

ECUADOR

Follow-up - Jurisprudence Action by Treaty Bodies

CCPR A/51/40, vol. I (1996)

VIII. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

...

429. A country-by-country breakdown of follow-up replies received or requested and outstanding as at 26 July 1996 provides the following picture:

...

Ecuador: Three views finding violations; one follow-up reply received; no replies received in two cases. Follow-up consultations with the Permanent Mission of Ecuador to be conducted during the fifty-eighth session.

VIII. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

...

524. A country-by-country breakdown of follow-up replies received or requested and outstanding as of 30 June 1997 provides the following picture (Views in which the deadline for receipt of follow-up information had not yet expired have not been included):

...

Ecuador: Four Views finding violations: 238/1987 - Bolanos (1989 Report);^{17/} for State party's follow-up reply, see 1990 Report, 14/ vol. II, annex XII B; 277/1988 - Teran Jijon (1992 Report);^{4/} follow-up reply, dated 11 June 1992, unpublished; 319/1988 - Canon Garcia (1992 Report); 480/1991 - Fuenzalida (1996 Report);^{10/} State party's follow-up reply in the latter two cases remains outstanding. Follow-up consultations with the Permanent Mission of Ecuador were to be conducted during the sixty-first session.

...

Concern over instances of non-cooperation under the follow-up mandate

554. In spite of some progress in collecting follow-up information since the adoption of its 1996 Report, the Committee and the Special Rapporteur note with concern that a number of countries did not provide any follow-up information within the deadlines established by the Committee or have not replied to reminders or requests for information from the Special Rapporteur. Those States which have not replied to requests for follow-up information are the following (in alphabetical order):

...

Ecuador: one case;

...

555. The Committee urges those States parties to reply to the Special Rapporteur's requests for follow-up information within the deadlines that have been set.

^{4/} Official Records of the General Assembly, Forty-seventh Session, Supplement No. 40 (A/47/40).

^{10/} Ibid., Forty-first Session, Supplement No. 40 (A/51/40).

^{14/} Official Records of the General Assembly, Forty-fifth Session, Supplement No. 40 (A/45/40).

^{17/} Ibid., Forty-fourth Session, Supplement No. 40 (A/44/40).

VIII. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

...

486. The Committee's previous report (A/52/40) contained a detailed country-by-country breakdown of follow-up replies received or requested and outstanding as of 30 June 1997. The list that follows shows the additional cases in respect of which follow-up information has been requested from States (Views in which the deadline for receipt of follow-up information had not yet expired have not been included). It also indicates those cases in which replies are outstanding. In many of these cases there has been no change since the previous report. This is because the resources available for the Committee's work were considerably reduced in the current year, preventing it from undertaking a comprehensive systematic follow-up programme.

...

Ecuador: Five Views finding violations: 238/1987 - Bolanos (1989 Report (A/44/40)); for State party's follow-up reply, see 1990 Report (A/45/40), vol. II, annex XII, B; 277/1988 - Teran Jijon (1992 Report, A/47/40); follow-up reply, dated 11 June 1992, unpublished; 319/1988 - Canon Garcia (1992 Report); no follow-up reply received); 480/1991 - Fuenzalida (1996 Report (A/51/40)); 481/1991 - Ortega (1996 Report); State party's follow-up reply in the latter two cases, dated 9 January 1998 (see para. 497 below). Follow-up consultations with the Permanent Mission of Ecuador were conducted during the sixty-first session (see para. 493 below).

...

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

...

493. Ecuador. On 30 October 1997, the Special Rapporteur met with the Permanent Representative of Ecuador to the United Nations Office at Geneva to discuss the State party's failure to implement the Committee's recommendations formulated in its Views on case No. 480/1991 (Fuenzalida), and to request a reply in respect of the Committee's Views in case No. 481/1991 (Ortega). With regard to the compensation which was recommended by the Committee, the Special Rapporteur explained that the principle of compensation could not be challenged by the State party, but that it was free to determine the level of compensation. If no legal basis existed for compensation, the State party should make ex gratia payments. The representative promised to convey the Rapporteur's concerns to his Government.

494. In a submission of 9 January 1998, the State party provides information in respect of the two cases, which reads as a belated submission on the merits. No information is provided about the

measures taken, if any, by the State party to implement the Committee's recommendations.

VII. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

461. The Committee's previous report (A/53/40) contained a detailed country-by-country breakdown of follow-up replies received or requested and outstanding as of 30 June 1998. The list that follows shows the additional cases in respect of which follow-up information has been requested from States (Views in which the deadline for receipt of follow-up information had not yet expired have not been included). It also indicates those cases in which replies are outstanding. In many of these cases there has been no change since the last report. This is because the resources available for the Committee's work have been considerably reduced preventing it from undertaking a comprehensive systematic follow-up programme.

...

Ecuador: Five Views finding violations: 238/1987 - Bolanos (A/44/40); for State party's follow-up reply, see A/45/40, vol. II, annex XII, sect. B; 277/1988 - Terán Jijón (A/47/40); follow-up reply, dated 11 June 1992, unpublished; 319/1988 - Cañón García (A/47/40); no follow-up reply received; 480/1991 - Fuenzalida (A/51/40); 481/1991 - Ortega (A/52/40); for State party's follow-up reply in the latter two cases dated 9 January 1998, see A/53/40, para. 494. Follow-up consultations with the Permanent Mission of Ecuador to the United Nations Office at Geneva were conducted during the sixty-first session (see A/53/40, para. 493). For further follow-up replies, dated 29 January and 14 April 1999, see below.

...

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

...

466. Ecuador. By submission of 29 January 1999, the Government of Ecuador informed the Committee that it had met with Mr. Villacres Ortega's representative on 18 January in order to come to a friendly settlement on the basis of the Committee's Views. By further submission of 14 April 1999, the Government of Ecuador forwarded to the Committee a copy of the agreement of compensation concluded with the representative of Mr. Villacres Ortega on 26 February 1999. In the agreement, the State party recognized its international responsibility for having violated articles 7 and 10, paragraph 1, in the author's case and agreed to pay him, within 90 days, US\$ 25,000 for damages. The State party, moreover, agreed to take civil, penal and administrative action against the perpetrators of the violations and to take the necessary steps to bring them to justice and reserved its right to claim back from the perpetrators the amount of damages paid. For the full text of the agreement, see annex IX. A similar agreement was concluded with Mr. Garcia Fuenzalida on 16 June 1999.

VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

...

596. The Committee's previous report (A/54/40) contained a detailed country-by-country breakdown of follow-up replies received or requested and outstanding as of 30 June 1999. The list that follows shows the additional cases in respect of which follow-up information has been requested from States. (Views in which the deadline for receipt of follow-up information had not yet expired have not been included.) It also indicates those cases in which replies are outstanding. In many of these cases there has been no change since the last report. This is because the limited resources available for the Committee's work prevent it from undertaking a comprehensive or systematic follow-up programme.

...

Ecuador: Five Views finding violations: 238/1987 - Bolanos (A/44/40); for State party's follow-up reply, see A/45/40, vol. II, annex XII, sect. B; 277/1988 - Terán Jijón (A/47/40); follow-up reply, dated 11 June 1992, unpublished; 319/1988 - Cañón García (A/47/40); no follow-up reply received; 480/1991 - Fuenzalida (A/51/40); 481/1991 - Ortega (A/52/40); For the State party's follow-up reply, dated 9 January 1998, in the latter two cases, see A/53/40, para. 494. Follow-up consultations with the Permanent Mission of Ecuador to the United Nations Office at Geneva were conducted during the sixty-first session (see A/53/40, para. 493). For further follow-up replies, dated 29 January and 14 April 1999, see A/54/40, para. 466.

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

Chapter IV. Follow-up Activities under the Optional Protocol

...

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.

...

Ecuador: Five Views finding violations: 238/1987 - Bolaños (A/44/40); for follow-up reply, see A/45/40, vol. II, annex XII, sect. B; 277/1988 - Terán Jijón (A/47/40); follow-up reply, dated 11 June 1992, unpublished; 319/1988 - Cañón García (A/47/40); no follow-up reply received; 480/1991 - Fuenzalida (A/51/40); 481/1991 - Ortega (A/52/40); for follow-up reply in the latter two cases, dated 9 January 1998, see A/53/40, paragraph 494. Follow-up consultations with the Permanent Mission of Ecuador to the United Nations Office at Geneva were conducted during the sixty-first session (see A/53/40, para. 493). For further follow-up replies, dated 29 January and 14 April 1999, see A/54/40, paragraph 466.

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

Chapter VI. Follow-up activities under the optional protocol

...

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.

...

Ecuador: Views in five cases with findings of violations:

238/1987 - Bolaños (A/44/40); for follow-up reply, see A/45/40, vol. II, annex XII, sect. B;

277/1988 - Terán Jijón (A/47/40); follow-up reply, dated 11 June 1992, unpublished;

319/1988 - Cañón García (A/47/40); no follow-up reply received;

480/1991 - Fuenzalida (A/51/40);

481/1991 - Ortega (A/52/40); for follow-up reply in the latter two cases, dated 9 January 1998, see A/53/40, paragraph 494. Follow-up consultations with the Permanent Mission of Ecuador to the United Nations Office at Geneva were conducted during the sixty-first session (see A/53/40, paragraph 493). For further follow-up replies, dated 29 January and 14 April 1999, see A/54/40, paragraph 466.

...

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

...

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.*

...

Ecuador: Views in five cases with findings of violations:

238/1987 - *Bolaños* (A/44/40); for follow-up reply, see A/45/40, volume II, annex XII, section B;

277/1988 - *Terán Jijón* (A/47/40); follow-up reply, dated 11 June 1992, unpublished;

319/1988 - *Cañón García* (A/47/40); no follow-up reply received;

480/1991 - *Fuenzalida* (A/51/40);

481/1991 - *Ortega* (A/52/40); for follow-up reply in the latter two cases, dated 9 January 1998, see A/53/40, paragraph 494. Follow-up consultations with the Permanent Mission of Ecuador to the United Nations Office at Geneva were conducted during the sixty-first session (see A/53/40, para. 493). For further follow-up replies, dated 29 January and 14 April 1999, see A/54/40, paragraph 466.

Notes

1. [*Official Records of the General Assembly*], *Fifty-seventh Session, Supplement No. 40*(A/57/40), vol. I, chap. VI.

* The document symbol A/[Session No.] /40 refers to the *Official Record of the General Assembly* in which the case appears; annex VI refers to the present report, vol. II.

CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

...

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.*

...

Ecuador: Views in five cases with findings of violations:

238/1987 - *Bolaños* (A/44/40); for follow-up reply, see A/45/40, volume II, annex XII, section B;

277/1988 - *Terán Jijón* (A/47/40); follow-up reply, dated 11 June 1992, unpublished;

319/1988 - *Cañón García* (A/47/40); no follow-up reply received;

480/1991 - *Fuenzalida* (A/51/40);

481/1991 - *Ortega* (A/52/40); for follow-up reply in the latter two cases, dated 9 January 1998, see A/53/40, paragraph 494. Follow-up consultations with the Permanent Mission of Ecuador to the United Nations Office at Geneva were conducted during the sixty-first session (see A/53/40, para. 493). For further follow-up replies, dated 29 January and 14 April 1999, see A/54/40, paragraph 466.

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.

...

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
...						
Ecuador (5)	238/1987, <i>Bolaños</i> A/44/40	X A/45/40	X A/45/40			
	277/1988, <i>Terán Jijón</i> A/47/40	X A/59/40*		X		X
	*Note: According to this report, information was provided on 11 June 1992, but was unpublished. It appears from the Follow-up file that in this response, the State party merely forwarded copies of two reports of the National Police on the investigation of the crimes in which Mr. Terán Jijón was involved, including the statements he made on 12 March 1986 concerning his participation in such crimes.					
	319/1988, <i>Cañón García</i> A/47/40				X	X
	480/1991, <i>Fuenzalida</i> A/51/40	X A/53/40, A/54/40	X			
	481/1991, <i>Villacrés Ortega</i> A/52/40	X A/53/40, A/54/40	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.

...

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
...						
Ecuador (5)	238/1987, <i>Bolaños</i> A/44/40	X A/45/40	X A/45/40			
	277/1988, <i>Terán Jijón</i> A/47/40	X A/59/40*		X		X
	<p>*Note: According to this report, information was provided on 11 June 1992, but was not published. It appears from the Follow-up file that in this response, the State party merely forwarded copies of two reports of the National Police on the investigation of the crimes in which Mr. Terán Jijón was involved, including the statements he made on 12 March 1986 concerning his participation in such crimes.</p>					
	319/1988, <i>Cañón García</i> A/47/40				X	X
	480/1991, <i>Fuenzalida</i> A/51/40	X A/53/40, A/54/40	X			
481/1991, <i>Villacrés Ortega</i> A/52/40	X A/53/40, A/54/40	X				
...						

...

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
...						
Ecuador (5)	238/1987, <i>Bolaños</i> A/44/40	X A/45/40	X A/45/40			
	277/1988, <i>Terán Jijón</i> A/47/40	X A/59/40*		X		X
	*Note: According to this report, information was provided on 11 June 1992, but was not published. It appears from the Follow-up file that in this response, the State party merely forwarded copies of two reports of the National Police on the investigation of the crimes in which Mr. Terán Jijón was involved, including the statements he made on 12 March 1986 concerning his participation in such crimes.					
	319/1988, <i>Cañón García</i> A/47/40			X		X
	480/1991, <i>Fuenzalida</i> A/51/40	X A/53/40, A/54/40	X			
481/1991, <i>Villacr�es Ortega</i> A/52/40	X A/53/40, A/54/40	X				
...						