

FINLAND

Follow-up - Jurisprudence

a) Action by Treaty Bodies

CCPR A/51/40, vol. I (1996)

VIII. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

...

429. A country-by-country breakdown of follow-up replies received or requested and outstanding as at 26 July 1996 provides the following picture:

...

Finland: Four views finding violations; satisfactory follow-up replies received in all four cases (see para. 460).

...

Overview of positive examples of follow-up cooperation/replies

...

460. On 5 July 1996, counsel to the authors of communications Nos. 265/1987 (Vuolanne v. Finland) and 412/1990 (Kivenmaa v. Finland) submitted updates on the follow-up given by Finland in respect of the Committee's views in those cases. In case No. 265/1987, the Committee had found a violation of article 9, paragraph 4, of the Covenant and had recommended that the victim be compensated. Counsel noted that on 16 April 1996, the Supreme Administrative Court of Finland had confirmed a previous decision by the Administrative Court of Uusimaa pursuant to which the State party was to pay Mr. Vuolanne Fmk 8,000 as a remedy for the violation of article 9, plus Fmk 4,000 to compensate for legal costs. Those amounts were paid to him on 28 June 1996. In respect of case No. 412/1990, in which the Committee had found a violation of articles 19 and 21 of the Covenant, counsel observed that on 28 May 1996, the Finnish Supreme Court dismissed an appeal for an extraordinary remedy filed by Ms. Kivenmaa; the Court did not nullify an earlier court decision which had imposed a fine on Ms. Kivenmaa. Counsel noted that his client had now asked the Government to compensate her for the violations of articles 19 and 21 from which she had suffered.

VIII. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

...

524. A country-by-country breakdown of follow-up replies received or requested and outstanding as of 30 June 1997 provides the following picture (Views in which the deadline for receipt of follow-up information had not yet expired have not been included):

...

Finland: Four Views finding violations: 265/1987 - Vuolanne (1989 Report);^{17/} for State party's follow-up reply, see 1989 Report, para. 657 and annex XII; 291/1988 - Torres (1990 Report);^{14/} for State party's follow-up reply, see 1990 Report, vol. II, annex XII; 387/1989 - Karttunen (1993 Report);^{15/} no follow-up reply received in respect of this case; 412/1990 - Kivenmaa (1994 Report);^{9/} State party's preliminary follow-up reply, dated 13 September 1994, unpublished.

^{9/} Official Records of the General Assembly, Forty-ninth Session, Supplement No. 40 (A/49/40).

^{14/} Official Records of the General Assembly, Forty-fifth Session, Supplement No. 40 (A/45/40).

^{15/} Ibid., Forty-eighth Session, Supplement No. 40 (A/48/40).

^{17/} Ibid., Forty-fourth Session, Supplement No. 40 (A/44/40).

VIII. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

...

486. The Committee's previous report (A/52/40) contained a detailed country-by-country breakdown of follow-up replies received or requested and outstanding as of 30 June 1997. The list that follows shows the additional cases in respect of which follow-up information has been requested from States (Views in which the deadline for receipt of follow-up information had not yet expired have not been included). It also indicates those cases in which replies are outstanding. In many of these cases there has been no change since the previous report. This is because the resources available for the Committee's work were considerably reduced in the current year, preventing it from undertaking a comprehensive systematic follow-up programme.

...

Finland: Four Views finding violations: 265/1987 - Vuolanne (1989 Report (A/44/40)); for State party's follow-up reply, see 1989 Report, para. 657 and annex XII; 291/1988 - Torres (1990 Report (A/45/40)); for State party's follow-up reply, see 1990 Report, vol. II, annex XII; 387/1989 - Karttunen (1993 Report (A/48/40)); no follow-up reply received in respect of this case; 412/1990 - Kivenmaa (1994 Report (A/49/40)); State party's preliminary follow-up reply, dated 13 September 1994, unpublished.

VII. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

461. The Committee's previous report (A/53/40) contained a detailed country-by-country breakdown of follow-up replies received or requested and outstanding as of 30 June 1998. The list that follows shows the additional cases in respect of which follow-up information has been requested from States (Views in which the deadline for receipt of follow-up information had not yet expired have not been included). It also indicates those cases in which replies are outstanding. In many of these cases there has been no change since the last report. This is because the resources available for the Committee's work have been considerably reduced preventing it from undertaking a comprehensive systematic follow-up programme.

...

Finland: Four Views finding violations: 265/1987 - Vuolanne (A/44/40); for State party's follow-up reply, see A/44/40, para. 657 and annex XII; 291/1988 - Torres (A/45/40); for State party's follow-up reply, see A/45/40, vol. II, annex XII, sect. C; 387/1989 - Karttunen (A/48/40); for follow-up reply, dated 20 April 1999, see below; 412/1990 - Kivenmaa (A/49/40); State party's preliminary follow-up reply, dated 13 September 1994, unpublished; for further follow-up reply, dated 20 April 1999, see below.

...

Overview of follow-up replies received and of the Special Rapporteur's follow-up consultations during the reporting period

...

467. Finland. By submission of 20 April 1999, the Government of Finland informed the Committee about developments concerning the measures taken in respect of the Committee's Views in case No. 387/1989 - Karttunen. The State party recalled that in 1993 it had contacted the author's lawyer and that it was agreed that he would request an annulment of the domestic decision by the Supreme Court and that the matter of compensation would be examined afterwards. Counsel, however, had failed to present a request for annulment or for compensation. The State party further informed the Committee that the Code of Judicial Procedure, at issue in the case, had been amended effective 1 May 1998. According to the new provisions of the Code, oral hearings could be requested by any of the parties before the court of appeal.

468. By submission of 20 April 1999, in respect of case No. 412/1990 - Kivenmaa, the Government of Finland informed the Committee that on 27 May 1998, the Ministry of the Interior had decided, at the request by the author, to grant her compensation of Fmk 3,000. The author appealed this decision to the Supreme Administrative Court requesting Fmk 20,000 in compensation and Fmk 10,000 for legal expenses. The case has been transferred to the County Administrative Court of Uusimaa for consideration and is still pending. A new Act on the Freedom of Assembly had been approved by Parliament on 17 February 1999 and would enter into force in autumn 1999.

VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL...

596. The Committee's previous report (A/54/40) contained a detailed country-by-country breakdown of follow-up replies received or requested and outstanding as of 30 June 1999. The list that follows shows the additional cases in respect of which follow-up information has been requested from States. (Views in which the deadline for receipt of follow-up information had not yet expired have not been included.) It also indicates those cases in which replies are outstanding. In many of these cases there has been no change since the last report. This is because the limited resources available for the Committee's work prevent it from undertaking a comprehensive or systematic follow-up programme.

...

Finland: Four Views finding violations: 265/1987 - Vuolanne (A/44/40); for the State party's follow-up reply, see A/44/40, para. 657 and annex XII; 291/1988 - Torres (A/45/40); for the State party's follow-up reply, see A/45/40, vol. II, annex XII, sect. C; 387/1989 - Karttunen (A/48/40); for follow-up reply, dated 20 April 1999, see A/54/40, para. 467; 412/1990 - Kivenmaa (A/49/40); State party's preliminary follow-up reply, dated 13 September 1994, unpublished; for a further follow-up reply, dated 20 April 1999, see A/54/40, para. 468.

CCPR A/56/40, vol. I (2001)

Chapter IV. Follow-up Activities under the Optional Protocol

...

180. The Committee's previous annual report (A/55/40, vol. I, chap. VI) contained a detailed country-by-country survey on follow-up replies received or requested and outstanding as of 30 June 2000. The list that follows updates that survey, indicating those cases in which replies are outstanding, but does not take into account the Committee's Views adopted during the seventy-second session, for which follow-up replies are not yet due. In many cases there has been no change since the previous report.

...

Finland: Four Views finding violations: 265/1987 - Vuolanne (A/44/40); for follow-up reply, see A/44/40, paragraph 657 and annex XII; 291/1988 - Torres (A/45/40); for follow-up reply, see A/45/40, vol. II, annex XII, sect. C; 387/1989 - Karttunen (A/48/40); for follow-up reply, dated 20 April 1999, see A/54/40, paragraph 467; 412/1990 - Kivenmaa (A/49/40); preliminary follow-up reply, dated 13 September 1994, unpublished; for further follow-up reply, dated 20 April 1999 see A/54/40, paragraph 468.

CCPR A/57/40, vol. I (2002)

Chapter VI. Follow-up activities under the optional protocol

...

228. The previous annual report of the Committee (A/56/40, vol. I, chap. VI) contained a detailed country-by-country survey of follow-up replies received or requested and outstanding as of 30 June 2001. The list that follows updates that survey, indicating those cases in which replies are outstanding, but does not include responses concerning the Committee's Views adopted during the seventy-fourth and seventy-fifth sessions, for which follow-up replies are not yet due. In many cases there has been no change since the previous report.

...

Finland: Views in five cases with findings of violations:

265/1987 - Vuolanne (A/44/40); for follow-up reply, see A/44/40, paragraph 657 and annex XII;

291/1988 - Torres (A/45/40); for follow-up reply, see A/45/40, vol. II, annex XII, sect. C;

387/1989 - Karttunen (A/48/40); for follow-up reply, dated 20 April 1999, see A/54/40, paragraph 467;

412/1990 - Kivenmaa (A/49/40); preliminary follow-up reply, dated 13 September 1994, unpublished; for further follow-up reply, dated 20 April 1999 see A/54/40, paragraph 468;

779/1997 - Äärelä et al. (annex IX); for follow-up reply, see paragraph [240] below.

...

229. For further information on the status of all the Views in which follow-up information remains outstanding or in respect of which follow-up consultations have been or will be scheduled, reference is made to the follow-up progress report prepared for the seventy-fourth session of the Committee (CCPR/C/74/R.7/Rev.1, dated 28 March 2002), discussed in public session at the Committee's 2009th meeting on 4 April 2002 (CCPR/C/SR.2009). Reference is also made to the Committee's previous reports, in particular A/56/40, paragraphs 182 to 200.

Overview of follow-up replies received during the reporting period, Special Rapporteur's follow-up consultations and other developments

230. The Committee welcomes the follow-up replies that have been received during the reporting period and expresses its appreciation for all the measures taken or envisaged to provide victims of violations of the Covenant with an effective remedy. It encourages all States parties which have addressed preliminary follow-up replies to the Special Rapporteur to conclude their investigations in as expeditious a manner as possible and to inform the Special Rapporteur of their results. The

follow-up replies received during the period under review and other developments are summarized below.

...

240. Finland: With regard to case No. 779/1997, Äärelä et al. (annex IX), the State party informed the Committee, by submission of 24 January 2002, that authors had been restituted the costs awarded against them. Part of the restitution may be considered compensation for non-pecuniary damage concerning non-communication of the Forestry Service brief. As to the reconsideration of the author's claims, under the Finnish legal system a final judgement may be challenged by means of so-called extraordinary appeal which are provided for in Chapter 31 of the Code of Judicial Procedure. It was mainly for the injured party him/herself that may resort to such means. The injured party may, for example, lodge a request for the annulment of a judgement with the Supreme Court which would examine the request and decide whether there was reason to annul the judgement. Furthermore, it was possible for the Chancellor of Justice to independently make a request for annulment in cases involving significant public interests. Thus, the Government would submit the Committee's views to the Chancellor of Justice, in order for an assessment of whether there still are grounds for extraordinary appeal. Moreover, the Committee's Views would, in accordance with standard procedure, be sent to the relevant authorities.

...

CHAPTER VI. Follow-up activities under the Optional Protocol

...

223. The previous annual report of the Committee¹ contained a detailed country-by-country survey of follow-up replies received or requested and outstanding as of 30 June 2002. The list that follows updates that survey, indicating those cases in which replies are outstanding, but does not include responses concerning the Committee's Views adopted during the seventy-seventh and seventy-eighth sessions, for which follow-up replies are not yet due in the majority of cases. In many cases there has been no change since the previous report.*

...

Finland: Views in five cases with findings of violations:

265/1987 - *Vuolanne* (A/44/40); for follow-up reply, see A/44/40, paragraph 657 and annex XII;

291/1988 - *Torres* (A/45/40); for follow-up reply, see A/45/40, volume II, annex XII, section C;

387/1989 - *Karttunen* (A/48/40); for follow-up reply, dated 20 April 1999, see A/54/40, paragraph 467;

412/1990 - *Kivenmaa* (A/49/40); preliminary follow-up reply, dated 13 September 1994, unpublished; for further follow-up reply, dated 20 April 1999, see A/54/40, paragraph 468;

779/1997 - *Äärelä et al.* (A/57/40); for follow-up reply, see A/57/40, paragraph 240.

Notes

1. [*Official Records of the General Assembly*], *Fifty-seventh Session, Supplement No. 40*(A/57/40), vol. I, chap. VI.

* The document symbol A/[Session No.]/40 refers to the *Official Record of the General Assembly* in which the case appears; annex VI refers to the present report, vol. II.

CCPR CCPR/C/80/FU/1 (2004)

Follow-Up Progress Report submitted by The Special Rapporteur for Follow-Up on Views

Follow-up progress report

1. The current report updates the previous Follow-up Progress Report, (CCPR/C/71/R.13) [*Ed. Note: CCPR/C/71/R.13 is not publicly available*] which focused on cases in which, by the end of February 2001, no or only incomplete follow-up information had been received from States parties, or where follow-up information challenged the findings and recommendations of the Committee. In an effort to reduce the size of the follow-up report, this current report only reflects cases in which information was received from either the author or the State party from 1 March 2001 to 2 April 2004. It is the intention of the Special Rapporteur to update this report on an annual basis.

...

FINLAND:

Äärelä et al. V. Finland, Case no. 779/1997, Views adopted on 24 October 2001

Violations found: Articles 14, paragraph 1 and 2.

Issues of case: Indigenous rights; inequality before the courts.

Remedy recommended: In terms of the award of costs against the authors, the Committee considered that as the costs award violated article 14, paragraph 1, of the Covenant and, moreover, followed proceedings themselves in violation of article 14, paragraph 1, the State party was under an obligation to retribute to the authors that proportion of the costs award already recovered, and to refrain from seeking execution of any further portion of the award. As to the violation of article 14, paragraph 1, arising from the process applied by the Court of Appeal in handling the brief submitted late by the Forestry Service, the Committee considered that, as the decision of the Court of Appeal was tainted by a substantive violation of fair trial provisions, the State party was under an obligation to reconsider the authors' claims.

Deadline for State party follow-up information: 7 February 2002

Follow-up information received from State party: By submission of 24 January 2002, the State party informed the Committee that authors had been restituted the costs awarded against them. Part of the restitution may be considered compensation for non-pecuniary damage concerning non-communication of the Forestry Service brief. As to the reconsideration of the author's claims, under the Finnish legal system a final judgment may be challenged by means of a so-called "extraordinary appeal" which was provided for in Chapter 31 of the Code of Judicial Procedure. The injured party may lodge a request for the annulment of a judgment with the Supreme Court which would examine the request and decide whether there was reason to annul the judgment. Furthermore, it was possible for the Chancellor of Justice to independently make a request for

annulment in cases involving significant public interests. Thus, the Government would submit the Committee's views to the Chancellor of Justice, in order for an assessment of whether there still are grounds for extraordinary appeal. Moreover, the Committee's Views would, in accordance with standard procedure, be sent to the relevant authorities.

Follow-up information received from author: None

Special Rapporteur's recommendations: While welcoming the State party's decision to provide compensation to the authors, the State party should make every effort to fully implement the Views and the Committee wishes to receive information on the outcome of the application for an extraordinary appeal.

...

CCPR, CCPR/C/SR.2194 (2004)

Human Rights Committee
Eightieth session

Summary record of the second part (public) of the 2194th meeting
Held at Headquarters, New York, on
Friday, 2 April 2004, at 10 a.m.

...

Follow-up on Views under the Optional Protocol

...

3. **Mr. Scheinin** said that, with regard to reconsideration, if the State party complained that the Committee was mistaken as to the facts, the answer should be that the Committee's decision was made only on the basis of the facts provided by the parties. The Special Rapporteur for follow-up on Views under the Optional Protocol could discuss with the State party and with the Committee the possible effect of the corrected facts with respect to the remedy, but the Views would stand nonetheless. If, on the other hand, the State party was contesting the interpretation of the law, the Special Rapporteur should stand firm, since the interpretation had been arrived at through an adversarial proceeding between the parties. However, he might suggest to the State party that it could raise such issues of law in a general way in its next periodic report.

4. In the face of a failure or refusal to implement the Views, it must be admitted that the Committee itself had little power to induce compliance and would need to call for political support from the United Nations and the other States parties to the Protocol. The Organization as a whole should discuss what mechanisms could be developed.

...

9. **Ms. Chanet** said that, on the question of reconsideration, she did not agree with Mr. Scheinin's distinction between interpretation of fact and law. The Committee had no review procedure and could not reconsider, unless perhaps a glaring error had been made with regard to the facts, something that had not yet occurred insofar as she could remember. A State party's refusal to comply should not put an end to follow-up, because that would merely encourage non-compliance. She supported the suggestion of including a table in the report showing the cases still under follow-up.

10. In case No. 799/1997 (*Äärelä et al. v. Finland*), she thought that further follow-up was needed, as the State party had so far only complied with a small portion of the Committee's recommendations. There were States parties that were very good at giving the impression that they were complying, whereas they were actually evading the issue or making excuses, and the Committee should not let itself be deceived.

...

CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

...

230. The previous annual report of the Committee¹ contained a detailed country-by-country survey of follow-up replies received or requested and outstanding as of 30 June 2003. The list that follows updates that survey, indicating those cases in which replies are outstanding, but does not include responses concerning the Committee's Views adopted during the eightieth and eighty-first sessions, for which follow-up replies are not yet due in the majority of cases. In many cases there has been no change since the previous report.*

...

Finland:

Views in five cases with findings of violations:

265/1987 - *Vuolanne* (A/44/40); for follow-up reply, see A/44/40, paragraph 657 and annex XII;

291/1988 - *Torres* (A/45/40); for follow-up reply, see A/45/40, volume II, annex XII, section C;

387/1989 - *Karttunen* (A/48/40); for follow-up reply, dated 20 April 1999, see A/54/40, paragraph 467;

412/1990 - *Kivenmaa* (A/49/40); preliminary follow-up reply, dated 13 September 1994, unpublished; for further follow-up reply, dated 20 April 1999, see A/54/40, paragraph 468;

779/1997 - *Äärelä et al.* (A/57/40); for follow-up reply, see A/57/40, paragraph 240; in the follow-up report (CCPR/C/80/FU1), adopted by the Committee during its eightieth session, the Special Rapporteur recommended that while he welcomed the State party's decision to provide compensation to the authors, the State party should make every effort to fully implement the Views and would wish to receive information on the outcome of the application for an extraordinary appeal.

Notes

^{1/} Ibid., *Fifty-eighth Session, Supplement No. 40* (A/58/40), vol. I, chap. VI.

* The document symbol A/[session No.]/40 refers to the *Official Records of the General Assembly* in which the case appears; annex IX refers to the present report, volume II.

...

CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

224. In July 1990, the Committee established a procedure for the monitoring of follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and created the mandate of the Special Rapporteur for the follow-up on Views to this effect. Mr. Ando has been the Special Rapporteur since March 2001 (seventy-first session).

225. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information has been systematically requested in respect of all Views with a finding of a violation of Covenant rights. A total of 391 Views out of the 503 Views adopted since 1979 concluded that there had been a violation of the Covenant.

228. In many cases, the Secretariat has also received information from complainants to the effect that the Committee's Views have not been implemented. Conversely, in rare instances, the petitioner has informed the Committee that the State party has in fact given effect to the Committee's recommendations, even though the State party did not itself provide that information.

229. The present annual report adopts a different format for the presentation of follow-up information compared to previous annual reports. The table below displays a complete picture of follow-up replies from States parties received as of 28 July 2005, in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of complying with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up on Views continues. The notes following a number of case entries convey an idea of the difficulties in categorizing follow-up replies.

230. Follow-up information provided by States parties and by petitioners or their representatives since the last annual report is set out in a new annex VII, contained in Volume II of the present annual report. This, more detailed, follow-up information also indicates action still outstanding in those cases that remain under review.

FOLLOW-UP RECEIVED TO DATE FOR ALL CASES OF VIOLATIONS OF THE COVENANT

State party and number of cases with violation	Communication number, author and location ^a	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response	Follow-up dialogue ongoing
...						
Finland (5)	265/1987, <i>Vuolanne</i> A/44/40	X A/44/40	X			
	291/1988, <i>Torres</i> A/45/40	X A/45/40	X A/45/40			
	387/1989, <i>Karttunen</i> A/48/40	X A/54/40	X			
	412/1990, <i>Kivenmaa</i> A/49/40	X A/54/40	X			
	779/1997, <i>Äärelä et al.</i> A/57/40	X A/57/40, A/59/40				X

^a The location refers to the document symbol of the *Official Records of the General Assembly, Supplement No. 40*, which is the annual report of the Committee to the respective sessions of the Assembly.

...

CHAPTER VI FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

227. In July 1990, the Committee established a procedure for the monitoring of follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and created the mandate of the Special Rapporteur for follow-up to Views to this effect. Mr. Ando has been the Special Rapporteur since March 2001 (seventy-first session).

228. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information has been systematically requested in respect of all Views with a finding of a violation of Covenant rights; 429 Views out of the 547 Views adopted since 1979 concluded that there had been a violation of the Covenant.

229. All attempts to categorize follow-up replies by States parties are inherently imprecise and subjective: it accordingly is not possible to provide a neat statistical breakdown of follow-up replies. Many follow-up replies received may be considered satisfactory, in that they display the willingness of the State party to implement the Committee's recommendations or to offer the complainant an appropriate remedy. Other replies cannot be considered satisfactory because they either do not address the Committee's Views at all or only relate to certain aspects of them. Some replies simply note that the victim has filed a claim for compensation outside statutory deadlines and that no compensation can therefore be paid. Still other replies indicate that there is no legal obligation on the State party to provide a remedy, but that a remedy will be afforded to the complainant on an *ex gratia* basis.

230. The remaining follow-up replies challenge the Committee's Views and findings on factual or legal grounds, constitute much-belated submissions on the merits of the complaint, promise an investigation of the matter considered by the Committee or indicate that the State party will not, for one reason or another, give effect to the Committee's Views.

231. In many cases, the Secretariat has also received information from complainants to the effect that the Committee's Views have not been implemented. Conversely, in rare instances, the petitioner has informed the Committee that the State party had in fact given effect to the Committee's recommendations, even though the State party had not itself provided that information.

232. The present annual report adopts the same format for the presentation of follow-up information as the last annual report. The table below displays a complete picture of follow-up replies from States parties received up to 7 July 2006, in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of their compliance with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up to Views continues. The Notes following a number of case entries convey an idea of the difficulties in categorizing follow-up replies.

233. Follow-up information provided by States parties and by petitioners or their representatives subsequent to the last annual report (A/60/40, vol. I, chap. VI) is set out in annex VII to volume II of the present annual report.

FOLLOW-UP RECEIVED TO DATE FOR ALL CASES OF VIOLATIONS OF THE COVENANT

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
...						
Finland (5)	265/1987, <i>Vuolanne</i> A/44/40	X A/44/40	X			
	291/1988, <i>Torres</i> A/45/40	X A/45/40	X A/45/40			
	387/1989, <i>Karttunen</i> A/48/40	X A/54/40	X			
	412/1990, <i>Kivenmaa</i> A/49/40	X A/54/40	X			
	779/1997, <i>Äärelä et al.</i> A/57/40	X A/57/40, A/59/40				X
...						

...

CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

213. In July 1990, the Committee established a procedure for the monitoring of follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and created the mandate of the Special Rapporteur for follow-up to Views to this effect. Mr. Ando has been the Special Rapporteur since March 2001 (seventy-first session).

214. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information has been systematically requested in respect of all Views with a finding of a violation of Covenant rights; 452 Views out of the 570 Views adopted since 1979 concluded that there had been a violation of the Covenant.

215. All attempts to categorize follow-up replies by States parties are inherently imprecise and subjective: it accordingly is not possible to provide a neat statistical breakdown of follow-up replies. Many follow-up replies received may be considered satisfactory, in that they display the willingness of the State party to implement the Committee's recommendations or to offer the complainant an appropriate remedy. Other replies cannot be considered satisfactory because they either do not address the Committee's Views at all or only relate to certain aspects of them. Some replies simply note that the victim has filed a claim for compensation outside statutory deadlines and that no compensation can therefore be paid. Still other replies indicate that there is no legal obligation on the State party to provide a remedy, but that a remedy will be afforded to the complainant on an *ex gratia* basis.

216. The remaining follow-up replies challenge the Committee's Views and findings on factual or legal grounds, constitute much-belated submissions on the merits of the complaint, promise an investigation of the matter considered by the Committee or indicate that the State party will not, for one reason or another, give effect to the Committee's Views.

217. In many cases, the Committee secretariat has also received information from complainants to the effect that the Committee's Views have not been implemented. Conversely, in rare instances, the petitioner has informed the Committee that the State party had in fact given effect to the Committee's recommendations, even though the State party had not itself provided that information.

218. The present annual report adopts the same format for the presentation of follow-up information as the last annual report. The table below displays a complete picture of follow-up replies from States parties received up to 7 July 2007, in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of their compliance with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up to Views continues. The Notes following a number of case entries convey an idea of the difficulties in categorizing follow-up replies.

219. Follow-up information provided by States parties and by petitioners or their representatives subsequent to the last annual report (A/61/40, vol. I, chap. VI) is set out in annex VII to volume II of the present annual report.

FOLLOW-UP RECEIVED TO DATE FOR ALL CASES OF VIOLATIONS OF THE COVENANT

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
...						
Finland (5)	265/1987, <i>Vuolanne</i> A/44/40	X A/44/40	X			
	291/1988, <i>Torres</i> A/45/40	X A/45/40	X A/45/40			
	387/1989, <i>Karttunen</i> A/48/40	X A/54/40	X			
	412/1990, <i>Kivenmaa</i> A/49/40	X A/54/40	X			
	779/1997, <i>Äärelä et al.</i> A/57/40	X A/57/40, A/59/40				X
...						

VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

187. In July 1990, the Committee established a procedure for the monitoring of follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and created the mandate of the Special Rapporteur for follow-up to Views to this effect. Mr. Ando has been the Special Rapporteur since March 2001 (seventy-first session).

188. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information had been systematically requested in respect of all Views with a finding of a violation of Covenant rights; 429 Views out of the 547 Views adopted since 1979 concluded that there had been a violation of the Covenant.

189. All attempts to categorize follow-up replies by States parties are inherently imprecise and subjective: it accordingly is not possible to provide a neat statistical breakdown of follow-up replies. Many follow-up replies received may be considered satisfactory, in that they display the willingness of the State party to implement the Committee's recommendations or to offer the complainant an appropriate remedy. Other replies cannot be considered satisfactory because they either do not address the Committee's Views at all or relate only to certain aspects of them. Some replies simply note that the victim has filed a claim for compensation outside statutory deadlines and that no compensation can therefore be paid. Still other replies indicate that there is no legal obligation on the State party to provide a remedy, but that a remedy will be afforded to the complainant on an *ex gratia* basis.

190. The remaining follow-up replies challenge the Committee's Views and findings on factual or legal grounds, constitute much-belated submissions on the merits of the complaint, promise an investigation of the matter considered by the Committee or indicate that the State party will not, for one reason or another, give effect to the Committee's recommendations.

191. In many cases, the Secretariat has also received information from complainants to the effect that the Committee's Views have not been implemented. Conversely, in rare instances, the petitioner has informed the Committee that the State party had in fact given effect to the Committee's recommendations, even though the State party had not itself provided that information.

192. The present annual report adopts the same format for the presentation of follow-up information as the last annual report. The table below displays a complete picture of follow-up replies from States parties received up to 7 July 2008, in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of their compliance with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up to Views continues. The notes following a number of case entries convey an idea of the difficulties in categorizing follow-up replies.

193. Follow-up information provided by States parties and by petitioners or their representatives

subsequent to the last annual report (A/62/40) is set out in annex VII to volume II of the present annual report.

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
...						
Finland (5)	265/1987, <i>Vuolanne</i> A/44/40	X A/44/40	X			
	291/1988, <i>Torres</i> A/45/40	X A/45/40	X A/45/40			
Finland (<i>cont'd</i>)	387/1989, <i>Karttunen</i> A/48/40	X A/54/40	X			
	412/1990, <i>Kivenmaa</i> A/49/40	X A/54/40	X			
	779/1997, <i>Äärelä et al.</i> A/57/40	X A/57/40, A/59/40				X
...						

VI. FOLLOW UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

230. In July 1990, the Committee established a procedure for the monitoring of follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and created the mandate of the Special Rapporteur for follow-up on Views to this effect. Ms. Ruth Wedgwood has been the Special Rapporteur since July 2009 (ninety-sixth session).

231. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information had been systematically requested in respect of all Views with a finding of a violation of Covenant rights; 543 Views out of the 681 Views adopted since 1979 concluded that there had been a violation of the Covenant.

232. All attempts to categorize follow-up replies by States parties are inherently imprecise and subjective: it accordingly is not possible to provide a neat statistical breakdown of follow-up replies. Many follow-up replies received may be considered satisfactory, in that they display the willingness of the State party to implement the Committee's recommendations or to offer the complainant an appropriate remedy. Other replies cannot be considered satisfactory because they either do not address the Committee's Views at all or relate only to certain aspects of them. Some replies simply note that the victim has filed a claim for compensation outside statutory deadlines and that no compensation can therefore be paid. Still other replies indicate that there is no legal obligation on the State party to provide a remedy, but that a remedy will be afforded to the complainant on an *ex gratia* basis.

233. The remaining follow-up replies challenge the Committee's Views and findings on factual or legal grounds, constitute much belated submissions on the merits of the complaint, promise an investigation of the matter considered by the Committee or indicate that the State party will not, for one reason or another, give effect to the Committee's recommendations.

234. In many cases, the Secretariat has also received information from complainants to the effect that the Committee's Views have not been implemented. Conversely, in rare instances, the petitioner has informed the Committee that the State party had in fact given effect to the Committee's recommendations, even though the State party had not itself provided that information.

235. The present annual report adopts the same format for the presentation of follow-up information as the last annual report. The table below displays a complete picture of follow-up replies from States parties received up to the ninety-sixth session (13-31 July 2009), in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of their compliance with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up on Views continues. The notes following a number of case entries convey an idea of the difficulties in categorizing follow-up replies.

236. Follow-up information provided by States parties and by petitioners or their representatives

subsequent to the last annual report (A/63/40) is set out in annex IX to volume II of the present annual report.

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
...						
Finland (5)	265/1987, <i>Vuolanne</i> A/44/40	X A/44/40	X			
	291/1988, <i>Torres</i> A/45/40	X A/45/40	X A/45/40			
	387/1989, <i>Karttunen</i> A/48/40	X A/54/40	X			
	412/1990, <i>Kivenmaa</i> A/49/40	X A/54/40	X			
	779/1997, <i>Äärelä et al.</i> A/57/40	X A/57/40, A/59/40				X
...						

Follow-up - Jurisprudence
b) Action by State Parties

CCPR A/44/40 (1989)

Annex XII

Information received from States parties following the adoption of final views

Note No. 2489, dated 27 July 1989, from the Permanent Mission of Finland to the United Nations Office at Geneva, concerning the views adopted by the Human Rights Committee on communication No. 265/1987, Antti Vuolanne v. Finland (see annex X (J) above)

The Permanent Mission of Finland presents its compliments to the Centre for Human Rights and has the honour to forward the following information from the Finnish authorities:

In communication No. 265/1987 submitted to the Human Rights Committee by a conscript sanctioned with military confinement, the Committee was of the view that the communication disclosed a violation of article 9, paragraph 4, of the Covenant, since the author had been unable to challenge his detention before a court.

Legislative preparations are now under way to guarantee that persons who have been deprived of their liberty in an administrative process and who have not previously had the opportunity to have their detention examined by a court shall have that right after the new law enters into force. A government Bill to amend the Law on Military Disciplinary Procedure (331/83) and the relevant Ordinance (939/83) will be submitted to the Parliament in 1989. According to the Bill, a conscript shall have the right to have a decision on military confinement examined by a court.

Hartikainen v. Finland

Communication No. 40/1978

20 June 1983

STATE PARTY RESPONSE

Response, dated 20 June 1983, of the Government of Finland to the views adopted by the Human Rights Committee on 9 April 1981

concerning

Communication No. 40/1978* E. Hartikainen and other members of the Union of Free Thinkers

1. With regard to questions relevant to the views of the Human Rights Committee concerning communication No. R. 9/40, ^a the Ministry of Education has given the following report:

2. On the basis of the report of the working group established by the National Board of Education mentioned in paragraph 9.3 of the decision of the Committee, ^a the Board confirmed on 17 June 1981 the contents of the instruction of ethics and the history of religions for comprehensive schools. The working group had consulted the Union of Free Thinkers in Finland in a letter on 27 October 1980.

3. Paragraph 16 (3) of the Comprehensive School Statute (No. 443 of 26 June 1970) to which reference was made in paragraph 10.4 of the decision of the Committee, ^a was revised on 16 April 1982 (No. 296, see annex) to correspond to the formulation of paragraph 6 of the School System Act (No. 467 of 26 July 1968). The amended text is as follows:

"Instruction on ethics and the history of religions referred to in paragraph 6 (2) of the School System Act shall be given for a period equivalent of at least one weekly lesson to five or more pupils who have been exempted from the general instruction of religion in the school and who are unable to show that they are receiving comparable instruction outside the school."

4. The National Board of Education has taken the following further measures to solve the problems cited in paragraph 10.5 ^a of the decision of the Committee:

(1) The Board of Education has made an allocation as of 3 March 1981 allowing a senior official to be specially employed for 40 days a year to inspect the instruction of ethics and the history of religions.

(2) On 4 March 1981, the Board of Education charged the working group on ethics and the history of religions, established on 16 January 1979, with a further assignment to draw up a teachers' guide and to present proposals and make studies With a view to develop the instruction of ethics and the

history of religions.

(3) In an effort to intensify the training of teachers of the subject, the Board of Education organized in November-December 1982 a workshop on how to improve teaching of ethics and the history of religions.

Notes

* The numbering system was changed at the eighteenth session of the Committee. previously, the reference number of each case referred, in addition to the serial number of the case in the register, to the number of the list of communications in which it was summarized (e.g., R. 9/40) and not to the year of registration.

a/ Official Records of the General Assembly, Thirty-sixth Session Supplement No. 40 (A/36/40), annex XV.