

NORWAY

Follow-up - Jurisprudence Action by Treaty Bodies

CCPR A/55/40, vol. I (2000)

VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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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.

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Norway: One decision finding violations: 631/1995 - Spakmo (see annex IX, sect. B). For the State party's follow-up reply, see paragraph 613, below.

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

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Norway. By submission of 3 April 2000, in respect of case No. 631/1995 - Spakmo, the Government of Norway informed the Committee that it had decided to pay the author compensation of NKr 2,000 for non-pecuniary damages, as well as NKr 70,000 compensation for legal costs. The Committee's Views were announced by the Ministry of Justice in a press release on 23 December 1999.

Chapter IV. Follow-up Activities under the Optional Protocol

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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.

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Norway: Views in one case finding violations: 631/1995 - Spakmo (A/55/40); for follow-up reply, see A/55/40, paragraph 613.

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

Chapter VI. Follow-up activities under the optional protocol

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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.

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Norway: Views in one case with findings of violations:

631/1995 - Spakmo (A/55/40); for follow-up reply, see A/55/40, paragraph 613.

...

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.

CHAPTER VI. Follow-up activities under the Optional Protocol

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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.*

...

Norway: Views in one case with findings of violations:

631/1995 - *Spakmo* (A/55/40); for follow-up reply, see A/55/40, paragraph 613.

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.

CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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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.*

...

Norway: Views in one case with findings of violations:

631/1995 - *Spakmo* (A/55/40); for follow-up reply, see A/55/40, paragraph 613.

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.

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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
...						
Norway (2)	631/1995, <i>Spakmo</i> A/55/40	X A/55/40	X			
	1155/2003, <i>Leirvåg</i> A/60/40	X	X*			
	* <i>Note.</i> Additional follow-up information expected.					

^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.

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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/59/40).

...

<i>State party</i>	NORWAY
<i>Case</i>	1155/2003, Leirvag
<i>Views adopted on</i>	3 November 2004
<i>Issues and violations found</i>	Failure to allow exemptions from teaching of "life stance" subject in schools is a violation of article 26 - Parental right to provide education to their children - article 18, paragraph 4.
<i>Remedy recommended</i>	In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide the authors with an effective and appropriate remedy that will respect the right of the authors as parents to ensure and as pupils to receive an education that is in conformity with their own convictions. The State party is under an obligation to avoid similar violations in the future.
<i>Due date for State party response</i>	6 February 2005
<i>Date of reply</i>	4 February 2005
<i>State party response</i>	Amendments in the legal framework and curriculum

The State party submits that the government will propose to Parliament that for the forthcoming school year, from August 2005, the following changes should enter into force: The deletion of the

reference in section 2-4 of the Education Act to the object clause 1-2.

Thus, section 2-4 would no longer prescribe that the object of the subject CREE is “to help to give students a moral and Christian upbringing”. Furthermore, section 2-4 will be amended so that the different religions and philosophies of life are treated in a qualitatively equal manner. Changes to the national curriculum will be made accordingly.

Amendments related to the exemption scheme

The following amendments will also be proposed to enter into force from August 2005:

- The right to exemption from any part of the school curriculum that could be conceived of as the practice of a particular belief will be set out in a separate section of the Education Act, in an effort to make it clear that the right to exemption from the practice of religious belief applies to all aspects of primary and lower secondary education.
- The Minister’s circular on CREE will be amended to clearly identify those elements of the subject that could be conceived of as practice of a particular belief. The rules enabling parents to enrol their children in the exemption scheme will be simplified. The duty of schools to provide information to the parents about their right to exemption from any part of the teaching that they conceive of as the practice of religion will be stipulated in the Education Act.
- The amended circular on CREE will also instruct teachers to pay particular attention when using teaching methods that students could conceive of as the practice of a religion. If such methods are used, alternative instruction is to be offered.

Intermediate measures

Until these measures are implemented students will be granted a temporary right to exemption from the subject CREE, under which a written notice from parents will be sufficient for the students to be exempted. Schools will have a duty to attempt as far as possible to offer alternative teaching to these students.

Authors’ comments

On 15 April 2005, the authors state that the State party’s submission does not contain enough substance to determine how the mentioned changes in regulations and curricula will be carried out. They refer

to a more detailed version of the remedies proposed in the “hearing document” of the Ministry of Education and Research of 8 February 2005, which has been sent to many organizations and institutions for comment by 29 March 2005. It states that a translated version of this document should be requested of the State party. The government’s consideration of comments received has not yet been made public and a recommendation for Parliament concerning amendments of the Education Act has not yet been presented. Although the measures submitted by the State party have not been clarified, the author’s preliminary view is that the proposed amendments do not fulfil the obligations under article 2 of the Covenant. They state, inter alia, that: the amendment to section 2-4 will not in itself solve the problem of an object clause which gives the prerogative to one particular religion;

there will be no “qualitatively equal” treatment as the CKREE subject is based on the storytelling tradition, which is only appropriate for teaching Christianity and other religions but not for life stances with for instance a humanist outlook; and that the government does not intend to change the character/general profile of the CKREE subject as practising belief. As to the exemption, the authors note that the State party accept that such a right is necessary in order to avoid further violations of the Covenant but that the proposed simplification procedure does not entail substantial changes to parents’ rights since the school has the prerogative to determine whether or not the parent’s conviction on this issue is “reasonable”. In the authors’ view the best way to have implemented the Committee’s decision would have been to fully revise the CKREE subject in a way that considers the freedom of religion for all students - regardless of faith or personal conviction as to life stance.

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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
...						
Norway (2)	631/1995, <i>Spakmo</i> A/55/40	X A/55/40	X			
	1155/2003, <i>Leirvag</i> A/60/40	X A/61/40	X A/61/40*			
	*Note: Additional follow-up information expected.					
...						

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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/60/40).

...

<i>State party</i>	NORWAY
<i>Case</i>	1155/2003, Leirvag
<i>Views adopted on</i>	3 November 2004
<i>Issues and violations found</i>	Failure to allow exemptions from teaching of 'life stance' subject in schools is a violation of article 26 - Parental right to provide education to their children - article 18, paragraph 4.
<i>Remedy recommended</i>	In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide the authors with an effective and appropriate remedy that will respect the right of the authors as parents to ensure and as pupils to receive an education that is in conformity with their own convictions. The State party is under an obligation to avoid similar violations in the future.
<i>Due date for State party response</i>	6 February 2005
<i>Date of State party's response</i>	March 2006 during consider of its fifth periodic report (Previously responded on 4 February 2005).
<i>State party response</i>	During the discussion of the fifth periodic report, the State party confirmed that the proposed amendments to the Education Act, set out in the State party response to the Committee of 4 February 2005, had been adopted and entered into force on 17 June 2005. The new exemption rules provide as follows: on the basis of written notification from parents, pupils can be exempted from attending teaching which

they, on the basis of their own religion or philosophy of life, consider to constitute the practice of another religion or expression of adherence to another philosophy of life or which they find offensive or objectionable. It is not necessary to provide reasons for giving a notification of exemption. Pupils who are 15 years of age or older may themselves give written notification of exemption. The right to be excused from parts of the teaching applies to all subjects and multi-subject projects.

When the school receives a notification of exemption, it must ensure that the pupil in question is actually excused. The school must also provide exempted pupils with individually adapted teaching within the syllabus.

Pupils cannot be exempted from the knowledge requirements of the syllabus. If a school refuses a notification of exemption on these grounds, it must handle the case in accordance with the rules on individual decisions, which are contained in the Norwegian Public Administration Act, and give a right to appeal the decision. A new syllabus for CKREE was adopted and entered into force in August 2005. It implements the changes made in section 2-4 of the Education Act, ensuring that the religions and outlooks on life are dealt with in the same qualitative manner when setting targets for pupils' competence. Christianity has only been given quantitative preference, due to its influence on the historical and cultural background in Norway.

Several measures have been introduced to ensure compliance with the new syllabus. A new CKREE textbook for teachers was sent to all schools in August 2005. In addition, to the syllabus, it contains guidance on how to teach the subject.

In its "policy platform" the State party states that it will reconsider the objects clause (section 1-2 of the Education Act).

Authors' comments

On 15 April 2005, the authors state that the State party's submission of February 2005 does not contain enough substance to determine how the mentioned changes in regulations and curricula will be carried out. They refer to a more detailed version of the remedies proposed in the "hearing document" of the Ministry of Education and Research of 8 February 2005, which has been sent to many organizations and institutions for comment by 29 March 2005. It states that a translated version of this document should be requested of the State party. The government's consideration of comments received has not yet been made public and a recommendation for Parliament concerning amendments of the Education Act has not yet been presented.

Although the measures submitted by the State party have not been clarified, the author's preliminary view is that the proposed amendments do not fulfil the obligations under article 2 of the Covenant. They state, inter alia, that: the amendment to section 2-4 will not in itself solve the problem of an object clause which gives the prerogative to one particular religion; there will be no "qualitatively equal" treatment as the CKREE subject is based on the storytelling tradition, which is only appropriate for teaching Christianity and other religions but not for life stances with for instance a humanist outlook; and that the government does not intend to change the character/general profile of the CKREE subject as practising belief. As to the exemption, the authors note that the State party accept that such a right is necessary in order to avoid further violations of the Covenant but that the proposed simplification procedure does not entail substantial changes to parents' rights since the school has the prerogative to determine whether or not the parent's conviction on this issue is "reasonable". In the authors' view the best way to have implemented the Committee's decision would have been to fully revise the CKREE subject in a way that considers the freedom of religion for all students - regardless of faith or personal conviction as to life stance.

Committee's Decision During the consideration of the fifth periodic report of the State party at the eighty-sixth session (March/April 2006), the Committee stated the following:

"4.The Committee commends the prompt response and the measures taken by the State party to remedy the infringements on religious freedom identified in the Committee's Views in communication No. 1155/2003, including the adoption of amendments to the Education Act." (CCPR/C/NOR/CO/5).

The Committee considers the State party's response satisfactory and does not intend to consider this case any further under the follow-up procedure.

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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

<i>State party and number of cases with violation</i>	<i>Communication number, author and location</i>	<i>Follow-up response received from State party and location</i>	<i>Satisfactory response</i>	<i>Unsatisfactory response</i>	<i>No follow-up response received</i>	<i>Follow-up dialogue ongoing</i>
...						
Norway (2)	631/1995, <i>Spakmo</i> A/55/40	X A/55/40	X			
	1155/2003, <i>Leirvag</i> A/60/40	X A/61/40	X* A/61/40			
	<i>*Note:</i> Additional follow-up information expected.					
...						

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.

...						
Norway (3)	631/1995, <i>Spakmo</i> A/55/40	X A/55/40	X			
	1155/2003, <i>Leirvag</i> A/60/40	X A/61/40	X* (A/61/40)			
	*Note. Additional follow-up information expected.					
	1542/2007, <i>Aboushanif</i> A/63/40	Not due				
...						

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.

...						
Norway (3)	631/1995, <i>Spakmo</i> A/55/40	X A/55/40	X			
	1155/2003, <i>Leirvag</i> A/60/40	X A/61/40	X* (A/61/40)			
	*Note: Additional follow-up information expected.					
	1542/2007, <i>Aboushanif</i> A/63/40	Not due				
...						

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.

...

6. In case No. 1542/2007 (***Aboushanif v. Norway***), given that the State party had pledged full compliance with the Views of the Committee, instructing its courts of appeal always to include reasons for their decisions on denial of leave to appeal and quashing the decision of the Borgarting Appeal Court of 1 June 2006 because it had failed to do so, the Committee should consider the follow-up dialogue ongoing, pending the author's retrial, the outcome of which would subsequently determine whether he was entitled to his secondary claim of compensation for non-pecuniary losses.

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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.

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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).

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<i>State party</i>	<i>Norway</i>
<i>Case</i>	<i>A.K.H.A., 1542/2007</i>
<i>Views adopted on</i>	17 July 2008
<i>Issues and violations found</i>	Review of conviction and sentence - article 14, paragraph 5.
<i>Remedy recommended</i>	Effective remedy, including the review of his appeal before the Court of Appeals and compensation.
<i>Due date for State party response</i>	2 March 2009
<i>Date of State party response</i>	27 February, 28 May, 2 July and 11 September 2009
<i>State party response</i>	On 27 February 2009, the State party responded that the Supreme Court had concluded that all the Court of Appeal's decisions on denial of leave to appeal shall include reasons for its decision and that the Criminal Procedure Act shall be amended accordingly. In addition, the Ministry of Justice paid a total of NKr 194,100 to the plaintiff's counsel, which partly covers the counsel's work on the case before the Committee (NKr 184,100) and partly translation expenses (NKr 10,000). Following a request for additional compensation from the author for damages for non-economic loss, on 28 October 2008 the Attorney General informed the author that the claim for additional compensation cannot be settled until the author's application for leave to appeal has been tried by the courts once again. On 27 December 2008, the Norwegian Criminal Cases Review Commission decided to

reopen the Appeals Selection Committee of the Supreme Court's decision of 19 July 2006 in the author's case.

On 28 May 2009, the State party informed the Committee that on 26 January 2009, the Appeal Committee of the Supreme Court decided that the decisions of the Borgarting Appeal Court of 1 June 2006, to deny the appeal from the author in the criminal case against him, should be quashed, and that his appeal shall be tried again by one of the other courts of appeal, the Gulating Appeal Court. In the State party's view, the economic losses that the author claims to be caused "by the human rights violations" were not caused by the Borgarting Appeals Court's failure to give reasons for its denial of appeal, but rather by the fact that the author was convicted by the district court and has served his time in prison. Whether this conviction was correct or erroneous is still a pending issue, but will, in due course, be decided by the Gulating Appeal Court. If he is acquitted then he has been subject to unwarranted prosecution, at which point he will have the right to both pecuniary and non-pecuniary losses. If his conviction is confirmed, neither it nor his time in prison has been unwarranted. However, even so, he may file a claim for compensation for pecuniary and/or non-pecuniary losses pursuant to a special rule in the Criminal Procedure Act. The State party makes reference to the Committee's general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant for the proposition that remedies do not have to be in the form of pecuniary compensation.

On 2 July 2009, the State party provided new information to the effect that upon renewed review of the authors' appeal of 3 February 2006 and further submissions from counsel, the judgement of 11 January 2006 was set aside by the Gulating Appeal Court. It found that the district court's judgement left doubt as to whether the court had applied the correct standard of proof and furthermore pointed to certain procedural errors. The case was remitted for new trial to the Sarpsborg District Court.

On 11 September 2009, the State party submitted a letter dated 26 August 2009 from the Norwegian prosecution authority to the Sarpsborg District Court whereby the author's case was remitted for a new trial.

Author's comments

On 24 March 2009, the author had welcomed the measures taken

so far by the State party but submitted that he had not been awarded full compensation in accordance with the Committee's decision. He argued that he should be entitled to compensation for the human rights violation in itself, irrespective of the outcome of his application for review.

On 2 June 2009, the author reiterated that the State party's decision to date to pay compensation only for legal expenses does not fulfil the Committee's requirement for "compensation" set out in its Views. The claims for compensation the author may make under the Criminal Procedure Act are tied to a different set of circumstances and do not relate to the violation of his rights under article 14 of the Covenant.

On 30 July 2009, the author reiterated inter alia that he has not received any compensation for pecuniary loss as a result of the violations of his rights and that the State party's suggestion that he claim compensation through the Criminal Procedure Act is inappropriate and unrelated to the violation of his rights under article 14 of the Covenant.

On 17 November 2009, the author confirmed that on 26 August 2009 he was indicted anew. On 9 October 2009, the prosecution authority denied the author's request to dismiss this indictment. He argues that for a variety of reasons and given that he had already served the sentence of the quashed conviction, little would be gained by forcing him to endure a new trial. The prosecution authority informed him of what sentence would be imposed if he gave them an unreserved confession, which the author argues he cannot do. He reiterates his arguments on failure to receive compensation.

Committee's Decision

The follow-up dialogue is ongoing.

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