (registered cases)
5. Update on follow-up to Views
6. Discussion on working methods
7. Adoption of draft recommendations
8. Adoption of the report concerning the forty-second session of the Working Group