

**Human Rights Committee: Communication No. 1347/2005 under the
Optional Protocol to the International Covenant on Civil and Political Rights**

Response of the Australian Government

1. The Australian Government presents its compliments to the Human Rights Committee (Committee) and wishes to respond to the Committee's Views in Communication No. 1347/2005, *Dudko v Australia*.
2. The Australian Government provided the Committee's Views to the High Court and the New South Wales Government.
3. The Australian Government takes the opportunity to inform the Committee of new Rules of Court adopted by the High Court in 2004 which took effect from 1 January 2005. In recognition of the nature of special leave applications, these new Rules give primary emphasis to written arguments.
4. If an applicant for special leave to appeal is not represented by a legal practitioner the applicant must present his or her argument to the Court in the form of a draft notice of appeal and written case. Those documents are not to be served on any person who was a party to the proceedings in the court below unless the Court or a Justice directs otherwise. The written case and draft notice of appeal are considered by two Justices who decide either that the papers should be served on the respondent or that the application should be dismissed without calling on the respondent to answer.
5. Any application for special leave that has been served on the respondent (no matter whether the applicant is represented by a legal practitioner or is unrepresented) may be decided without listing the application for hearing. Most applications for special leave are now decided by the Court without an oral hearing.
6. If the papers filed in an application reveal that the Court may be assisted by oral argument, the application will be listed for short oral hearing. If an application is to be listed for oral hearing and one of the parties to that application is not represented by a legal practitioner, the Court will generally seek to arrange for counsel to appear for the party concerned without fee.

7. These changes reduce the likelihood of a situation such as Ms Dudko's arising in the future.
8. The Australian Government wishes to reaffirm that the outcome in Ms Dudko's case was not affected by her absence (or the absence of counsel appearing on her behalf).
9. The Australian Government avails itself of this opportunity to renew to the Committee the assurances of its highest consideration.