NEW ZEALAND

Follow-up - Jurisprudence
Action by Treaty Bodies

CCPR A/58/40, vol. I (2003)

CHAPTER VI. Follow-up activities under the Optional Protocol

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223. The previous annual report of the Committee[1] 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.*

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New Zealand: Views in one case with findings of violations:

893/1999 - *Sahid* (annex VI); follow-up reply not yet received.

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.

...

NEW ZEALAND:

Rameka v. New Zealand, Case no. 1090/2002, Views adopted on 6 November 2003

Violation found: Article 9, paragraph 4.

Issues of case: Preventative detention

Remedy recommended: The ability to challenge the justification of his continued detention for preventive purposes once the seven and a half year period of punitive sentence has been served

Deadline for State party follow-up information: 9 February 2004

Follow-up information received from State party: On 3 February 2004, the State party informed the Committee that Section 25(3) of the Parole Act 2000 provides that the Minister of Justice may designate a class of offenders who have not yet reached their parole eligibility dates for early consideration by the Parole Board, who would review the justification for a person's continued detention for preventative purposes. The Minister for Justice proposes to designate as a class of offenders for early consideration by the Parole Board, any offender who has been sentenced to preventative detention under the Criminal Justice Act if: (1) a Court has indicated that, had preventative detention not been imposed, the finite sentence that would have instead been imposed on the offender would have been less than 10 years imprisonment; and (2) the offender has served a period of imprisonment of not less than the full term of the notional finite sentence; and (3) the offender has applied for early parole consideration. This designation should ensure that Mr. Harris has the ability to challenge his continued detention at the time the notional finite sentence period mentioned in the Court of Appeal judgment has expired. In addition, the State party advises that the law on preventative detention has been amended. The Sentencing Act 2002 requires the Court in make an order at the time a sentence of preventative detention is

imposed as to the minimum period of detention, which must be for a period of not less than five years. The offender becomes eligible for regular review once the minimum period of detention has expired.

Follow-up information received from author: On 12 March 2004, the authors responded to the State party's submission, and stated that the remedy was ineffective that the remedy itself is a new violation of article 15 and that the State party failed to publicise the Views. The authors referred to article 15 which provides that "....If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby." They argue that they are being denied their rights contained in article 15, as a lighter penalty now applies following the passing of the Sentencing Act 2002 as advised by the State party. Under the terms of the new Act the authors are entitled to consideration of parole as of right after 5 years imprisonment, not a minimum of 10 years as provided in the previous legislation, or at 7 and a half years for Harris. As the new Act itself defines the imprisonment period as a "sentence", the authors argue that the sentence reduction from 10 years to 5 years before consideration of parole is clearly a lighter penalty for the purposes of article 15. Neither the Special Rapporteur on New Communications nor the Special Rapporteur on Follow-up to Views considered the submission to pertain to follow-up but is in fact a new communication and should be dealt with in the ordinary course.

Special Rapporteur's recommendations: While noting the author's dissatisfaction with the remedy offered by the State party, the Committee does not intend to consider the matter any further under the follow-up procedure.

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CCPR A/59/40 vol. I (2004)

CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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230. The previous annual report of the Committee[1] 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.*

...

New Zealand:	Views in one case with findings of violations:
	1090/2002 - *Rameka et al.* (annex IX); for follow-up reply see paragraph 245 below. In the follow-up report (CCPR/C/80/FU1), adopted by the Committee during its eightieth session, neither the Special Rapporteur on new communications nor the Special Rapporteur on follow-up to Views considered the author's submission to pertain to follow-up, but was in fact a new communication and should be dealt with in the ordinary way. The Special Rapporteur recommended that, while noting the author's dissatisfaction with the remedy offered by the State party, this case should not be considered further under the follow-up procedure.

...

OVERVIEW OF FOLLOW-UP REPLIES RECEIVED DURING THE REPORTING PERIOD, SPECIAL RAPPORTEUR'S FOLLOW-UP CONSULTATIONS AND OTHER DEVELOPMENTS

231. 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.

...

248. New Zealand: as to case No. 1090/2002 - *Rameka* (annex IX): on 3 February 2004, the State party informed the Committee that section 25 (3) of the Parole Act 2000 provides that

the Minister of Justice may designate a class of offenders who have not yet reached their parole eligibility dates for early consideration by the Parole Board, who would review the justification for a person's continued detention for preventive purposes. The Minister for Justice proposes to designate as a class of offenders for early consideration by the Parole Board, any offender who has been sentenced to preventive detention under the Criminal Justice Act if: (i) a court has indicated that, had preventive detention not been imposed, the finite sentence that would have instead been imposed on the offender would have been less than 10 years' imprisonment; and (ii) the offender has served a period of imprisonment of not less than the full term of the notional finite sentence; and (iii) the offender has applied for early parole consideration. This designation should ensure that Mr. Harris has the ability to challenge his continued detention at the time the notional finite sentence period mentioned in the Court of Appeal judgement has expired. In addition, the State party advises that the law on preventive detention has been amended. The Sentencing Act 2002 requires the court to make an order at the time a sentence of preventive detention is imposed as to the minimum period of detention, which must be for a period of not less than five years. The offender becomes eligible for regular review once the minimum period of detention has expired. On 12 March 2004, the authors responded to the State party's submission, stating that the remedy was ineffective, that the remedy itself was a new violation of article 15 and that the State party failed to publicize the Views. On 29 March 2004, the State party provided arguments in response to the author's submission of 12 March to the effect that the issues raised were new matters that were not raised in the initial communication.

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.

CCPR, A/60/40 vol. I (2005)

...

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
...						
New Zealand (1)	1090, *Rameka et al.* A/59/40	X A/59/40	X A/59/40			

[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.

CCPR, A/61/40 vol. I (2006)

...

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**
...						
New Zealand (1)	1090, *Rameka et al.* A/59/40	X A/59/40	X A/59/40			
...						

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...

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**
New Zealand (2)	1090, *Rameka et al.* A/59/40	X A/59/40	X A/59/40			
	1368/2005, *Britton* A/62/40	Not yet due				
...						

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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.

...						
New Zealand (2)	1090/2002, *Rameka et al.* A/59/40	X A/59/40	X A/59/40			
	1368/2005, *Britton* A/62/40	X A/63/40				X
...						

CCPR, A/63/40, vol. II (2008)

Annex VII

FOLLOW UP OF THE HUMAN RIGHTS COMMITTEE ON INDIVIDUAL COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

This report sets out all information provided by States parties and authors or their counsel since the last Annual Report (A/62/40).

...

State party	**NEW ZEALAND**
Case	**E.B., 1368/2005**
Views adopted on	16 March 2007
Issues and violations found	Undue delay in the resolution of the author's application to the Family Court for access to his children (art. 14, para. 1).
Remedy recommended	Effective remedy, including the expeditious resolution of the access proceedings in relation to one of the children.
Due date for State party response	July 2007
Date of reply	26 July 2007
State party response	The New Zealand Police has conducted a thorough review of the four separate investigations relating to the author, in light of the Committee's Views. The State party gives details about such investigations in order to explain the reasons for the delays. It states that while at face value the total period of time involved may seem lengthy and was indeed regrettable, the delay was neither undue nor unreasonable when considering in detail the circumstances of the case. Nor were the delays wholly attributable to the State, as noted in the opinion of one Committee member. As such the State party does not accept the Views of the Committee that a breach of Article 14, paragraph 1 has occurred, and accepts instead the individual View of one Committee member that "the suggestion that this case could be handled quickly does not give weight to the difficulty of assessing delicate facts in the close confines of a family and to the trauma to

children that can be caused by the very process of investigation".

In order to comply with natural justice and fairness, the Court was required at various points in the process to extend time frames beyond those originally imposed. Thus, although regrettable, the delays were neither undue nor unreasonable, nor wholly attributable to the State.

In relation to the continuing application by the author for access to one of the children, while it would be inappropriate for the Executive to intervene in matters of the Judiciary, the Family Court advised that the matter would be set down for a five-day hearing on 20-24 August 2007. The principal judge of the Family Court has assured the Government of New Zealand that undertaking its cases speedily and in accordance with the principles of fairness and natural justice is the single greatest concern of the Family Court judges.

To address the concern that cases are sometimes taking longer to hear than is desirable, the principal Family Court judge launched a new initiative in November 2006, aimed at those 5 per cent of cases that require a defended hearing. It is intended to reduce delay and costs by shortening families' involvement in litigation through a less adversarial approach.

Author's response

On 23 October 2007 the author informed the Committee that he had not been supplied with copies of the investigations referred to in the State party's response and, therefore, he suffered from an inequality of arms. As a result of the Committee's views, some priority was given to the case by the judicial authorities and a four-day hearing commenced on 20 August 2007. The judgement has not been issued yet.

Committee's Decision

The Committee considers the dialogue ongoing and would appreciate information on the results of the hearings which took place in August.

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CCPR, A/64/40, vol. I (2009)

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.

...						
New Zealand (3)	1090/2002, *Rameka et al.* A/59/40	X A/59/40	X A/59/40			
	1368/2005, *Britton* A/62/40	X A/63/40				X
	1512/2006, *Dean* A/64/40				X	
...						

CCPR, CCPR/C/SR.2712 (2010)

Human Rights Committee
Ninety-eighth session

Summary record (partial) of the 2712th meeting
Held at Headquarters, New York,
on Thursday 25 March 2010, at 3pm

...

Follow-up on views under the Optional Protocol

...

2. *Ms. Wedgwood*, speaking as Special Rapporteur for follow-up on Views under the Optional Protocol, introduced the follow-up progress report, which included information received since the Committee's 97th session.

...

5. In case No. 1482/2006 (***Gerlach v. Germany***), she welcomed the State party's decision to make known to all German courts the Committee's Views on the right to take part in a hearing and proposed that the Committee should discontinue consideration of the matter under the follow-up procedure, given that the author appeared to suffer from a mental disability and had made a large number of unintelligible submissions to the Committee since the Views had been adopted. With respect to case No. 1275/2004 (***Umetaliev et al v. Kyrgyz Republic***), the Committee should await a response from the author as to whether he deemed the ongoing criminal proceedings following the death of his son to be adequate. Turning to case No. 1512/2006 (***Dean v. New Zealand***), she noted that the author's decision to participate in a rehabilitation programme suggested by the State party, a decision taken since the most recent hearing on the case in September 2009, might render his prior complaints moot, and suggested that the Committee wait for his response to the State party's submission of 23 October 2009.

...

17. *The recommendations contained in the follow-up progress report of the Committee on individual communications were approved.*

The discussion covered in the summary record ended at 3.40 p.m.

A/65/40 vol. I (2010)

...

Chapter VI. Follow-up on individual communications under the Optional Protocol

202. The present chapter sets out all information provided by States parties and authors or their counsel since the last annual report (A/64/40).

...

State party	**New Zealand**
Case	***Dean, 1512/2006***
Views adopted on	17 March 2009
Issues and violations found	Article 9, paragraph 4.
Remedy recommended	Effective remedy
Due date for State party response	27 October 2009
Date of State party response	23 October 2009
State party response	In its response to the Committee's Views in Communication No. 1090/2002 (*Rameka v. New Zealand*), the State party advised that it would make provision for prisoners sentenced to preventive detention to request parole consideration at any point after the expiry of the otherwise applicable finite sentence. While not taking issue with the Committee's finding of violation of article 9, paragraph 4 in this case, the Government notes that the Committee's understanding that Mr. Dean was not eligible for parole consideration for three years from 2002 to 2005 in fact concerned a shorter period of one year and seven months, from June 2002 to February 2004. Mr. Dean has since appeared before the New Zealand Parole Board in June 2005, June 2006, November 2006, September 2007, March 2008, March 2009 and September 2009. Several other scheduled hearings during this period have been adjourned at the request of Mr. Dean and/or his counsel. Parole has been

declined on each occasion on the basis that Mr Dean continued to pose an undue risk to the community and had chosen not to undertake necessary rehabilitation plans. At the most recent hearing in September 2009, he did not seek parole but requested a further hearing in February 2010, as he is pursuing specialized rehabilitative arrangements with the Principal Psychologist of his rehabilitation programme.

In conclusion, the State party submits that the systemic measures instituted in February 2004 ensure non-repetition of the violation. These measures have afforded Mr Dean an immediate opportunity to review his continued detention, which has been reviewed on a number of subsequent occasions, and remains under review. These measures constitute an appropriate remedy for the violation suffered.

Author's comments None

Committee's Decision The Committee considers the dialogue ongoing.

...