

Monday, May 30, 2022

Ms. Michelle Bachelet
High Commissioner for Human Rights
United Nations
Palais Wilson
Rue des Pâquis 52
CH-1201 Geneva
SWISS CONFEDERATION

Dear High Commissioner Bachelet,

We, the undersigned Member States, recognize the tremendous value of the United Nations treaty body system in monitoring the obligations undertaken by State parties under the core international human rights treaties. The treaty body system plays an important role for the individual rights holders' ability to effectively exercise human rights where States may fail to ensure them. As Member States, we attach the utmost importance to the work of the human rights treaty bodies and support their vital work in providing views and guidance on individual communications. The views adopted by the treaty bodies on individual communications, directed at State parties, are essential for ensuring national implementation of international human rights obligations. The views of treaty bodies have catalyzed led or contributed to, various reforms and improvements in the domestic protection of human rights in practice. We fully support the ongoing efforts to strengthen the human rights treaty bodies by upholding their independence and enhancing their effectiveness.

During the COVID 19 pandemic, the majority of treaty bodies continued their work online to avoid a human rights protection gap, despite logistical difficulties in doing so. The treaty body experts showed that they were ready and able to work in less than ideal circumstances. We, as Member States, appreciate the dedication of independent experts as well as the support provided to these entities by the Secretariat during difficult times. We recognize that, despite the flexibility, willingness and commitment of the experts to make the most efficient use of the meeting time allocated, the Office of the High Commissioner for Human Rights (OHCHR) is facing some critical challenges in supporting their work on individual communications.

For years, there has been a critical backlog in the number of pending individual communications and it has grown significantly in recent years. The OHCHR has repeatedly acknowledged there is an unreasonable delay (on average 3-5 years) in dealing with communications. We recognize that reasons for the lengthy delays are multi-faceted; they include the increasing awareness of the individual complaints procedures and the increasing number of ratifications of the conventions, combined with inefficiencies due to an outdated communications process within the Secretariat. After that process was established, it was not regularly updated to address emerging challenges, and today it appears that it is no longer fit for the purpose it must serve.

We, as concerned Member States, note that these undue delays within the OHCHR process diminish the capacity of the treaty body experts to consider communications in a timely manner, thereby undermining their oversight of the implementation of the treaty obligations of State parties.

We would urge the OHCHR to address and provide solutions to the critical problem of protracted delays, which negatively affects rights holders and State parties. Some examples of issues on which we urge action are as follows.

- i. Development of a modern communication management process for the use of TBs in handling communications. This process, undertaken in collaboration with TB experts, should enable parties to submit documents online so that regularly updated information is available to the parties throughout the communications process.
- ii. Enhance the transmittal procedure with Member States, to ensure that all inquiries, requests and transmission of documents between Member States and the Secretariat on individual communications are acknowledged (at all hours) and appropriately addressed in a timely manner.
- iii. Registration of new communications, in line with treaty and jurisprudential requirements (i.e., the same matter is not being examined under another procedure of international investigation or settlement; take due consideration of relevant decisions when the matter has been settled by an international or regional human rights court; the matter is not incompatible with treaty provisions; domestic and regional remedies have been exhausted; where the basis of the communication relates to domestic remedies, complainant have provided evidence that the decisions of domestic decision makers are manifestly arbitrary or resulted in a miscarriage of justice; and authors have provided sufficient documentation to substantiate the case on a *prima facie* basis).
- iv. Actively track communications and submission deadlines. Reduce delays by ensuring that deadlines for submissions are respected.
- v. Continued publication of annual statistics on the number of communications received, registered, processed and completed.
- vi. Clarify and appropriately assign administrative tasks and substantive functions (such as drafting views), respectively, to the relevant Secretariat staff to enhance efficiency.
- vii. Ensure that departures of staff working on communications do not result in delays of their assigned cases.
- viii. Prepare a communications model for those cases that are repetitive and/or similar.
- ix. Address deficiencies in data protection.
- x. Support treaty bodies in developing and meeting targets for the number of communications to be decided per session, with a view to completing cases and reducing the backlog.
- xi. Ensure a comprehensive approach in the management of communications by facilitating a dialogue between the Committees, particularly when addressing petitions.
- xii. Harmonise working methods and rules of procedure among treaty bodies

Modernization of the case management system is necessary, but we believe that this alone is insufficient to address the range of outstanding issues that lead to delays in the processing of individual communications. We strongly believe that it would ultimately be of substantial benefit to rights holders and State parties for the OHCHR to conduct an end-to-end review of the communications process, using existing resources, to identify inefficiencies, gaps and duplication of efforts, and implement the management, logistical and technological solutions necessary to address the issues identified. The success of these solutions, in terms of a reduction of the backlog, could be monitored, adjusted, and refined by OHCHR management to meet emerging needs. Starting with such a review would be a logical step on the path to establishing a modern, efficient and fit-for-purpose communications process.

We recognize ongoing efforts being undertaken by the OHCHR towards harmonizing the case management system, however we urge the OHCHR to work swiftly to address the unreasonable delays.

In spite of the prevailing challenges, the treaty bodies continue to be valued as an independent monitoring system promoting the full implementation of international human rights treaties that Member States adopted for the promotion, protection and fulfillment of the human rights of all.

We remain at your disposal to provide constructive support to address these challenges through the OHCHR development of a Plan of Action with targeted time lines.

Please accept, dear High Commissioner Bachelet, the assurances of our highest consideration.

Signed by the following countries:

- Australia
- Austria
- Belgium
- Bulgaria
- Canada
- Chile
- Costa Rica
- Cyprus
- Czech Republic
- Denmark
- Dominican Republic
- Ecuador
- Estonia
- Iceland
- Ireland
- Finland
- France
- Germany
- Greece
- Hungary
- Iceland
- Ireland
- Latvia
- Lithuania
- Liechtenstein
- Luxembourg
- Malta
- Mexico
- New Zealand
- Norway
- Panama
- Poland
- Romania
- Slovenia
- Slovakia
- Spain
- Sweden
- Switzerland
- The Netherlands
- Turkey
- United States of America
- Uruguay