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REFERENCE: Follow-up/CAT

10 June 2015

Your Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the United Nations Committee against Torture, I refer to the examination of the initial report of the Holy See (CAT/C/VAT/1) by this Committee, at its 52<sup>nd</sup> session, held from 28 April to 23 May 2014. At the end of that session, the Committee's concluding observations (CAT/C/VAT/CO/1) were transmitted to your Permanent Mission. In paragraph 26 of those concluding observations, the Committee requested, pursuant to its rules of procedure, that the State party provide, within one year, by 23 May 2015, further information regarding areas of particular concern identified by the Committee in paragraphs 10, 11, 14 and 16 (see extracts annexed).

The Committee has adopted a follow-up procedure to pursue issues that are serious, that can be accomplished by the State party in a one year period, and that are protective.

While taking note of the comments to the concluding observations submitted by the Holy See on 26 May 2015, the Committee notes that the follow-up information requested in paragraph 26 of the concluding observations has not been provided yet, although more than one year has elapsed from their transmittal. Accordingly, I would be grateful for clarification as to the current status of your Government's responses on the matters, and as to when the information requested will be forthcoming. A Word electronic version of the reply should be sent to the Secretariat of the Committee against Torture ([cat@ohchr.org](mailto:cat@ohchr.org)). Upon receipt of this information, the Committee will be able to assess whether further action is needed.

The Committee looks forward to pursuing the constructive dialogue it has started with the authorities of the Holy See on the implementation of the Convention. In this context, the Committee seeks to receive your response to this enquiry.

Accept, Your Excellency, the assurances of my highest consideration.

Jens Modvig

Rapporteur for Follow-up on Concluding Observations  
Committee against Torture

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 19 OF THE CONVENTION**

**Concluding observations of the Committee against Torture**  
*(Extracts for follow-up of CAT/C/VAT/CO/1)*

**HOLY SEE**

(...)

**C. Principal subjects of concern and recommendations**

(...)

**Prevention of torture and cruel, inhuman and degrading treatment or punishment**

10. The Committee notes that since 2001 Holy See officials have required mandatory reporting of all credible allegations of sexual abuse of minors by clergy to the Congregation for the Doctrine of the Faith in Vatican City State. The Committee appreciates the data provided by the delegation indicating that the Congregation for the Doctrine of the Faith confirmed 3,420 credible allegations of sexual abuse by priests between 2004-2013, resulting in the implementation of numerous canonical penalties meted out through an ecclesiastical penal process, including the defrocking of 848 priests and disciplining of 2,572 others such as through imposition of a life of prayer or penance. In its General Comment No. 2, the Committee recalls that State authorities or others acting in official capacity or under colour of law have an obligation to exercise due diligence to prevent violations of the Convention, including by non-State officials or private actors under their effective control, whenever they know or have reasonable grounds to believe that violations of the Convention are being committed.

11. In this regard, the Committee regrets that the State party did not provide requested data on the number of cases in which the State party provided information to civil authorities in the places where the cases arose and in the places where the priests concerned are currently located. The Committee welcomes the assurance made by the delegation that Catholic clergy are instructed to report allegations of sexual abuse of minors perpetrated by clergy members to the civil authorities as well as to the Congregation for the Doctrine of the Faith. Nevertheless, the Committee is concerned by reports that the State party's officials resist the principle of mandatory reporting of such allegations to civil authorities.

(...)

**The State party should ensure that Holy See officials and other public officials of the Holy See take effective measures to monitor the conduct of**

individuals under their effective control, to stop and sanction such conduct in any case where they become aware of credible allegations of violations of the Convention, and to take other measures within their control to prevent the commission of subsequent violations by the individuals concerned, including to:

(a) Continue to develop and implement programmes and policies to prevent violations of the Convention;

(b) Ensure that individuals that are subject to an allegation of abuse brought to the attention of the Congregation for the Doctrine of the Faith or other officials of the State party are immediately suspended from their duties pending the investigation of the complaint, to guard against the possibility of subsequent abuse or intimidation of victims;

(c) Ensure effective monitoring of the placements of all clergy that are under investigation by the Congregation for the Doctrine of the Faith and prevent the transfer of clergy who have been credibly accused of abuse for the purposes of avoiding proper investigation and punishment of their crimes. For those found responsible, apply sanctions, including dismissal from clerical service;

(d) Ensure that all State party officials exercise due diligence and react properly to credible allegations of abuse, subjecting any official that fails to do so to meaningful sanctions;

(e) Take effective measures to ensure that allegations received by its officials concerning violations of the Convention are communicated to the proper civil authorities to facilitate their investigation and prosecution of alleged perpetrators. The State party should provide data to the Committee in its next periodic report on the number of cases in which it provided information to civil authorities both in the places where cases arose and in the places where the persons concerned are currently located.

(...)

#### **Cooperation with civil and criminal proceedings**

14. The Committee is concerned by reports it has received of cases in which the State party has declined to provide information to civil authorities in connection with proceedings relating to allegations that clergy members committed violations of the Convention, despite the fact that since 2001 the Congregation for the Doctrine of the Faith in the Vatican City State has had responsibility for receiving and investigating all allegations of sexual abuse of minors by Catholic clergy. The Committee expresses concern about allegations that in 2013 the papal nuncio to Australia invoked diplomatic immunity in refusing to provide archival documentation to assist the New South Wales Special Commission of Inquiry into sex abuse. The Committee recalls that article 9 of the Convention obligates States parties to “afford one another the greatest measure of assistance” in connection with criminal proceedings related to

violations of the Convention, “including the supply of all evidence at their disposal necessary for the proceedings” (art. 9).

**The State party should take effective steps to ensure the provision of information to civil authorities in cases where they are carrying out criminal investigations of allegations of violations of the Convention perpetrated by Catholic clergy or acquiesced to by them. The State party should ensure the procedures for requesting such cooperation are clear and well-known to the civil authorities and that requests for cooperation are responded to promptly.**

(...)

### **Complaints and prompt, thorough and impartial investigations**

16. The Committee welcomes the amendments to the Criminal Code and Code of Criminal Procedure of the Vatican City State that make it clear that authorities should prosecute allegations of violations of the Convention by citizens and officials. The Committee also welcomes information provided that the Pontifical Commission for the Protection of Minors, established by Pope Francis, will seek to ensure accountability and its members have announced that they plan to make specific proposals on raising awareness “regarding the tragic consequences of sexual abuse and of the devastating consequences of not listening, not reporting suspicion of abuse, and failing to support victims/survivors and their families”. To date there has been no information provided to the Committee as to the Pontifical Commission’s term, investigative powers, and ability to report publicly (arts. 12 and 13).

#### **The State party should:**

**(a) Establish an independent complaints mechanisms to which victims of alleged violations of the Convention can confidentially report allegations of abuse and which has the power to cooperate with the State party’s authorities as well as civil authorities in the location where the alleged abuse occurred;**

**(b) Ensure that organs charged with carrying out investigations into allegations of violations of the Convention by public officials of the Holy See, including the Office of the Promoter of Justice, are independent with no hierarchical connection between the investigators and the alleged perpetrators. Ensure that such bodies carry out investigations promptly, thoroughly, and impartially;**

**(c) Clarify whether the Pontifical Commission for the Protection of Minors established in December 2013 should have the full power to investigate cases of alleged violations of the Convention, ensure that the results of any of its investigations are made public and that they are promptly acted upon by officials with a prosecutorial function, within a specific deadline.**

(...)

26. The Committee requests the State party to provide, by 23 May 2015, follow-up information in response to the Committee's recommendations related to the prevention of torture and cruel, inhuman and degrading treatment or punishment, and on impunity, as contained in paragraphs 10 and 11 of the present document. In addition, the Committee requests follow-up information on complaints and investigations and redress, as contained in paragraphs 14 and 16 of the present document.

(...)

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