

RUSSIAN FEDERATION

Follow-up - Jurisprudence Action by Treaty Bodies

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

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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Russian Federation: Views in one case finding violations: 770/1997 - Gidrin (A/55/40); no follow-up reply received.

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.

...

Russian Federation: Views in two cases with findings of violations:

770/1997 - Gridin (A/55/40); for follow-up reply, see paragraph [248] below;

763/1997 - Lantsova (annex IX): follow-up reply not yet due.

...

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.

...

248. Russia: With regard to case No. 770/1997 - Gridin (A/55/40), the State party informed the Committee by a note verbale of 18 October 2001 that the Supreme Court and the General

Prosecutor's Office had re-examined the case in the light of the Committee's Views but did not share the Committee's opinion. All procedures were carried out according to law. As soon as the author's family requested legal advice, it was provided. Although afforded the opportunity, many of the issues pleaded before the Committee were not raised by the author or his counsel during proceedings, and, of those that were raised, some were resolved in his favour. By letter of 14 January 2002, the author responded that the State party had not accorded the Committee's Views due respect, and that the statements now advanced by the State party should have been supplied prior to the determination of the case. In any case, the author asserted the State party's factual contentions and conclusions were incorrect and contested specific examples.

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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.*

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Russian Federation: Views in two cases with findings of violations:

770/1997 - *Gridin* (A/55/40); for follow-up reply, see A/57/40, paragraph 248;

763/1997 - *Lantsova* (A/57/40); for follow-up reply, see paragraph 247 below.

...

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

224. 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 that 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.

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247. **Russian Federation:** case No. 763/1997 - *Lantsova* (A/57/40): by note verbale of 16 October 2002, the State party informed the Committee that from an internal investigation held in 1995 in the detention centre where Mr. Lantsov died, it transpired that between 7 March and 6 April 1995, the deceased did not request medical assistance nor ask his cellmates to do so; that was confirmed by the statements of his fellow prisoners and of the medical assistants. Mr. Lantsov requested medical help only on 6 April 1995 and was hospitalized soon thereafter, after examination. Under the Committee's Views, the State party was obliged to investigate the causes of the death of Mr. Lantsov; the State party objected that such an inquiry had already

been held at the time of the death, in accordance with the law. An independent commission of medical experts did not find any illegal actions by the medical personnel of the centre; the doctors questioned testified that sudden complications leading to death could occur in a situation like Mr. Lantsov's. A copy of the State party's full submission is on record with the secretariat.

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.

...

RUSSIAN FEDERATION:

Gridin v. Russian Federation, Case no. 770/1997, Views adopted on 20 July 2000

Violations found: Articles 9, paragraph 1 and 14, paragraphs 1, 2 and 3(c).

Issues of case: Unlawful arrest and detention (warrant issued 3 days after the beginning of the detention) and denial of access to a lawyer, unfair trial, violation of the presumption of innocence.

Remedy recommended: Compensation for and immediate release of the author.

Deadline for State party follow-up information: 14 December 2000

Follow-up information received from State party: By note verbale of 18 October 2001, the State party informed the Committee that the Supreme Court and the General Prosecutor's Office had re-examined the case in the light of the Committee's Views but did not share the Committee's opinion. All procedures were carried out according to law. As soon as the author's family requested legal advice, it was provided. Although afforded the opportunity, many of the issues pleaded before the Committee were not raised by the author or his counsel during proceedings, and, of those that were raised, some were resolved in his favour.

Follow-up information received from author: By letter of 14 January 2002, the author responded to the State party's submission of 28 October 2001, that the State party had not duly considered the Committee's Views, and that the statements advanced by the State party should have been supplied prior to the determination of the case. In any case, the author claims that the State party's factual contentions and conclusions were incorrect. By submission of 3 September 2003, the author informed the Committee that the State party had not given effect to

the Views and requested the Committee to remind the State party of its obligation to do so.

Consultations with State party: On 27 October 2003, in a meeting with a representative of the State party in Geneva, the Special Rapporteur referred to the instant case as well as the case of Lantsova v. Russian Federation, Case no. 763/1997, Views adopted on 26 March 2002 (See A/58/40, Vol. 1, para. 247), in which the Committee found violations of the Covenant by the State party. He referred to the response by the State in which it informed the Special Rapporteur that the General Prosecutor's Office had reexamined these cases and challenged the Committee's findings. He reminded the State party's representative that irrespective of whether it may have a different view from the Committee, it assumes that upon ratification of the Covenant and Optional Protocol, the SP will take appropriate steps to fulfill these obligations and reminded the State party of its bona fide obligation to implement the Committee's decisions. The representative explained the conflicting views of different Ministries on the nature of the Committee's Views. She suggested further interaction between her colleagues within the State party and the Committee members as well as members of the Secretariat to become more au fait with the work of the Committee and to help combat the challenges posed in the implementation of Views.

Special Rapporteur's recommendations: A reminder should be sent to the State party.

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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.*

...

Russian
Federation:

Views in six cases with findings of violations:

770/1997 - *Gridin* (A/55/40); for follow-up reply, see A/57/40, paragraph 248 and paragraph 248 below for reply from author;

763/1997 - *Lantsova* (A/57/40); for follow-up reply, see A/58/40, paragraph 247;

888/1999 - *Telitsin* (annex IX); follow-up not yet due. By letter of 28 June 2004, the author affirmed that the communication had not been implemented and that she had not received any information from the State authorities;

712/1996 - *Smirnova* (annex IX); follow-up not yet due;

815/1997 - *Dugin* (annex IX); follow-up not yet due;

911/2000 - *Nazarov* (annex IX); follow-up not yet due.

Despite consultations held with the State party during the seventy-ninth session, the State party has not implemented the Views in either *Gridin* or *Lantsova*; in the follow-up report (CCPR/C/80/FU1), adopted by the Committee during its eightieth session, the Special Rapporteur recommended that a reminder for follow-up replies be sent to the State party.

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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.

...

251. Russian Federation: as to case No. 770/1997 - *Gridin* (A/55/40): on 3 September 2003, the author informed the Committee that the State party had not given effect to the Views and requested the Committee to remind the State party of its obligation to do so.

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, CCPR/C/SR.2280 (2005)

Human Rights Committee
Eighty-third session

Summary record of the 2280th meeting
Held at Headquarters, New York, on
Friday, 1 April 2005, at 10 a.m.

...

Follow-up on views under the Optional Protocol

...

2. **Mr. Ando**, speaking as Special Rapporteur for follow-up on Views under the Optional Protocol, presented the Follow-up Progress Report (CCPR/C/83/FU1 and FU2), which updated the Committee's previous annual report (CCPR/C/81/CRP.1/Add.6) on follow-up activities and included information received between the eighty-first and eighty-third sessions. It dealt with 20 different States parties and covered 18 cases...

3. ... In cases Nos. 763/1997, 770/1997 and 888/1999 involving the Russian Federation, while the authorities of that State party had responded in detail, they had basically reasserted their position was based on their own domestic law...

...

...

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
...						
Russian Federation (6)	770/1997, <i>Gridin</i> A/55/40	A/57/40, A/60/40 (annex VII)		X		X
	763/1997, <i>Lantsova</i> A/57/40	A/58/40, A/60/40 (annex VII)		X		X
	888/1999, <i>Telitsin</i> A/59/40	X A/60/40 (annex VII)				X
	712/1996, <i>Smirnova</i> A/59/40	X A/60/40 (annex VII)				X
	815/1997, <i>Dugin</i> A/59/40	X A/60/40 (annex VII)				X
	911/2000, <i>Nazarov</i> A/59/40	X A/60/40 (annex VII)				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.

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

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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).

...

State party	RUSSIAN FEDERATION
Case	Smirnova, 712/1996
Views adopted on	5 July 2004
Issues and violations found	Pretrial detention; failure to be informed of the grounds of arrest or of any of the charges against her; failure to be brought promptly before a judge or judicial officer; denial of the right to take proceedings before the court on the lawfulness of her arrest; conditions of detention and lack of medical treatment - articles 9, paragraphs 3, and 4 and 10, paragraph 1.
Remedy recommended	An effective remedy, including appropriate compensation for the violations suffered.
Due date for State party response	28 October 2004
Date of reply	24 November 2004
State party response	The State party sets out a brief factual background. It then submits that the author's complaint about the unlawfulness of her detention was reviewed by the court in accordance with the legislation which then prevailed. Section 331 did not allow for a challenge to a decision taken by a court under section 220-2. A decision of the Constitutional Court in 1998 found section 331 to be unconstitutional in so far as it did not allow for an appeal against judicial decisions relating to pretrial detention. Since this decision, appeals against decisions of a court under section 220-2 are possible and have

occurred.

The Supreme Court ruling was reflected in the new Criminal Procedure Code. The right to appeal a decision on pretrial detention is fully used by those involved in the criminal justice system. In the first half of 2004, Russian courts examined 116,760 motions/appeals in relation to decisions to detain people in pretrial detention. 105,364 of these have been upheld, i.e. 90.2 per cent.

The Plenary of the Supreme Court is currently reviewing questions regarding the process of extending the term of pretrial detention for the purposes of establishing a uniform recommendation on this practice.

The Committee's conclusions that the State party violated article 10, paragraph 1, are, in the State party's view, not substantiated/justified.

On 10 December 1996 the author was placed in a special "open" detention centre for women, No 6 in Moscow, the conditions of which are recognized as satisfactory. During her detention, the author required medical assistance. The facts regarding the worsening of her chronic condition (vasculitis) were not known at that stage. According to doctors who treated her at the time, there was no medical basis for her not to be placed in pretrial detention. The author made numerous appeals and protests, but never complained about the conditions of detention.

State party	RUSSIAN FEDERATION
Case	Lantsova, 763/1997
Views adopted on	37340
Issues and violations found	Death in custody; poor conditions of detention - articles 6 and 10.
Remedy recommended	The Committee is of the view that Mrs. Lantsova is entitled, under article 2, paragraph 3 (a) of the Covenant, to an effective remedy. The State party should take effective measures: (a) to grant appropriate compensation (b) to order an official inquiry into the death of Mr. Lantsov; and (c) to ensure that similar violations do not recur in the future, especially by taking immediate steps to ensure that conditions of detention are compatible with the State party's obligation under articles 6 and 10 of the Covenant.

Due date for State party response	22 September 2002
Date of reply	23 September 2004
State party response	The State party reiterated its previous arguments of 16 October 2002 (see A/58/40, p. 123, para. 247) - that an internal investigation of the cause of the author's death was already held in 1995, as well as an inquiry of the independent Commission of medical experts. Their conclusions did not reveal any illegal action of the detention centre's personnel.
State party	RUSSIAN FEDERATION
Case	Gridin, 770/1997
Views adopted on	20 July 2000
Issues and violations found	Unlawful arrest and detention (warrant issued three days after the beginning of the detention) and denial of access to a lawyer, unfair trial, violation of the presumption of innocence - articles 9, paragraph 1 and 14, paragraphs 1, 2 and 3 (c).
Remedy recommended	Compensation and author's immediate release.
Due date for State party response	14 December 2000
Date of reply	23 September 2004 (the State party had previously responded on 18 October 2001 [see Annual Report A/57/40 (Vol. I)])
State party response	<p>In its second response to the Committee's Views, the State party noted that these Views were reviewed in the Supreme Court, but that the arguments in the Committee's decision were found to be unsubstantiated ("without confirmation"), even upon a second review of the materials of the case.</p> <p>In accordance with law, the author was arrested on 26 November 1989. His arrest was sanctioned by the procurator on 29 November 1989. He was allowed access to a lawyer from the moment he was charged, as per legal requirements. He never complained about not having access to a lawyer, and a lawyer did in fact take part in all aspects of the case. His right to a legal defence was therefore not violated.</p>

In view of the fact that he was accused of rape, the author was tried in private session. No violations of the criminal procedure code were identified in relation to the examination of the forensic and other evidence. Gridin and his lawyer were given proper access to relevant materials in order to prepare the defence.

Finally, the State party argues that it is well established that the Committee is not a court and that its views are recommendatory. Such views are highly authoritative for the State party's authorities, and they are taken very seriously; thus the State party conducted a second review of this case. However, the State party's conclusions in this matter remain the same.

Author In a letter received on 20 June 2005 the lawyer complains about the fact that the Committee's recommendation has not been implemented.

State party **RUSSIAN FEDERATION**

Case Dugin, 815/1998

Views adopted on 5 July 2004

Issues and violations found Improper pretrial investigation and unfair trial - article 14.

Remedy recommended Pursuant to article 2, paragraph 3 (a) of the Covenant, the Committee considers that the author is entitled to an appropriate remedy, including compensation and his immediate release.

Due date for State party response 3 October 2004

Date of reply 10 December 2004

State party response The State party reiterated the information provided in its submissions to the Committee prior to consideration. The author's trial occurred in 1995 in accordance with the previous Criminal Code of the Russian Soviet, Federative, Socialist Republic (i.e. old USSR era Code) of 1960. The witness whom the author wanted to call, Chikin, was one of the victims; he was also a witness to the murder of Naumkin. The law allowed the Court to proceed with the trial even in the event that such a witness did not appear to give evidence. In accordance with law, the Court in this case considered whether

to continue with the case, or adjourn the case until Chikin could be brought to court to testify; it decided to continue with the trial because it considered that even in the absence of Chikin it would be possible to arrive at a full understanding of what had occurred. The law allowed for the written statement given by Chikin when examined by the investigator to be read out into court, in circumstances where it is not possible to have the witness appear in court; and this is what occurred. (The police couldn't find Chikin to get him to testify).

On 1 July 2002, a new Criminal Code came into force in the State party. It contains similar provisions to those mentioned above.

In relation to the issue of the expert evidence, the author was able to ask for explanations and further information regarding the conclusions of the expert after these had been read out in Court. However, calling the expert to appear in court was not compulsory under the old Code, nor is it compulsory under the new code.

Author's response

On 20 March 2005, author's counsel commented on the State party's submission. He submitted that it did not contain any convincing arguments addressing his client's position; it does not address the issue of the State party's obligation to take all measures to provide for the examination of witnesses. Further, no information was provided about the why the medical expert was not examined in court.

State party

RUSSIAN FEDERATION

Case

Telitsin, 888/1999

Views adopted on

38074

Issues and violations found

No effective investigation following torture and inhuman treatment in detention resulting in death - articles 6, paragraph 1, 7 and 10, paragraph 1.

Remedy recommended

An effective remedy. The Committee invited the State party to take effective measures (a) to conduct an appropriate, thorough and transparent inquiry into the circumstances of the death of Mr. Vladimir Nikolayevich Telitsin; and (b) to grant the author appropriate compensation.

Due date for State

20 July 2004

party response

Date of reply

24 November 2004 and 17 January 2005

State party response

The State party informs the Committee that, on 6 September 2004, at the direction of the General Procurator, the Procurator of the Sverdlovsk region changed the decision not to initiate criminal proceedings in relation to the author's death, on the basis that the investigation into the circumstances of the matter had been incomplete.

An additional examination was ordered, which was conducted by the Nizhnetagilski procurator. The medical expert Isakova, who had examined Telitsin's body, was re-questioned. She said that aside from a strangulation mark, no other injuries were identified on the body. She considered that death had resulted from asphyxiation caused by a noose. A nurse, Kudrinova, who attended the autopsy, confirmed these views.

In order to test the contentions of the author that death was occasioned with the participation of certain prison guards, archival material from 1994 was examined. According to available data, the guards in question have now retired and no longer work at the prison.

In view of the time frames for retention of documents regarding prison personnel, all measures are being taken to identify the documents in question.

An expert review of the post mortem photographs has been ordered. For technical reasons this cannot take place in the prison, so it is being conducted elsewhere in the region.

Because the author refused to appear at the procurator's office to explain her arguments for the exhumation of the body and other matters, the Nizhnetagilski procurator decided on 24 September 2004 to refuse to open a criminal case. However, this decision was revoked on 30 September 2004 by the same body, and in the near future it is intended to exhume the body of Telitsin, to examine the post mortem photographs and question the former prison guards.

The investigation is continuing under the supervision of the General Procurator.

On 17 January 2005, the State party submitted that in order to check the allegations made by Telitsina about the mistreatment of her son (death in custody), the Nizhnetagilski Procurator undertook a further investigation, during which the body of Telitsina's son was exhumed;

other tests and verifications (unspecified) were also conducted. There was no evidence of any crimes having been inflicted on Telitsin, and accordingly on 8 October 2004 a decision was taken (presumably by the same procurator's office) not to instigate any criminal investigation. The General Procurator of the Russian Federation also examined the materials above, and agreed with this conclusion.

On 9 March 2005, the State party provided a copy of a decision of 8 October 2004, by which the Senior Assistant of the Prosecutor of Nizhyi Tagil had rejected Mrs. Telitsina's request to open a criminal case in relation to her son's death. The prosecutor had examined the author's allegations and confronted them with existing evidence, including witnesses' depositions, and the results of the examination, on 6 October 2004, of the exhumed body of the alleged victim. The prosecutor decided not to open a criminal case for absence of corpus delicti.

CCPR, CCPR/C/SR.2392 (2006)

HUMAN RIGHTS COMMITTEE

Eighty-seventh session

SUMMARY RECORD OF THE 2392nd MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 26 July 2006, at 11 a.m.

...

**FOLLOW-UP TO CONCLUDING OBSERVATIONS ON STATE REPORTS AND TO
VIEWS UNDER THE OPTIONAL PROTOCOL (agenda item 7)**

Report of the Special Rapporteur for follow-up on Views (CCPR/C/87/R.3)

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35. Mr. ANDO, turning to Platonov v. Russian Federation, (communication No. 1218/2003), said that under its domestic law the State party did not recognize any irregularities in the case, and refused to acknowledge the grounds of the allegation.

36. The CHAIRPERSON said that a further meeting between the Committee and the State party should be convened in order that the Committee could explain the importance of the effective implementation of the Covenant.

37. Mr. WIERUSZEWSKI asked whether the information from the State party had been transmitted to the author. What had become of the other pending communication concerning the Russian Federation?

38. Mr. ANDO said that there had been no further developments in that case. The Russian Federation had announced that under its legal system it could not release the author.

39. Ms. FOX (Petitions team) said that the report currently before the Committee contained all information on follow-up that had been received since the previous session.

...

...

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
...						
Russian Federation (8)	770/1997, <i>Gridin</i> A/55/40	A/57/40, A/60/40		X		X
	763/1997, <i>Lantsova</i> A/57/40	A/58/40, A/60/40		X		X
	888/1999, <i>Telitsin</i> A/59/40	X A/60/40				X
	712/1996, <i>Smirnova</i> A/59/40	X A/60/40				X
	815/1997, <i>Dugin</i> A/59/40	X A/60/40				X
	889/1999, <i>Zheikov</i> A/61/40					
	1218/2003, <i>Platonov</i> A/61/40	X A/61/40				
...						

...

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).

...

State party	RUSSIAN FEDERATION
Case	Platonov, 1218/2003
Views adopted on	1 November 2005
Issues and violations found	Judicial control pretrial detention - Article 9, paragraph 3
Remedy recommended	Pursuant to article 2, paragraph 3 (a), of the Covenant, the Committee considers that the author is entitled to an effective remedy, including appropriate compensation. The State party is also under an obligation to take effective measures to ensure that similar violations do not recur.
Due date for State party response	1 February 2006
Date of State party's response	10 March 2006
State party response	The State party recalls the facts of the case. As to the Committee's findings, the State party observes, first, that the Constitution of the Russian Federation of 1993 contains a similar provision of article 9, paragraph 3, of the Covenant. Under its provision, "Arrest, detention and custody shall be allowed only by an order of a court." (article 22). According to the State party, the Committee has thus correctly noted in its Views that under the Criminal Procedure Code of the Russian Soviet Socialist Republic (still into force in 1999), detention was ordered not by a court, but by an investigator with the approval of a prosecutor. However, by Law of 23 May 1993, two new articles were introduced in the Criminal Procedure Code (220-1 and 220-2). Pursuant to their provisions, decisions of detention/ to extend detention could be appealed to court. Mr. Platonov, as a detainee, had thus the

right to challenge his detention in court. However, neither he nor his lawyer presented any claim to court in this respect; the Committee has correctly declared this claim unsubstantiated.

The State party further explains that on 22 November 2001, it adopted a new Criminal Procedure Code (CPC) that entered into force on 1 July 2002. Pursuant to its article 108, custody (as a preventive measure) is applicable only under a court decision. In addition, such preventive measures can only be applied against suspects or accused in relation to crimes punished by more than two years of imprisonment. Thus, the State party has established court control over the lawfulness and justification of detention.

The State party adds that the new CPC also introduced the following time limits for custody.

1. The general rule is that in the case of investigation of a criminal case, custody cannot exceed two months. In the event that the preliminary investigation needs to be prolonged, and in the absence of reasons to free the accused, custody may be prolonged up to six months. Custody may be prolonged up to twelve months in relation to certain grave crimes, such as murder, terrorism, etc. All decisions to prolong custody are taken exclusively by a court. Only in exceptional cases, in relation to particularly grave crimes, an investigator (acting with the authorisation of the Prosecutor General) may request the Court to extend custody up to 18 months.

2. Article 225 of the CPC provides court control over pretrial detention of accused whose cases are examined by a court.

The State party concludes that thus the Committee's recommendations are fully implemented. According to the State party, the CPC of the Russian Federation fully complies with both the requirements of ICCPR and the Russian Constitution in this relation.

The new criminal procedure legislation established a right to rehabilitation, including a right to compensation (chapter 18 CPC). Article 133 of the CPC provides a right to compensation for everyone who has been unlawfully subjected to coercive measures with respect to a criminal case. The list of coercion measures is given by chapters 12-14 of the CPC, and includes also arrest, detention as a suspect, and custody.

The State party concludes that the author's allegations were substantially examined during the pretrial investigation and in court, and were not confirmed.

CCPR, CCPR/C/SR.2450 (2007)

Human Rights Committee

Eighty-ninth session

Summary record of the 2450th meeting

Held at Headquarters, New York, on Thursday, 29 March 2007, at 10 a.m.

...

Follow-up to concluding observations on State reports and to Views under the Optional Protocol

Progress report of the Special Rapporteur for follow-up on Views (CCPR/C/89/R.5)

1. **Mr. Shearer** (Special Rapporteur for follow-up on Views) introduced his report, which compiled information received during the eighty-eighth and eighty-ninth sessions of the Committee...

...

20. **Mr. Shearer** drew attention to the case of *Zheikov v. Russian Federation* (communication No. 889/1999). In its response to the Committee's Views, the State party had concluded that, in accordance with article 2 of the Covenant and as per the Committee's recommendation, it had provided an effective remedy. It had been impossible to identify an individual against whom to bring criminal proceedings because Mr. Zheikov had given contradictory evidence as to the injuries caused and the identity of the culprits. The State party had also claimed that the author had not exhausted all domestic remedies.

21. **Mr. Schmidt** (Team Leader, Petitions Unit) said that the author had submitted a faxed response expressing his dissatisfaction with the State party's failure to implement the Committee's Views and calling for compensation in the amount of \$72 billion.

22. **Ms. Chanet** said that the additional information provided by Mr. Schmidt should be incorporated into the progress report. The Committee should continue its dialogue with the parties and transmit the author's response to the State party.

23. **The Chairperson** said that the dialogue between the parties and the Committee would remain ongoing.

...

...

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
Russian Federation (7)	770/1997, <i>Gridin</i> A/55/40	A/57/40, A/60/40		X		X
	763/1997, <i>Lantsova</i> A/57/40	A/58/40, A/60/40		X		X
	888/1999, <i>Telitsin</i> A/59/40	X A/60/40				X
	712/1996, <i>Smirnova</i> A/59/40	X A/60/40				X
	815/1997, <i>Dugin</i> A/59/40	X A/60/40				X
	889/1999, <i>Zheikov</i> A/61/40	X A/62/40				X A/62/40
	1218/2003, <i>Platonov</i> A/61/40	X A/61/40				
...						

CCPR, A/62/40 vol. II (2007)

Annex IX

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/61/40).

...

State party	RUSSIAN FEDERATION
Case	Zheikov, 889/1999
Views adopted on	17 March 2006
Issues and violations found	Torture, inhuman and degrading treatment - article 7, read together with article 2.
Remedy recommended	An effective remedy, including completion of the investigation into the author's treatment, if still pending, as well as compensation.
Due date for State party response	3 July 2006
Date of reply	26 July 2006
State party response	The State party states that it transpires from the materials of the criminal case file opened by the Prosecutor's Office of Tula Region on 18 November 1996 under article 171 of the Criminal Procedure Code (CPC) that this case was investigated fully and impartially. Fact-finding carried out at the preliminary investigation stage did not find any evidence to corroborate the author's allegations of ill-treatment. The Prosecutor determined that the detaining duty officer had acted in compliance with article 12 and 13 of the Law governing the militia that allowed militia officers to apply physical force to detain persons that committed an administrative offence. It concluded that the author, who was then heavily intoxicated, was detained while committing an administrative offence, and had sought to use force against the duty officer. Article 23 of the same Law exempts militia officers from liability for applying physical force when it is

proportionate. On 11 December 2001, the Central Prosecutor's Office of Tula decided to terminate criminal prosecution of the officers of the Proletarskiy District Office of Internal Affairs of Tula in the absence of a finding of *corpus delicti* in their actions (article 171 of the CPC). On 16 May 2006, the deputy prosecutor of the Central Prosecutor's Office of reopened the investigation. Since the criminal prosecution of the militia officers was terminated, the actions of unidentified persons were deemed to fall within the scope of *corpus delicti* of article 109, part 1, of the Criminal Code (infliction of death by negligence). On 18 May 2006, the criminal case No. 052-0172-96 was closed for lapse of time on the basis of article 24, part 1, paragraph 3, of the CPC as the investigation could not identify the persons who were suppose to have subjected the author to torture.

As for the Committee's findings under articles 2, 7 and 10 of the Covenant, the State party submits that, none of these articles were violated with regard to Zheikov. The criminal proceedings were initiated upon his request, the conduct of the investigation was monitored by the Office of the General Prosecutor, the criminal case was reopened a few times upon his request and all Zheikov's complaints and appeals were considered on time. The State party concludes that, in accordance with article 2 of the Covenant, it ensured an effective remedy to Zheikov. It explains that it was impossible to identify a person against whom the proceedings should be initiated, since Zheikov gave contradictory evidence as to the injuries caused and identity of the culprits.

The State party further submits that the author had not exhausted all domestic remedies. (This information was not provided by the State party in its submission on admissibility and the merits). Reference is made to various articles of the Civil Procedure Code which could have been availed of by the author.

Author's response

On 29 May 2007, the author reiterated his claims made in his communication and contested the State party's follow-up response. He also submits that he had sent complaints to the International Protection Centre and to the Proletarskiy District Prosecutor Office of Tula prior to mailing his complaint to the Committee.

**Committee's
Decision**

The Committee regrets the State party's refusal to accept the Committee's Views and considers the dialogue ongoing.

...

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.

...						
Russian Federation (8)	770/1997, <i>Gridin</i> A/55/40	A/57/40, A/60/40		X		X
	763/1997, <i>Lantsova</i> A/57/40	A/58/40, A/60/40		X		X
	888/1999, <i>Telitsin</i> A/59/40	X A/60/40				X
	712/1996, <i>Smirnova</i> A/59/40	X A/60/40				X
	815/1997, <i>Dugin</i> A/59/40	X A/60/40				X
	889/1999, <i>Zheikov</i> A/61/40	X A/62/40				X A/62/40
	1218/2003, <i>Platanov</i> A/61/40	X A/61/40				
	1310/2004, <i>Babkin</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.

...						
Russian Federation (10)	770/1997, <i>Gridin</i> A/55/40	A/57/40, A/60/40		X		X
	763/1997, <i>Lantsova</i> A/57/40	A/58/40, A/60/40		X		X
	888/1999, <i>Telitsin</i> A/59/40	X A/60/40				X
	712/1996, <i>Smirnova</i> A/59/40	X A/60/40				X
	815/1997, <i>Dugin</i> A/59/40	X A/60/40				X
	889/1999, <i>Zheikov</i> A/61/40	X A/62/40				X A/62/40
	1218/2003, <i>Platanov</i> A/61/40	X A/61/40				
	1278/2004, <i>Reshnetnikov</i> , A/64/40				X	
	1310/2004, <i>Babkin</i> A/63/40	Not due				
	1447/2006, <i>Amirov</i>				X	

	A/64/40					
...						

A/64/40 vol. II (2009)

...

Annex IX

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/63/40).

...

State party	Russian Federation
Case	<i>Konstantin Babkin, 1310/2004</i>
Views adopted on	3 April 2008
Issues and violations found	Trial and punishment for the same offence twice and unfair trial - article 14, paragraph 1, read in conjunction with article 14, paragraph 7.
Remedy recommended	Compensation and a retrial in relation to the author's murder charges
Due date for State party response	3 April 2009
Date of State party response	29 January 2009
State party response	The State party submits that the Committee's Views were forwarded by the Supreme Court to the Supreme Courts of the republics to ensure that this type of violation will not occur again. The Views were widely published and the author has lodged another "petition" in the Supreme Court. The State party does not clarify what type of petition was lodged.
Author's comments	On 28 February 2009, the author commented that the State party has failed to implement this case and that the Supreme Court refused to reconsider this case under the supervisory review

procedure.

**Consultations with the
State party**

A meeting should be arranged between the State party and the Rapporteur during the ninety-seventh session in October 2009.

Committee's Decision

The follow-up dialogue remains ongoing.

...

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.

...

8. In case No. 1466/2006 (*Lumanog v. The Philippines*), the Committee might wish to request the State party to respond specifically to the authors' arguments on the issue of undue delay in their appeal of the penalty of "reclusión perpetua", or life imprisonment, without the benefit of parole; in that connection, the State party should set a time limit for deciding the matter, which had been deferred so that similar cases could be considered together. Regarding case No. 1447/2006 (*Amirov v. Russian Federation*), it would be sensible to press the State party to answer the author's specific claims as to why the Russian authorities' explanation of his wife's death remained inadequate.

...

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.

...

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	Russian Federation
Case	<i>Amirov, 1447/2006</i>
Views adopted on	2 April 2009
Issues and violations found	Ill-treatment and failure to investigate - article 6 and article 7, read in conjunction with article 2, paragraph 3, of the Covenant, and a violation in respect of the author of article 7.
Remedy recommended	An effective remedy in the form, inter alia, of an impartial investigation in the circumstances of the death of the author's wife, prosecution of those responsible, and adequate compensation.
Due date for State party response	2 November 2009
Date of State party response	10 September 2009
State party response	The State party submitted that following the Committee's decision, the author's case was re-opened. The court considered that the decision to close the investigation had been unlawful as the statement of the victim's husband indicating where the victim was buried had not been verified and other acts which should have been carried out to determine how the victim had died had not been taken. On 13 July 2009, the Prosecutor of the Chechen Republic was instructed to take the Committee's decision into account and the General Prosecutor of the Federal Republic will ensure that the investigation is re-opened. In addition, it is stated that a claim made by the victim's husband that he has been

ill-treated in 2004 while trying to establish the status of the investigation was sent to a district prosecutor in the Grozny district.

Author's comments

On 24 November 2009, the author deplored the fact that the State party did not submit copies of any documents it referred to in its submission, notably the decision of July 2009 to reopen the case. He was never informed of this decision despite the State's obligation to do so under article 46 of the Code of Criminal Procedure. On the issue of the exhumation of his wife's body, he submits that he was contacted around May/June 2009, but was merely asked if he objected to the exhumation. It remains unclear whether the authorities have in fact exhumed her body and he is critical about the investigative attempts to establish the cause of death without doing so.

The author also refers to shortcomings pointed out by the Committee in its Views, which were not addressed in the decision of 8 July 2009. He expresses doubts about the extent to which, if at all, any of the shortcomings of the domestic investigation, established in the decision of 8 July 2009, were remedies in the course of the new investigation. The author deplores the State party's failure to specify what kind of control the General Prosecutor's Office of the Russian Federation exercised in this case and also its failure to indicate what specific measures have been taken to prevent similar violations in the future and whether the Views have been made public. The author has received no information on the checks that were suppose to take place with respect to his allegations of ill-treatment in 2004 and has never been contacted in this regard.

For all these reasons, the author submits that he has not been provided with an effective remedy.

Consultations with the State party

On 26 October 2009, the Special Rapporteur for follow-up on Views, along with two human rights officers, met with a representative from the Russian Mission, Mr. Sergey Kondratiev.

The Rapporteur referred generally to the efforts made so far by the State party to implement the Views in the 10 cases against it, involving policy and legislative amendments. She highlighted

however that the individuals concerned are entitled to a remedy, in accordance with article 2 of the Covenant and to ensure the integrity of the individual complaints procedure. She suggested

that in the majority of the cases under discussion the legal architecture has been put in place and that what remains is the provision of compensation to the authors. She also observed that returning cases, in which the Committee has made findings of violations, to court is not necessarily the solution if the courts themselves do not use international law as a guide to interpret domestic law. In addition, she pointed out that the acknowledgement of violations and payment of compensation would not necessarily lead to an avalanche of complaints and that the State party would be looked upon as having fulfilled its obligations in many of these cases if compensation were to be provided.

The mission representative thanked the Rapporteur for her very useful suggestions on how to follow up on these cases, insisted that the Russian judiciary have the utmost respect for international law and looks forward to receiving further advice on how best to implement these cases, which he will share with his capital.

Committee's Decision

The follow-up dialogue is ongoing

...