

CROATIA

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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Croatia: Views in one case finding violations: 727/1996 - Paraga (annex X, section E); for follow-up reply, dated 27 July 2001, see below.

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

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188. Croatia: With regard to case No. 727/1996 - Paraga, the Government of Croatia, by note verbale of 27 July 2001, informs the Committee that Mr. Paraga submitted a claim for compensation on 23 May 2001, which is now being considered, and that it will inform the Committee of the outcome of the proceedings.

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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Croatia: Views in one case with findings of violations:

727/1996 - Paraga (A/56/40); for follow-up reply, see A/56/40, paragraph 188.

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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.*

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Croatia: Views in one case with findings of violations:

727/1996 - *Paraga* (A/56/40); for follow-up reply, see A/56/40, paragraph 188 and paragraph 234 below.

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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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234. **Croatia:** 727/1996 - *Paraga* (A/56/40): the State party informed the Committee, by note verbale of 29 October 2002, that the author had filed a request with the Ministry of Justice for compensation of material and non-material damage suffered as a result of unjustified detention in the amount of HRK 1 million, and that the Ministry of Justice had not issued any decision. Following proceedings before the Municipal Court of Zagreb, the Court recognized that the entire time spent in custody should be counted as a basis for claiming non-pecuniary damages, but it disputed the amount of compensation requested by the author. On the material claims, a preliminary hearing was held on 5 February 2002 and 18 April 2002; the author was heard as a party and asked to produce evidence. A new hearing was expected. Concerning proceedings before the Municipal Court of Split, the State party noted that the author had never approached the Ministry of Justice with any request for damages.

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.

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Croatia:

Paraga v. Croatia, Case no. 727/1996, Views adopted on 4 April 2001

Violations found: Article 14, paragraph 3 (c)

Issues of case: "Continuing effects"; pre-trial delay and freedom of expression.

Remedy recommended: Compensation

Deadline for State party follow-up information: 27 August 2001

Follow-up information received from State party: By note verbale of 29 October 2002, the State party informed the Committee that the author had filed a request with the Ministry of Justice for compensation of material and non-material damage suffered as a result of "unjustified" arrest (custody), in the amount of Kn 1 million, and that the Ministry of Justice was considering the matter. The Municipal Court in Zagreb recognized the time spent in custody as a basis for claiming non-pecuniary damages, but disputed the requested amount of compensation. A preliminary hearing was held on 5 February 2002 and on 18 April 2002, where the plaintiff provided evidence. A further hearing is expected. Concerning the proceedings before the Municipal Court in Split, State party affirmed that the author has never approached the Ministry of Justice with a request for damages.

Follow-up information received from author: None

Special Rapporteur's recommendations: The State party should be asked to provide an update on the proceedings mentioned above.

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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.*

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Croatia: Views in one case with findings of violations:

727/1996 - *Paraga* (A/56/40); for follow-up reply, see A/56/40, paragraph 188 and A/58/40, paragraph 234; in the follow-up report (CCPR/C/80/FU1), adopted by the Committee during its eightieth session, the Special Rapporteur, recommended that the State party be requested to provide an update on the proceedings mentioned in its follow-up reply.

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
...						
Croatia (1)	727/1996, <i>Paraga</i> A/56/40	X A/56/40, A/58/40				X

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

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).

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State party	CROATIA
Case	Paraga, 727/1996
Views adopted on	4 April 2001
Issues and violations found	“Continuing effects”; pretrial delay and freedom of expression - article 14, paragraph 3 (c).
Remedy recommended	Compensation
Due date for State party response	27 August 2001
Date of reply	The State party had responded on 29 October 2002.
State party response	On 2 December 2004, the State party informed the Committee that the author’s application, of 14 January 2003, for damages sustained during the time spent in custody from 22 November to 18 December 1991 was rejected as untimely. The author has apparently lodged an appeal to this decision and the case is currently before the County Court of Zagreb.
Author’s response	On 30 January 2005, the author confirmed that he had been refused compensation by the Municipal Court of Zagreb, and was in fact ordered to pay the State’s legal costs. He has appealed this decision to the County Court of Zagreb, but nearly two years later the case has still not been heard.
Further action	Further action taken: The State party was requested to provide an

taken/required

update in due course.

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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
...						
Croatia (1)	727/1996, <i>Paraga</i> A/56/40	X A/56/40, A/58/40				X
...						

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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).

...

State party	CROATIA
Case	Paraga, 727/1996
Views adopted on	4 April 2001
Issues and violations found	“Continuing effects”; pretrial delay and freedom of expression – Article 14, paragraph 3 (c)
Remedy recommended	Compensation
Due date for State party response	27 August 2001
Date of State party’s response	26 January 2006 (State party had responded on 29 October 2002 and 2 December 2004)
State party response	<p>The Committee will recall, as set out in its report from the eighty-fourth session, that on 2 December 2004, the State party had informed the Committee that the author’s application, of 14 January 2003, for damages sustained during the time spent in custody from 22 November to 18 December 1991 had been rejected as untimely. The author had lodged an appeal to this decision and the case is currently before the County Court of Zagreb.</p> <p>On 26 January 2006, the State party reiterated that the case has still not been considered.</p>
Author’s response	On 30 January 2005, the author had confirmed that he had been refused compensation by the Municipal Court of Zagreb, and was in fact ordered to pay the State’s legal costs. He has appealed this decision to the County

Court of Zagreb, but nearly two years later the case has still not been heard.

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CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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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.

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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
...						
Croatia (1)	727/1996, <i>Paraga</i> A/56/40	X A/56/40, A/58/40				X
...						