



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND
www.ohchr.org • TEL: +41 22 917 9000 • FAX: +41 22 917 9008 • E-MAIL: registry@ohchr.org

REFERENCE:KF/fup-118

6 December 2016

Excellency,

In my capacity as Special Rapporteur for Follow-up to Concluding Observations of the Human Rights Committee, I have the honour to refer to the follow-up to the recommendations contained in paragraphs 7, 11, and 17 of the concluding observations on the report submitted by Macao, China ([CCPR/C/CHN-MAC/CO/1](#)), adopted at the 107th session in March 2013.

At its 112th session, held in October 2014, the Committee evaluated the information provided by Macao, China and requested additional information on the implementation of the recommendations selected for the follow-up procedure.

On 1 February 2016, the Committee received the reply of Macao, China. At its 118th session, held in October-November 2016, the Committee evaluated this information. The assessment of the Committee and the additional information requested from Macao, China are reflected in the Report on follow-up to concluding observations ([CCPR/C/118/2](#)). I hereby attach a copy of the advanced unedited version of the relevant section of the said report.

The Committee considered that the recommendations selected for the follow-up procedure have not been fully implemented and decided to request additional information on their implementation. The Committee would appreciate receiving the requested information by **6 March 2017**. Macao, China is kindly requested, when submitting its reply to the Committee, not to reiterate information that has already been provided to the Committee.

The reply should be sent in Microsoft Word electronic version to the Secretariat of the Human Rights Committee (Kate Fox: kfox@ohchr.org and ccpr@ohchr.org). In accordance with the Note by the Human Rights Committee on the procedure for follow-up to concluding observations (see [CCPR/C/108/2](#)), the follow-up report should not exceed a maximum of 3,500 words.

The Committee looks forward to pursuing its constructive dialogue with Macao, China on the implementation of the Covenant.

H.E. Mr. Zhaoxu Ma
Ambassador Extraordinary and Plenipotentiary
Permanent Representative
Fax: 022 793 70 14
Email: chinamission_gva@mfa.gov.cn



Please accept, Excellency, the assurances of my highest consideration.

A handwritten signature in black ink, reading "Sarah H. Cleveland".

Sarah Cleveland
Special Rapporteur for Follow-up to Concluding Observations
Human Rights Committee

Assessment of replies

Reply/action satisfactory

A Response largely satisfactory

Reply/action partially satisfactory

B1 Substantive action taken, but additional information required

B2 Initial action taken, but additional information and measures required

Reply/action not satisfactory

C1 Response received but actions taken do not implement the recommendation

C2 Response received but not relevant to the recommendation

No cooperation with the Committee

D1 No response received within the deadline, or no reply to a specific question in the report

D2 No response received after reminder(s)

The measures taken are contrary to the Committee's recommendations

E Response indicates that the measures taken are contrary to the Committee's recommendations

Macao, China

Concluding observations:	CCPR/C/CHN-MAC/CO/1, 26 March 2013
Follow-up paragraphs:	7, 11 and 17
First reply:	5 April 2014
Committee's evaluation:	Additional information required on paragraphs 7[C1], 11[C1] and 17[B2].
Second reply:	1 February 2016
Committee's evaluation:	Additional information required on paragraphs 7[E], 11[B2] and 17[B2].

Paragraph 7: Macao, China, should consider taking all preparatory measures with a view to introducing universal and equal suffrage in conformity with the Covenant, as a matter of priority. It should outline a clear and comprehensive plan of action and set timelines for the transition to an electoral system based on universal and equal suffrage that will ensure enjoyment by all its citizens of the right to vote and to stand for election in compliance with article 25 of the Covenant, taking due account of the Committee's general comment No. 25 (1996). The Committee recommends that Macao, China, consider steps leading to the withdrawal of the reservation to article 25 (b) of the Covenant.

Follow-up question:

Macao, China

[C1]: The recommendation has not been implemented. The Committee reiterates it.

Summary of Macao, China's reply:

Macao, China informed that there is no additional response to the Committee's recommendation regarding the withdrawal of the reservation of Article 25(b) of the Covenant. It repeated information provided in its replies to the follow-up to the concluding observations, including reemphasizing that the Committee's recommendation does not conform to the current political system of the Macao SAR (CCPR/C/CHN-MAC/CO/1/Add.1, para. 1).

Committee's evaluation:

[E]: The Committee regrets that Macao, China has not considered taking action to implement the recommendations, including development of an action plan and timeline to institute universal and equal suffrage, and has not considered taking steps to withdraw the reservation to article 25(b). The Committee reiterates its recommendations.

Paragraph 11: The Committee reiterates its previous recommendation and urges Macao, China, to pursue negotiations with mainland China with a view to reaching a firm agreement on the transfer of offenders from Macao to the mainland, as a matter of priority. Macao, China, should ensure that the agreement is in line with its obligations under articles 6 and 7 of the Covenant.

Follow-up question:

[C1]: Macao, China has not provided specific information on the current stand and results of the negotiations it has already conducted with mainland China on the arrangement of legal assistance in criminal cases. The recommendation has not been implemented. The Committee requests further information on the negotiations between Macao, China and mainland China on the transfer of offenders.

Summary of Macao, China's reply:

The Macao SAR Government has submitted a draft law on Inter-regional Legal Assistance in Criminal Matters to the Legislative Assembly providing for general cooperation principles and legal procedures, including the surrender of fugitive offenders, the implementation of criminal judgements, the transfer of sentenced persons, the transfer of proceedings in criminal matters, and other legal cooperation in criminal matters. The draft law also establishes the legal basis for assistance in criminal matters between Macao SAR and other jurisdictions of Mainland China.

Macao SAR Government has held negotiations with the mainland Chinese delegation regarding the Arrangement for the Surrender of Fugitive Offenders and has reached a basic consensus. Both parties will sign the Arrangement when all the conditions are met.

Committee's evaluation:

[B2]: The Committee notes the information provided by Macao, China, but requests information on the status of the draft law on Inter-regional Assistance in Criminal Matters. Regarding the negotiations between Macao, China and mainland China on the transfer of offenders, the Committee welcomes the information provided on the Arrangement for the Surrender of Fugitive Offenders, but requests specific information on the content of the Arrangement, including whether it is in line with the obligations under articles 6 and 7 of the Covenant, and when Macao, China expects to conclude negotiations and sign the Arrangement.

Paragraph 17: Macao, China, should strengthen the protection of rights of migrant workers against abuses and exploitation and establish affordable and effective mechanisms to ensure that abusive employers or recruitment agencies are held accountable.

Macao, China

Follow-up question:

[B2]: The Committee requests additional information on the following:

- (a) Whether and how Macao, China provides free or affordable legal advice to non-resident workers and employers advising them of applicable rights, obligations and protections;
- (b) Statistical information on the incidence of labour law violations committed against non-resident workers, particularly with respect to the absence of formal contracts, excessive fees requested by recruitment agencies and the payment of lower wages to local workers, and the investigation and pursuance thereof by Macao, China;
- (c) Statistical information on complaints filed by non-resident workers with the Labour Affairs Bureau, and subsequent actions taken by the Bureau or other governmental agencies;
- (d) The regulation of employment agencies and measures taken by Macao, China to ensure that those employment agencies do not exploit non-resident workers.

Summary of Macao, China's reply:

(a) Macao, China noted that the Labour Affairs Bureau has been providing free consultation services to local workers, non-resident workers and employers to advise them about their rights, guarantees, and obligations. The Bureau also provides an “interactive voice response system” and a “consultation service hotline for Labour Relations Law” for the public to inquire through phone calls.

Macao, China also provided examples of how the Bureau has been using various media outlets and a special web page and email to promote knowledge about certain provisions of labour laws and address inquiries.

(b) Macao, China provided statistical information, covering the period from 2010 to November 2015, on the number of files opened, the number of workers involved, and the outcome for claims involving labour disputes, as well as specifically on violations of the obligation to conclude labour contracts with non-resident workers in writing, and on employment agencies charging fees involving non-resident workers (see [Second follow-up reply of Macao, China](#), p. 4-5). It also provided statistical information on cases involving employer non-payment of wages from January to November 2015 (see [Second follow-up reply of Macao, China](#), p. 6-7).

Macao, China repeated information provided in its replies to the follow-up on concluding observations (CCPR/C/CHN-MAC/CO/1/Add.1, para. 3) on regulations of labour contracts established with non-resident workers, the protection of non-residents and local workers and the principle of equal remuneration (paras. 5 and 6), and on the role of the Human Resources Office in endorsing applications of employment permissions, and the penalties faced by employers who fail to pay the full amount of the non-resident worker's salary provided for in the employment permission (paras. 3 and 7).

(c) Macao, China provided statistical information on the Labour Affairs Bureau's receipt of non-residents workers' complaints from 2010 to November 2015 (see [Second follow-up reply of Macao, China](#), p. 7) and elaborated on information provided in its replies to the follow up on concluding observations (CCPR/C/CHN-MAC/CO/1/Add.1, para. 7) on how the Bureau deals with complaint files from non-resident workers.

(d) Macao, China elaborated on information provided in its replies to the follow-up on the concluding observations (CCPR/C/CHN-MAC/CO/1/Add.1, para. 4) on the regulation of employment agencies. It noted that, pursuant to Decree-law no. 32/94/M, recruitment agencies must be licensed and the Labour Affairs Bureau can revoke the agency's license if a violation is found and described the different provisions of the Decree-law no. 32/94/M for different service objects of employment agencies. Macao, China also noted that Article 16(c) of the Decree-law forbids employment agencies from serving as intermediaries and paying workers remunerations, punishable with a fine of MOP\$10,000 to MOP\$30,000 for



Macao, China

every worker.

Committee's evaluation:

[B2]: The Committee appreciates the efforts made by Macao, China to provide detailed information on the protection of rights of migrant workers. The Committee requests specific information on measures taken to improve access to affordable legal assistance since the adoption of the concluding observations, including statistics regarding the number of workers assisted through the various measures described. The Committee welcomes the statistical information provided, but requests information for each type of case on the number of cases or complaints since the adoption of the concluding observations and on the investigation and resolution of such cases by Macao, China, as well as information on measures taken since the adoption of the concluding observations to ensure that employment agencies do not exploit non-resident workers.

Recommended action: A letter should be sent reflecting the analysis of the Committee.

Next periodic report: 30 March 2018.
