

SWEDEN

Follow-up - Jurisprudence Action by Treaty Body

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.

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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...

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30. **Mr. Schmidt** (Team Leader, Petitions Unit)... Turning to the case of *Alzery v. Sweden* (communication No. 1416/2005), he said that the Committee's Views had been transmitted to the Swedish Government, which had submitted a preliminary response. According to that response, the proceedings resulting in the denial of asylum to Mr. Alzery had not been conducted properly, and a request for his return from the receiving country might therefore be forthcoming. The State party had also indicated that Mr. Alzery's family members were entitled to asylum, and that the Ombudsman had been asked to determine the compensation payable to those family members and possibly also to Mr. Alzery himself. Those arrangements would be set out in further detail in a further follow-up response.

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CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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

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

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

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

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

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

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

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

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
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Sweden (1)	1416/2005, <i>Al Zery</i> A/62/40	X A/62/40				X
...						

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).

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State party	SWEDEN
Case	Alzery, 1416/2005
Views adopted on	25 October 2006
Issues and violations found	Failure to ensure the capacity to investigate the criminal responsibility of all relevant officials, domestic and foreign, for conduct in a breach of article 7 and to bring the appropriate charges - article 7, read alone and in conjunction with article 2 and breach of its obligations under article 1 of the Optional Protocol.
Remedy recommended	An effective remedy, including compensation ... the Committee welcomes the institution of specialized independent migration courts with power to review decisions of expulsion such as occurred in the present case.
Due date for State party response	6 February 2007
Date of reply	14 March 2007
State party response	The State party informed the Committee that on 1 March 2007, the Government repealed its decision of 18 December 2001 and turned over Mr. Alzery's request for a residence permit in Sweden to the Swedish Migration Board to be examined under the new Aliens Act of 2005. Furthermore, the Government decided to turn over Mr. Alzery's request for compensation to the Office of the Chancellor of Justice. The Government has instructed the Chancellor of Justice to handle his request and to attempt to reach an agreement with Mr. Alzery. The Chancellor is authorized to go beyond what is provided for under the legislation on claims for damages.

Author's response

On 15 May 2007, the author responded that he welcomed the decision of the government to a large extent. However, it remains to be seen whether and how his right to reparation will be realised. The author's request for diplomatic assistance from the Swedish government to enable him to leave Egypt was turned down by the government. On 9 May 2007, the Migration Board rejected the author's request for a residence permit and rejected counsel's request for an oral hearing. It based its decision on a statement by the security police which said that its evaluation of the author's so-called terrorist links remain the same today as in 2001. The Board did not take into account any events subsequent to his expulsion on 18 December 2001. The author will appeal this decision to the government. The case will also be evaluated by the Supreme Migration Court. The author requests the Committee to take no decision on the submissions provided in this case until the domestic procedures have terminated. In addition, he notes that the State party did not comment on the lack of a criminal investigation against foreign agents or the fact that the investigation by the Ombudsman in practice created immunity for the Swedish police officers involved in the author's rendition. According to the author, no investigations have been undertaken by the State party.

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CCPR, CCPR/C/SR.2564/Add.1 (2008)

HUMAN RIGHTS COMMITTEE

Ninety-third session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 2564th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 23 July 2008 at 11.25 a.m.

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FOLLOW-UP TO CONCLUDING OBSERVATIONS ON STATE REPORTS AND TO
VIEWS UNDER THE OPTIONAL PROTOCOL

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Follow-up progress report of the Human Rights Committee on individual communications
(CCPR/C/93/R.5)

40. Mr. SHEARER, Special Rapporteur for follow-up on communications, introduced the Committee's progress report on individual communications.

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51. The final case, which was not included in the report, was that of Al-Zery v. Sweden, concerning which the Committee had recently been informed that the author had been awarded approximately 500,000 Swiss francs in compensation by the Government of Sweden.

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The meeting rose at 1.05 p.m.

VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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

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

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

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

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

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

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

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

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
...						
Sweden (1)	1416/2005, <i>Al Zery</i> A/62/40	X A/62/40				X
...						

Annex VII

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

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

...

State party	SWEDEN
Case	Alzery, 1416/2005
Views adopted on	25 October 2006
Issues and violations found	Failure to ensure that the diplomatic assurances procured were sufficient to eliminate the risk of ill-treatment; excessive use of force against the author at Bromma airport; failure to ensure that the State party's investigative apparatus is able to preserve the capacity to investigate, as far as possible, the criminal responsibility of all relevant officials, domestic and foreign, for conduct in breach of article 7 committed within its jurisdiction; absence of any opportunity for effective, independent review of the decision to expel the author; failure to permit the exercise in good faith of the right of complaint to the Committee. Articles 7, 7 in conjunction with 2, article 1 of the Optional Protocol.
Remedy recommended	Effective remedy, including compensation.
Due date for State party response	6 February 2007
Date of reply	9 July 2008 (the State party had previously responded on 18 September 2007 and 14 March 2007)
State party response	In its response of 14 March 2007, the State party indicated that the author's request for a residence permit in Sweden, as well as his request for compensation were pending (See 2007 annual report, A/62/40).

On 18 September 2007, the State party informed the Committee that

on 10 May 2007 the Migration Board rejected Mr. Alzery's application for a residence permit. The Migration Court of Appeal upheld the Board's decision on 31 August 2007. The Government will now examine Mr. Alzery's application in accordance with the relevant provisions of the Aliens Act. A decision might be expected before the end of the year.

Furthermore, Mr. Alzery's request for compensation from the Swedish Government is presently under examination by the Chancellor of Justice.

On 9 July 2008, the State party informed the Committee that a settlement of 3,160,000 SEK was awarded to the author. The decision is currently being translated. It also informed the Committee that it is still awaiting a decision on the author's request for a residence permit, and that this decision will probably be made in August.

Author's comments

According to newspaper reports, the author has been awarded 3 million SEK (approximately 500,000 CHF) by the Swedish Government as compensation for his case.

The State party has been requested to confirm the information provided.

Committee's Decision

The Committee considers the dialogue ongoing.

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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.

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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.

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...						