

CZECH REPUBLIC

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:

...

Czech Republic: One decision finding a violation of the Covenant; follow-up reply, dated 27 November 1995, received from the State party. One author confirmed, by letter dated 30 October 1995, that the Committee's recommendations were implemented; one author complained, by letter dated 14 May 1996, that he was not compensated (see para. 458).

...

Overview of positive examples of follow-up cooperation/replies

...

458. During the fifty-third session, the Committee adopted views on communication No. 516/1992 (Simunek et al. v. Czech Republic), finding a violation of article 26 of the Covenant and recommending either restitution of the authors' properties to them or compensation if their properties could not be returned. On 22 November 1995, the State party forwarded to the Committee a detailed follow-up reply, in which it indicated that the implementation of concrete measures to afford the authors an effective remedy was being discussed by the competent Czech authorities. Measures under consideration included, according to the State party, review of the legislation found by the Committee to be incompatible with article 26 of the Covenant and the return of the authors' property to them or compensation for it. By letter dated 30 October 1995, one of the authors of the communication confirmed that her property was returned to her. On 14 May 1996, one author complained that the valuation of his property, which would be used as the basis for his compensation entitlement, was being delayed by the authorities, and expressed the fear that his compensation would not reflect the true value of his property.

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):

...

Czech Republic: Two Views finding violations: 516/1992 - Simunek et al. (1995 Report);^{16/586/1994 - Adam} (1996 Report).^{10/} For State party's follow-up replies, see 1996 Report, para. 458. One author (in case No. 516/1992) has confirmed that Committee's recommendations were implemented, the others complain that their property was not restituted or that they were not compensated.

...

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

...

536. Czech Republic: By submission of 22 October 1996, the Czech Republic transmitted follow-up information on the Committee's Views on case No. 586/1994 (Adam v. Czech Republic), adopted in July 1996. The State party indicates that the author failed to avail himself of an available remedy at the domestic level. It adds that failure to provide a remedy by national courts is the basic prerequisite for giving effect to a decision rendered by an international body. The State party also notes that its Constitutional Court is the only body competent to rule on the constitutionality of the condition of State citizenship in Act 87/1991 on Extrajudicial Rehabilitation and its possible discriminatory nature, and that it has not, so far, addressed that issue, either in the author's or in any other case.

537. The State party's reply implies that the Czech Republic is not prepared to give effect to the Committee's recommendations, that is, to reconstitute his property to the author. The Special Rapporteur will require follow-up consultations with the State party, as it is apparent that the State party invokes arguments that it should have raised while the communication was under consideration by the Committee.

^{16/} [Official Records of the General Assembly], Fiftieth Session, Supplement No. 40 (A/50/40).

^{10/} [Official Records of the General Assembly], Fifty-first Session, Supplement No. 40 (A/51/40).

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.

...

Czech Republic: Two Views finding violations: 516/1992 - Simunek et al. (1995 Report (A/50/40)); 586/1994 - Adam (1996 Report (A/51/40)). For State party's follow-up replies, see 1996 Report, para. 458. One author (in case No. 516/1992) has confirmed that the Committee's recommendations were implemented, the others complain that their property was not restored to them or that they were not compensated. Follow-up consultations were held during the sixty-first session (see para. 492 below).

...

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

...

492. Czech Republic. On 27 October 1997, the Special Rapporteur met with the Permanent Representative of the Czech Republic to the United Nations Office at Geneva in respect of the Committee's Views on cases 516/1992 (Simunek et al.) and 566/1994 (Adam). The State party's representative indicated that, although the legal basis for the cases was identical, the factual details in each case were different, and that as a consequence cases were pending before different courts. He explained that in cases relating to the restitution of property, the courts proceeded slowly because of the sheer number of complaints. He assured the Rapporteur that the cases were not being delayed deliberately but were caused by the difficulties of establishing title to property, particularly with regard to the case of Mr. Adam. In this connection, the representative stated that Mr. Adam had failed to file a claim for restitution in the court. With regard to the requirement of citizenship, which was found by the Committee to be discriminatory, the Constitutional Court was not expected to address this issue in the near future, since no formal claim to have its validity tested had been filed. In conclusion, the representative stated that the State party did not disagree with the Committee's findings, but pointed out that Mrs. Simunek and Mr. Adam would be required to pursue their claim for compensation and restitution before the Czech courts, within the statutory deadlines.

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.

...

Czech Republic: Two Views finding violations: 516/1992 - Simunek et al. (A/50/40); 586/1994 - Adam (A/51/40). For State party's follow-up replies, see A/51/40, para. 458. One author (in Simunek) has confirmed that the Committee's recommendations were implemented, the others complained that their property was not restored to them or that they were not compensated. Follow-up consultations were held during the sixty-first and sixty-sixth sessions (see A/53/40, para. 492, and below).

...

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

...

465. Czech Republic. The Permanent Mission of the Czech Republic to the United Nations Office at Geneva requested a meeting with the Special Rapporteur on the follow-up of Views. On 13 July 1999, during the Committee's sixty-sixth session, Mr. Pocar met with Ambassador M. Somol and the Director-General at the Ministry of Foreign Affairs, Mr. Jiri Malenowsky. Several issues were discussed, including the legal, constitutional and political problems that the State party is facing in fully implementing the Committee's Views with respect to communications Nos. 516/1992 - Simunek and 586/1994 - Adam.

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.

...

Czech Republic: Two Views finding violations: 516/1992 - Simunek et al. (A/50/40); 586/1994 - Adam (A/51/40). For the State party's follow-up replies, see A/51/40, para. 458. One author (in Simunek) has confirmed that the Committee's recommendations were implemented, the others complained that their property was not restored to them or that they were not compensated. Follow-up consultations were held during the sixty-first and sixty-sixth sessions (see A/53/40, para. 492, and A/54/40, para. 465).

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.

...

Czech Republic: Two Views finding violations: 516/1992 - Simunek et al. (A/50/40); 586/1994 - Adam (A/51/40). For follow-up replies, see A/51/40, paragraph 458. One author (in Simunek) has confirmed that the Committee's recommendations were implemented, the others complained that their property was not restored to them or that they were not compensated. Follow-up consultations were held during the sixty-first and sixty-sixth sessions (see A/53/40, para. 492, and A/54/40, para. 465).

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.

...

Czech Republic: Views in seven cases with findings of violations:

516/1992 - Simunek et al. (A/50/40); see paragraph 16 below;

586/1994 - Adam (A/51/40). For follow-up replies, see A/51/40, paragraph 458. One author (in Simunek) has confirmed that the Committee's recommendations were implemented, the others complained that their property was not restored to them or that they were not compensated. Follow-up consultations were held during the sixty-first and sixty-sixth sessions (see A/53/40, paragraph 492, and A/54/40, paragraph 465). See further below;

857/1999 - Blazek et al. (A/56/40); see paragraph 16 below;

765/1997 - Fábryová (annex IX); and 774/1997 - Brok (annex IX); see paragraph [238] below;

747/1997 - Des Fours Walderode (annex IX); for follow-up reply, see paragraph [238] below;

946/2000 - Patera (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.

...

238. Czech Republic: On 24 January 2002, the Czech Prime Minister Milos Zeman visited the High Commissioner for Human Rights Mary Robinson in Geneva, who urged him to ensure implementation of the Committee's Views. On 25 January 2002, a Czech delegation, including the Deputy Director of the Human Rights Department, met with OHCHR secretariat staff to discuss the outstanding implementation of the Czech cases in which the Committee had found violations of the Covenant. The delegation advised that the State party was analysing its restitution legislation, in the light of the Committee's Views, with a view to amendment and will propose solutions in three to six months. It was stressed that the Committee concerned itself solely with the restitution legislation, rather than the post-war Benes decrees. With regard to case No. 747/1997, Des Fours Walderode (annex IX), the State party advised the Committee, by its note verbale of 15 January 2002, that legislative work concerning the implementation of the Committee's Views had been commenced and sought an extension to March 2002 in view of the complexity of the case. On 15 February 2002, the State party sought an extension until May 2002 for its reply. By letter of 4 April 2002, the author provided a judgement of the Constitutional Court of 14 March 2002 in the author's favour and remitting the case to the first instance authority. By letter of 31 May 2002, the author informed the Committee that the first instance authority, by letter of 10 April 2002, requested an extensive further quantity of documentation from the author, including proof that the victim in question had not acted contrary to the State's interests. Accordingly, the author contended that the steps taken by the State party were insufficient and only prolonged the period in which a full remedy may be expected.

...

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.*

...

Czech Republic: Views in eight cases with findings of violations:

516/1992 - *Simunek et al.* (A/50/40); see A/57/40, paragraph 238 and paragraph 235 below;

586/1994 - *Adam* (A/51/40); for follow-up replies, see A/51/40, paragraph 458. One author (in *Simunek*) has confirmed that the Committee's recommendations were implemented partially; the others complained that their property was not restored to them or that they were not compensated. Follow-up consultations were held during the sixty-first and sixty-sixth sessions (see A/53/40, para. 492 and A/54/40, para. 465); see also A/57/40, paragraph 238;

857/1999 - *Blazek et al.* (A/56/40); see A/57/40, paragraph 238;

765/1997 - *Fábryová* (A/57/40); see A/57/40, paragraph 238 and paragraph 237 below;

774/1997 - *Brok* (A/57/40); see A/57/40, paragraph 238 and paragraph 237 below;

747/1997 - *Des Fours Walderode* (A/57/40); for follow-up reply, see A/57/40, paragraph 238 and paragraph 236 below;

757/1997 - *Pezoldova* (annex VI); follow-up reply not yet received;

946/2000 - *Patera* (A/57/40); see the author's submission, paragraph 238 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.

...

235. **Czech Republic:** case No. 516/1992 - *Simunek et al.* (A/50/40): by letter of 15 July 2003, the authors expressed the hope that the Committee would assist them in securing the implementation of its Views.

236. Case No. 747/1997 - *Des Fours Walderode* (A/57/40): the author informed the Committee, by letter of 3 June 2002, that on 22 May 2002, the Foreign Ministry had informed his lawyer that the Government wanted to wait for the outcome of the reopened procedure. The author expressed disagreement with this approach.

237. Cases Nos. 765/1997 - *Fábryová* and 774/1997 - *Brok* (A/57/40): the State party informed the Committee, by note verbale of 17 October 2002, that the restitution claims of the authors were being dealt with through a programme for the compensation of individuals to mitigate property injustices suffered by Holocaust victims. The aim of the programme was to compensate individuals who were deprived of their real estate during the German occupation of territory now belonging to the Czech Republic, as this property had not been returned to them under the legal restitution regulations and international agreements, nor had they been compensated in any other way. The programme was announced on 26 June 2001 and the deadline for submitting applications was 31 December 2001. The Government allocated CZK 100 million to the programme. The State party added that it would inform the Committee about the results of the compensation procedure.

238. Case No. 946/2000 - *Patera* (A/57/40): the author affirmed, by letter dated 2 January 2003, that none of the Committee's recommendations had been complied with by the State party. On 23 October 2002, he petitioned the Government, asking for information about the measures undertaken by the State party to comply with the Committee's Views. After several further requests, the Government responded that his petition had been forwarded to the Ministry of Justice. On 18 November 2002, the author submitted a written petition to the Ministry of Justice asking for the previously requested information and asking to meet the Minister of Justice, without success.

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.

...

CZECH REPUBLIC:

Des Fours Walderode v. Czech Republic, Case no. 747/1997, Views adopted on 30 October 2001

Violation found: Article 26, read together with article 2

Issues of case: Denial of equality in and before the law; retroactive legislation.

Remedy recommended: Restitution of the confiscated property or compensation therefore, and, additionally, compensation for the denial of enjoyment of the property.

Deadline for State party follow-up information: 1 February 2002

Follow-up information received from State party: By note verbale of 15 January 2002 the State party informed the Committee that it would submit relevant information by March 2002.

Follow-up information received from author: By letter of 4 April 2002, the author provided a judgement of the Constitutional Court of 14 March 2002 in the author's favour and remitting the case back to the first instance. By letters of 22 May and 3 June 2002, the surviving spouse of the author informed the Committee that the Foreign Ministry had informed their lawyer of the Government's intention to await the outcome of the reopened procedure before taking any action. She expressed disagreement with this approach. By letter of 31 May 2002, the author informed the Committee that the Court of first instance, by letter of 10 April 2002, requested an extensive quantity of documentation from the author, including proof that the victim in question had not acted contrary to the State's interests. Accordingly, the author contended that the steps taken by the State party were insufficient and only prolonged the period in which a full remedy may be expected. By letter of 28 April 2003, the author informed the Committee that her case was returned for the third time by the Constitutional Court to the court of first instance, the Land Office of Semily. This Office again refused to grant her the restitution of her late husband's property on the mistaken belief that her husband had been a collaborator during the War. On 24 November 2003, she informed the

Secretariat that the State party has still not provided her with an effective remedy.

Consultations with State party: On 24 January 2002, Czech Prime Minister Milos Zeman visited the High Commissioner for Human Rights in Geneva, who urged him to secure implementation of the Committee's Views. On 25 January 2002, a Czech delegation, including the Deputy Director of the Human Rights Department, met with OHCHR staff to discuss the outstanding implementation of the Czech cases in which the Committee had found violations of the Covenant. The delegation advised that the State party was analysing its restitution legislation, in the light of the Committee's Views, with a view to amending it, and that it would propose solutions within three to six months. It was stressed that the Committee concerned itself solely with the restitution legislation, rather than the post-war Benes decrees. By a note verbale of 15 January 2002, the State party advised the Committee, that with regard to Des Fours Walderode, legislative work concerning the implementation of the Committee's Views had been commenced and sought an extension to March 2002 in view of the complexity of the case. On 15 February 2002, the State party sought an extension until May 2002 for its reply. No further information has been received.

Special Rapporteur's recommendations: A reminder should be sent to the State party and an update on the legislative amendments requested.

Fábryová v Czech Republic, Case no. 765/1997, Views adopted on 30 October 2001

Violations found: Article 26

Issues of case: Property restitution

Remedy recommended: An opportunity to file a new claim for restitution or compensation.

Deadline for State party follow-up information: 16 March 2002

Follow-up information received from State party: The State party informed the Committee, by note verbale of 17 October 2002, that the restitution claim is now being dealt through the program for the compensation of individuals to mitigate property injustices caused to holocaust victims. The aim of the program is to provide compensation to individuals who were deprived of their real estate during the Nazi occupation of territory now belonging to the Czech Republic, as this property has not been returned to them according to legal restitution regulations and international agreements, or compensated in any other way. The program was announced on 26 June 2001, and the deadline for submitting applications was 31 December 2001. The Government supported this program with 100 million Czech Crowns. The State party affirms that it will inform the Committee about the results of the compensation procedure in these cases.

Follow-up information received from author: None

Consultations with State party: See above with respect to Des Fours Walderode.

Special Rapporteur's recommendations: A reminder is to be sent to the State party (as for Des Fours

Walderode).

Brok v. Czech Republic, Case no. 774/1997, Views adopted on 30 October 2001

Violations found: Article 26

Issues of case: Property restitution

Remedy recommended: The remedy should include restitution of the property or compensation, and appropriate compensation for the period during which the author and his widow were deprived of the property, starting on the date of the court decision of 20 November 1995 and ending on the date when the restitution has been completed. The State party should review its relevant legislation and administrative practices to ensure that neither the law nor its application entails discrimination in violation of article 26 of the Covenant.

Deadline for State party follow-up information: 15 July 2002

Follow-up information received from State party: The State party informed the Committee, by note verbale of 17 October 2002, that this restitution claim is now being dealt through the program for the compensation of individuals to alleviate property injustices caused to holocaust victims. The aim of the program is to provide compensation to individuals who were deprived of their real estate during the Nazi occupation of territory now belonging to the Czech Republic, as this property has not been returned to them according to legal restitution regulations and international agreements, or compensated in any other way. The program was announced on 26 June 2001, and the deadline for submitting applications was 31 December 2001. The Government supported this program with 100 million Czech Crowns. The State party affirms that it will inform the Committee about the results of the compensation procedures in these cases.

Follow-up information received from author: None

Consultations with State party: See above, with respect to Des Fours Walderode.

Special Rapporteur's recommendations: A reminder is to be sent to the State party (as for Des Fours Walderode).

Patera v. Czech Republic, Case no. 946/2000, Views adopted on 25 July 2002

Violations found: Articles 2, and 17

Issues of case: Child custody, access to child prevented

Remedy recommended: Measures to ensure prompt implementation of the court's orders regarding contact between the author and his son.

Deadline for State party follow-up information: 28 October 2002

Follow-up information received from State party: None

Follow-up information received from author: The author affirms, by letter of 2 January 2003, that none of the Committee's recommendations have been complied with by the State party and, that it has not even provided the Committee with the requested information. On 23 October 2002, the author petitioned the government and asked for information about measures undertaken by the State party to implement the Views of the Committee. After several requests from the author, the Government responded that his petition had been forwarded to the Ministry of Justice. On 18 November 2002, the author petitioned the Ministry of Justice and asked for the previously requested information. He repeatedly and unsuccessfully asked to be received by the Minister of Justice. Author requested help to many authorities such as Parliament of the Czech Republic to implement the Committee's views but he affirmed did not receive any help.

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

...

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.*

...

Czech Republic: Views in eight cases with findings of violations:

516/1992 - *Simunek et al.* (A/50/40); see A/57/40, paragraph 238 and A/58/40, paragraph 235;

586/1994 - *Adam* (A/51/40); for follow-up replies, see A/51/40, paragraph 458. One author (in *Simunek*) has confirmed that the Committee's recommendations were implemented partially; the others complained that their property was not restored to them or that they were not compensated; follow-up consultations were held during the sixty-first and sixty-sixth sessions (see A/53/40, para. 492 and A/54/40, para. 465); see also A/57/40, paragraph 238;

857/1999 - *Blazek et al.* (A/56/40); see A/57/40, paragraph 238;

765/1997 - *Fábryová* (A/57/40); see A/57/40, paragraph 238 and A/58/40, paragraph 237;

774/1997 - *Brok* (A/57/40); see A/57/40, paragraph 238 and A/58/40, paragraph 237;

747/1997 - *Des Fours Walderode* (A/57/40); for follow-up reply, see A/57/40, paragraph 238, A/58/40, paragraph 236 and paragraph 239 below;

757/1997 - *Pezoldova* (A/58/40); follow-up reply not yet received;

946/2000 - *Patera* (A/57/40); see the author's submission, A/58/40, paragraph 238.

See also chapter VII - Follow-up to concluding observations for the State

party's reply.

...

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.

...

242. Czech Republic: as to case No. 747/1997 - *Des Fours Walderode* (A/57/40 and A/58/40), by letter of 28 April 2003, the author informed the Committee that her case was returned for the third time by the Constitutional Court to the court of first instance, the Land Office of Semily. This Office again refused to grant her the restitution of her late husband's property in the mistaken belief that her husband had been a collaborator during the war. On 24 November 2003, she informed the Secretariat that the State party had still not provided her with an effective remedy.

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, A/60/40 vol. I (2005)

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
...						
Czech Republic	<i>*Note:</i> For all of these property cases, see also follow-up to concluding observations for the State party's reply in A/59/40.					
(9)*	516/1992, <i>Simunek et al.</i> A/50/40	X A/51/40,* A/57/40, A/58/40				X
	<i>*Note:</i> One author confirmed that the View's were partially implemented. The others claimed that their property was not restored to them or that they were not compensated.					
	823/1998, <i>Czernin</i> A/60/40				X	X
	586/1994, <i>Adam</i> A/51/40	X A/51/40, A/53/40, A/54/40, A/57/40				X
	857/1999, <i>Blazek et al.</i> A/56/40	A/57/40				X
	765/1997, <i>Fábryová</i> A/57/40	X A/57/40, A/58/40				X
	774/1997, <i>Brok</i> A/57/40	X A/57/40, A/58/40				X
	747/1997, <i>Des Fours Walderode</i> A/57/40	X A/57/40, A/58/40				X
	757/1997, <i>Pezoldova</i> A/58/40	X A/60/40 (annex VII)				X
	946/2000, <i>Patera</i> A/57/40				X	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)

...

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	CZECH REPUBLIC
Case	Pezoldova, 757/1997
Views adopted on	25 October 2002
Issues and violations found	Property restitution - articles 2 and 26.
Remedy recommended	In accordance with article 2, paragraph 3 (a) of the Covenant, the State party is under an obligation to provide the author with an effective remedy, including an opportunity to file a new claim for restitution or compensation. The State party should review its legislation and administrative practices to ensure that all persons enjoy both equality before the law as well as the equal protection of the law.
Due date for State party response	5 March 2003
Author's response	On 6 March 2005, the author referred to the State party's failure to implement the Views of the Committee with respect to all of the Czech property cases on the grounds that it would (1) conflict with the rights of third parties (2) disturb the new property relation which are to a great extent the product of restitution legislation; and would be beyond the real capacity of the State budget. She argues that none of these arguments are relevant to her case as no amendment to the law would be necessary and distinguishes her case from the other Czech property cases. By letter dated 21 June 2005, the author informed the Committee that in March 2005 he had requested a meeting with the Minister of Justice regarding the implementation of the Committee's

recommendations. However, he has received no response yet.

State party response

On 26 July 2005 the State party informed the Committee that the Views had been published on the website of the Ministry of Justice in the spring of 2003. The State party contested the author's assertions that the national authorities had systematically denied her access to the documents that, according to her, proved that the real estate was confiscated under Decree No. 12/1945. Nevertheless, the State party respects the Committee's finding of a violation of article 26 in conjunction with article 2.

Legal experts from the ministries involved have agreed that it would be highly appropriate to propose to the Government that an adequate financial sum be offered to the author as an *ex gratia* payment for the violation of the Covenant. The Government, however, has to take the final decision and determine the amount to be paid.

The State party further states that the decisions of the national authorities declaring that the properties in question were not confiscated under Decree No. 12/1945 were correct. It admits that Act No. 143/1947, under which one family's property devolved *ex lege* to the State constitutes an unusual measure from the perspective of our time. However, such measure was taken much before the entry into force of the Covenant and the Optional Protocol, and therefore it is outside the Committee's competence.

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)

...

24. Mr. WIERUSZEWSKI said that since Brok v. Czech Republic (communication No. 774/1997) was closed, it should be mentioned separately from the other cases relating to the Czech Republic that featured in the report.

...

...

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
...						
Czech Republic (11)*	*Note: For all of these property cases, see also follow-up to concluding observations for the State party's reply in A/59/40.					
	516/1992, <i>Simunek et al.</i> A/50/40	X A/51/40*, A/57/40, A/58/40, A/61/40				X
	*Note: One author confirmed that the Views were partially implemented. The others claimed that their property was not restored to them or that they were not compensated.					
	586/1994, <i>Adam</i> A/51/40	X A/51/40, A/53/40, A/54/40, A/57/40, A/61/40				X
	765/1997, <i>Fábryová</i> A/57/40	X A/57/40, A/58/40, A/61/40				X
	774/1997, <i>Brok</i> A/57/40	X A/57/40, A/58/40, A/61/40	X A/61/40			

	747/1997, <i>Des Fours Walderode</i> A/57/40	X A/57/40, A/58/40, A/61/40				X
	757/1997, <i>Pezoldova</i> A/58/40	X A/60/40 (annex V to this report) A/61/40				X
	823/1998, <i>Czernin</i> A/60/40				X A/61/40	X
	857/1999, <i>Blazek et al.</i> A/56/40				X A/57/40, A/61/40	X
	945/2000, <i>Marik</i> A/60/40				X A/61/40	
	946/2000, <i>Patera</i> A/57/40				X A/61/40	X
	1054/2002, <i>Kriz</i> A/61/40				X A/61/40	
...						

CCPR, A/61/40 vol. II (2006)

...

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 **THE CZECH REPUBLIC - GENERAL INFORMATION ON PROPERTY CASES**

Case Property cases - Simunek et al. (516/1992), Adam (586/1994), Blazek (857/1999), Des Fours Walderode (747/1997), Brok (774/1997), Fabryova (765/1997), Pezoldova (757/1997), Czernin (823/1998), Marik (945/2000), Patera (946/2000)

Further action taken On 18 October 2005, the special rapporteur on follow-up to communications, Mr. N. Ando, met with the Ambassador of The Czech Republic and Mr. Lukas Machon, from the Permanent Mission, regarding follow up to the Committee's Views on Czech cases.

The Ambassador informed Mr. Ando that some governmental offices were willing to implement at least some of the recommendations regarding the property cases on an ad hoc basis. The Mission had requested the governmental commission in charge of dealing with individual cases submitted to international bodies, to provide the Committee with written information regarding developments in this respect. The Ambassador also indicated that, regarding some of the cases, no further legal remedies exist. In order for the alleged victims to be able to file new claims the restitution legislation should be modified in Parliament.

The Ambassador provided the following information on each case:

(1)Simunek et al. (516/1992): The authorities consider that the husband of Ms. Simunek could have recovered the couple's property in CZ, as he was a resident in the CZ Republic at the material time. It was the Ambassador's understanding that Ms. Simunek had benefited from proceedings and asked the Secretariat to provide the Mission with copy

of the last letter sent to the Committee by Ms. Simunek.

(2)Adam (586/1994): Government has not implemented the Views and recommendations of the Committee in any way. The State representatives said that domestic remedies have not been exhausted. Ex gratia compensation in this case is an avenue recommended to the Government.

(3)Blazek (857/1999): follow-up reply to be submitted hopefully by the end of October. This is also a case in which an ex gratia payment is recommended to the Government.

(4)Des Fours Walderode (747/1997): The Constitutional Court quashed the decision of the land authority (date not specified). Next decision of land authority once again negative. A procedure against renewed refusal of the land authority is still pending in the District Court. Author's wife has case pending in the European Court of HR. A Decision against the State party (probable violation of article 6 ECHR) is expected soon.

(5)Brok (774/1997): Compensation of the family was offered through a Government programme implemented for Holocaust victims. The author's family has accepted the compensation offered.

(6)Fabryova (765/1997): As in the case of Brok, except that the family of Ms. Fabryova has not been satisfied with the compensation offered under the compensation for Holocaust victims scheme. A new claim for restitution was filed.

(7)Pezoldova (757/1997): By letter of 25 July 2005, the State party notified the Committee that the Government had been advised that an ex gratia payment should be made to the author, representing, roughly, the recovery of costs of legal representation (FS 15 - 18000).

(8)Czemin (823/1998): Follow-up submission expected to be provided to the Committee by the end of October. Payment of an ex gratia compensation to the author is being considered, primarily because of the issue of delay in the adjudication of the author's request.

(9)Marik (945/2000): Follow-up reply not yet received. According to information received, Government will be requested to consider an ex gratia payment to the author.

In addition to the above property cases, follow-up information is also required with respect to case 946/2000 (Patera), regarding denial of contact between the author and his son. The Ambassador reported that

proceedings are still on going. The author has filed a case before the European Court. His ex-wife won a case at the European Court on the issue of delay in the proceedings.

...

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
...						
Czech Republic (11)*	*Note: For all of these property cases, see also follow-up to concluding observations for the State party's reply in A/59/40.					
	516/1992, <i>Simunek et al.</i> A/50/40	X A/51/40*, A/57/40, A/58/40, A/61/40, A/62/40				X
	*Note: One author confirmed that the Views were partially implemented. The others claimed that their property was not restored to them or that they were not compensated.					
	586/1994, <i>Adam</i> A/51/40	X A/51/40, A/53/40, A/54/40, A/57/40, A/61/40, A/62/40				X
	765/1997, <i>Fábryová</i> A/57/40	X A/57/40, A/58/40, A/61/40, A/62/40				X
	774/1997, <i>Brok</i> A/57/40	X A/57/40, A/58/40, A/61/40, A/62/40	X A/61/40			
	747/1997, <i>Des Fours Walderode</i> A/57/40	X A/57/40, A/58/40, A/61/40 A/62/40				X
	757/1997, <i>Pezoldova</i> A/58/40	X A/60/40 (annex V to this report) A/61/40, A/62/40				X

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
	823/1998, <i>Czernin</i> A/60/40	X A/62/40				X
	857/1999, <i>Blazek et al.</i> A/56/40	X A/62/40				X
	945/2000, <i>Marik</i> A/60/40	X A/62/40				
	946/2000, <i>Patera</i> A/57/40	X A/62/40				X
	1054/2002, <i>Kriz</i> A/61/40	X A/62/40				
	1445/2006, <i>Polacek</i> A/62/40	Not yet due				
...						

CCPR, CCPR/C/SR.2480 (2007)

HUMAN RIGHTS COMMITTEE

Ninetieth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 2480th MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 26 July 2007, at 3 p.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/90/R.4, distributed in the meeting room in English only)

6. The CHAIRPERSON invited the Special Rapporteur to present his report.

7. Mr. SHEARER (Special Rapporteur for follow-up on Views) said that the report covered communications for which the Committee had received information between its eighty ninth session (12-30 March 2007) and its ninetieth session (9-27 July 2007)...

...

11. With regard to the 11 cases against the Czech Republic (communications Nos. 516/1992, 586/1994, 857/1999, 945/2000, 1054/2000, 747/1997, 774/1997, 765/1997, 757/1997, 823/1998 and 946/2000), the Committee had received updated information on a number of those cases during its consideration of the second periodic report of the Czech Republic at its current session. The secretariat had wished to take advantage of the presence of the Czech delegation in Geneva to arrange a meeting between him and the State party's representatives to follow up on the Committee's Views, but that idea had been abandoned, since he considered that the Committee should first examine the detailed information that it had received on certain cases. He suggested recommending that the State party's submission to the Committee of 26 March 2007 should be sent to the authors, since they had not yet received it, and that a follow-up meeting should be arranged with representatives of the State party during the Committee's next session.

...

19. The CHAIRPERSON thanked the Special Rapporteur for his report on a very important aspect of the Committee's work. If he heard no objection, he would take it that the Committee wished to adopt the report.

20. It was so decided.

...

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 **THE CZECH REPUBLIC**

Case The following 11 cases have been decided against the Czech Republic: *Simunek et al* (516/1992) (property restitution), *Adam* (586/1994) (property restitution), *Blazek* (857/1999) (property restitution), *Marik* (945/2000) (property restitution), *Kříž* (1054/2000) (property restitution), *Des Fours Walderode* (747/1997) (property restitution), *Brok* (774/1997) (property restitution), *Fabryova* (765/1997) (property restitution), *Pezoldova* (757/1997) (denial of access to documents for restitution claim), *Czernin* (823/1998) (maintenance of nationality), *L.P.* (946/2000) (right of access to child).

State party response On 26 March 2007, the State party provided the following written responses with respect to each case:

With respect to the following cases: *Simunek et al* - 516/1992; *Adam* - 586/1994; *Blazek* - 857/1999; *Marik* - 945/2000; and *Kříž* - 1054/2000; the State party informs the Committee that the modification of legislation removing the nationality condition would not be supported by Parliament as such an amendment would have to be retrospective, thereby opening the entire restitution process. With respect to *Des Fours Walderode* (747/1997): On 14 March 2002, the Constitutional Court considered that the nationality condition did not apply retrospectively to the author. Subsequently, the author made numerous claims (around 21) relating to different property and against different people before the Tribunals of Liberec and Semily. In January 2007, 4 of these procedures were closed following withdrawal, 2 were rejected, as the author did not comply with other conditions of the restitution law and 11 remain pending. The State party admits that the entire procedure has and continues to be long but explains that the long delay results from many factors including the complexity of the

restitution law, the number of properties involved, insufficient information provided etc. The State party also submits that the author's wife has a case pending before the ECHR on the issue of undue delay in the consideration of the restitution claims. A Decision against the State party would be likely to result in the provision of compensation.

Brok (774/1997): Compensation of 2,236,870 CZK (around 79,000 euros) was made to the family through a Government programme implemented for Holocaust victims. The author's family has accepted the compensation offered.

Fabryova (765/1997): Compensation of 1,542,839 CZK (around 54,500 euros) was offered to the family through a Government programme implemented for Holocaust victims. The family of Ms. Fabryova has not been satisfied with the compensation offered. A new claim for restitution was filed and an appeal of a negative decision remains pending.

Pezoldova (757/1997) (denial of access to documents to prove restitution claim): The State party refers to its response of July 2005, in which it informed the Committee that an *ex gratia* payment would be made to the author.

On 1 February 2006, the author responded on the State party's submission, submitting inter alia on the issue of the *ex gratia* payment that no such offer had been made.

Czernin (823/1998): The State party submits that the issue of the author's request to maintain his Czech nationality is ongoing and that an appeal lodged before the Supreme Administrative Court is pending. It admits that the affair has been going on since 1995 and has thus been unduly delayed through no fault of the author. Payment of an *ex gratia* compensation to the author is being considered, primarily because of the issue of delay in the adjudication of the author's request. However, it is very complex in fact and law.

L.P. (946/2000): Case involving denial of contact between the author and his son. The State party admits that the domestic authorities did not regulate the problem efficiently. However, the courts above all the courts must take into account the best interests of the minor and that it was precisely the author's obstructions which prevented the District Court from making a judgment on the merits relating to the custody of the minor. Since the Views, the State party submits that

the author's wife was charged several times and convicted of having frustrated contact between her son and his father. On 11 September 2003, she was fined 30 800 CZK for failing to abide by the judgment of 2 October 1995 (allowing access to the father as a provisional measure). As to the civil issue and the delays in 2001 and 2002, the State party submits that such delays were caused by objective factors. However, since the Committee's Views the president of the District Court must present a report each month to the ministry on the conduct of the affair. Following several court hearings since the Views on the issue of access to the father, the Court of Appeal confirmed on 28 July 2006 the district courts decision to cancel this 2 October 1995 judgment on the basis of an expert psychological report. From 2003 to 2005 the matter was examined by a mediator who concluded that the protection authority could no longer guarantee contact between the author and his son as the minors own opinion could no longer be ignored, given his age, (born 1989) and that he continually expresses his wish not to have any contact with his father, refusing to go with him.

The author has filed a case before the European Court which was considered partially admissible on 10 January 2006, relating to the delay in the guardianship proceedings and the right to respect for family life since 25 July 2002, the date of the Committee's Views. If successful the ECHR can suggest a remedy.

**Further action
taken**

The Committee will recall that on 18 October 2005, the special rapporteur on follow-up to communications met with the Ambassador and another representative from the Permanent Mission, regarding follow up to the Committee's Views on Czech cases.

The Ambassador informed Mr. Ando that some governmental offices were willing to implement at least some of the recommendations regarding the property cases on an ad hoc basis. The Mission had requested the governmental commission in charge of dealing with individual cases submitted to international bodies, to provide the Committee with written information regarding developments in this respect. The Ambassador also indicated that, regarding some of the cases, no further legal remedies exist. In order for the alleged victims to be able to file new claims the restitution legislation should be modified in Parliament. The information provided on each case during this meeting is set out in the A/61/40.

...

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
...						
Czech Republic (19)*	*Note: For all of these property cases, see also follow-up to concluding observations for the State party's reply in A/59/40.					
	516/1992, <i>Simunek et al.</i> A/50/40	X A/51/40,* A/57/40, A/58/40, A/61/40, A/62/40				X
	*Note: One author confirmed that the Views were partially implemented. The others claimed that their property was not restored to them or that they were not compensated.					
	586/1994, <i>Adam</i> A/51/40	X A/51/40, A/53/40 A/54/40, A/57/40, A/61/40, A/62/40				X
	765/1997, <i>Fábryová</i> A/57/40	X A/57/40, A/58/40, A/61/40, A/62/40				X
	774/1997, <i>Brok</i> A/57/40	X A/57/40, A/58/40, A/61/40, A/62/40	X (A/61/40)			
	747/1997, <i>Des Fours Walderode</i> A/57/40	X A/57/40, A/58/40, A/61/40, A/62/40				X

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
Czech Republic (cont'd)	757/1997, <i>Pezoldova</i> A/58/40	X A/60/40, A/61/40 and A/62/40				X
	823/1998, <i>Czernin</i> A/60/40	X A/62/40				X
	857/1999, <i>Blazek et al.</i> A/56/40	X A/62/40				X
	945/2000, <i>Marik</i> A/60/40	X A/62/40				X
	946/2000, <i>Patera</i> A/57/40	X A/62/40				X
	1054/2002, <i>Kriz</i> A/61/40	X A/62/40				X
	1445/2006, <i>Polacek</i> A/62/40				X	
	1448/2006, <i>Kohoutek</i> A/63/40	Not due				
	1463/2006, <i>Gratzinger</i> A/63/40				X	
	1484/2006, <i>Lnenicka</i> A/63/40	Not due				
1485/2006, <i>Vlcek</i>	Not due					

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
	A/63/40					
	1488/2006, <i>Süsser</i> A/63/40				X	
Czech Republic (<i>cont'd</i>)	1497/2006, <i>Preiss</i> A/63/40	Not due				
	1533/2006, <i>Ondracka</i> A/63/40				X	
...						

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.

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
...						
Czech Republic (21)*	*Note: For all of these property cases, see also follow-up to concluding observations for the State party's reply in A/59/40.					
	516/1992, <i>Simunek et al.</i> A/50/40	X A/51/40,* A/57/40, A/58/40, A/61/40, A/62/40				X
	*Note: One author confirmed that the Views were partially implemented. The others claimed that their property was not restored to them or that they were not compensated.					
	586/1994, <i>Adam</i> A/51/40	X A/51/40, A/53/40 A/54/40, A/57/40, A/61/40, A/62/40				X
	765/1997, <i>Fábryová</i> A/57/40	X A/57/40, A/58/40, A/61/40, A/62/40				X
	774/1997, <i>Brok</i> A/57/40	X A/57/40, A/58/40, A/61/40, A/62/40	X (A/61/40)			

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
	747/1997, <i>Des Fours Walderode</i> A/57/40	X A/57/40, A/58/40, A/61/40, A/62/40				X
	757/1997, <i>Pezoldova</i> A/58/40	X A/60/40, A/61/40 and A/62/40				X
	823/1998, <i>Czernin</i> A/60/40	X A/62/40				X
	857/1999, <i>Blazek et al.</i> A/56/40	X A/62/40				X
Czech Republic (<i>cont'd</i>)	945/2000, <i>Marik</i> A/60/40	X A/62/40				X
	946/2000, <i>Patera</i> A/57/40	X A/62/40				X
	1054/2002, <i>Kriz</i> A/61/40	X A/62/40				X
	1445/2006, <i>Polacek</i> A/62/40				X	

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
	1448/2006, <i>Kohoutek</i> A/63/40	Not due				
	1463/2006, <i>Gratzinger</i> A/63/40				X	
	1479/2006, <i>Persan</i> A/64/40				X	
	1484/2006, <i>Lnenicka</i> A/63/40	Not due				
	1485/2006, <i>Vlcek</i> A/63/40	Not due				
	1488/2006, <i>Süsser</i> A/63/40				X	
	1497/2006, <i>Preiss</i> A/63/40	Not due				
	1508/2006, <i>Amundson</i> A/64/40				X	
	1533/2006, <i>Ondracka</i> A/63/40				X	

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
...						