

9 October 2013

English
Original: Chinese

**OPEN-ENDED INTERGOVERNMENTAL EXPERT GROUP
ON THE STANDARD MINIMUM RULES FOR THE
TREATMENT OF PRISONERS
VIENNA, AUSTRIA, 25 – 28 March 2014**

**RESPONSE OF THE GOVERNMENT OF CHINA¹
TO NOTE VERBALE CU 2013/129/DO/JS**

¹ This document was received in Chinese and has been officially translated.

Regarding Comments on Revision of the Standard Minimum Rules for the Treatment of Prisoners

I. Our overall comments on the draft revisions of the Rules

We endorse in principle the revision recommendations made for the nine areas of the relevant rules by the Second Expert Group Meeting on the Standard Minimum Rules for the Treatment of Prisoners, although we do feel that certain minor points need further revision and improvement by the next Expert Group Meeting. We believe that caution should be exercised regarding modifications to the Rules, and we recommend that priority should be given to the universal applicability and the minimum limits of the Rules. Rules should be a set of minimum standards that most countries can reach on common issues; the special practices or views of a minority of countries should not be taken as standards.

II. Our comments on the revision recommendations for specific areas

1. For Area A, we recommend that “sexual orientation” not be mentioned in the prohibited grounds of discrimination, because, on this matter, countries have different rules and approaches in law and in practice. Not mentioning this ground for discrimination does not mean that there will be discrimination against this population; it only respects the practices and provisions of countries in that regard.

2. For Area D-(c), we recommend that, from the newly added Rule 44-2, “the prison management authority has obligations to initiate and facilitate immediate, in-depth and fair investigations into all death events that happen during detention, or death events that happen soon after release for non-natural, violent or unknown reasons”, the following phrase be removed: “or death events that happen soon after release for non-natural, violent or unknown reasons”. We recommend this because “soon after release” here is a very fuzzy time concept, in which uncertainty exists, and furthermore, when an offender is released and out of prison, all such matters as guardianship or wardship are transferred to relevant sectors of society, and the prison no longer bears such obligations.

For Area E, which mentions the need to enumerate special groups of offenders, we believe that it is best not to be overly prescriptive. According to the draft, the enumeration of all special groups in the Rules is done to respect and protect their rights, but in practice, if they are considered vulnerable groups, and categorized and separately detained, they will feel themselves to be different from other ordinary offenders, given special treatment, and they will further undergo the mental pressure of being considered as special, vulnerable groups, which would be detrimental to their lives in prison. We recommend only listing a few major vulnerable groups, such as female, minor, elderly, ill and disabled offenders, and offenders with HIV/AIDS, tuberculosis and other infectious diseases, and removing “ethnic minority prisoners; foreign prisoners; male and female homosexual and bisexual prisoners”.