

# REPUBLIC OF SERBIA<sup>1</sup>

## Follow-up - Jurisprudence Action by Treaty Bodies

CAT CAT/C/SR.638 (2004)

SUMMARY RECORD OF THE FIRST PART (PUBLIC)\* OF THE 638th MEETING  
Held at the Palais Wilson, Geneva,  
on Friday, 26 November 2004, at 10 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3) (continued)

### Follow-up procedures

1. The CHAIRPERSON invited Ms. Gaer to report on the outcome of follow-up procedures that were under way in connection with States parties' reports.
  2. Ms. GAER said that, in accordance with the decision taken by the Committee at its thirtieth session to identify in States parties' reports issues of concern requiring immediate follow-up, a total of 18 States parties had been requested to submit information. Thus far, the Committee had received responses from five States parties: Azerbaijan, Latvia, Lithuania, Morocco and Yemen. However, it had not been possible to analyse the material properly, owing to delays in translation. She assured the Committee that she would report on the matter in full at the thirty-fourth session. The only outstanding issue was how to deal with States that failed to respond to requests from the Committee, which could be taken up at a subsequent session. All in all, she was pleased with the results obtained, particularly since some of the States parties concerned had submitted initial reports, which showed that the follow-up procedures were working well.
  3. The CHAIRPERSON invited Mr. El Masry, as Chairman of the pre-sessional working group, to report on the outcome of follow-up procedures undertaken in connection with communications submitted under article 22 of the Convention.
  4. Mr. EL MASRY said that during the current session he had requested to meet with representatives of the Permanent Missions of Serbia and Montenegro and Tunisia, in the absence of any further written information from those States parties on complaints of concern to the Committee.
  5. Concerning the Ristic v. Yugoslavia (Serbia and Montenegro) case, in which the Committee had found violations under articles 12 and 13 of the Convention, he said that on 20 April 2004 Mr. Ristic's corpse had been exhumed for additional forensic examinations to seek new evidence that
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<sup>1</sup> [Ed. Note: Effective 6 June 2006, Serbia and Montenegro changed its name to Republic of Serbia.]

might justify reopening the investigation. In October 2004, the complainant, the victim's father, had contested the findings of the Institute of Forensic Medicine in Belgrade issued in September 2004 and the related opinion issued by the Public Prosecutor of Sabac. On 8 November 2004, the representative of the Permanent Mission of Serbia and Montenegro had informed him of the Public Prosecutor's decision to conduct a further investigation in response to the complainant's request.

6. No further information had been provided by the representative of the mission with regard to the Hajrizi Dzemajl et al. v. Yugoslavia (Serbia and Montenegro) case, which entailed violations under articles 12, 13 and 16 of the Convention. While the State party had provided compensation, it had failed to conduct a proper investigation into the facts, as requested by the Committee. He proposed to continue making representations to the State party in that connection.

7. When he had requested a meeting with representatives of the Permanent Mission of Tunisia in connection with the three Tunisian cases, he had been informed that the Ambassador wished to speak to him in person. However, that meeting had never taken place because it had coincided with the end of Ramadan. He suggested that the Committee should write to the State party to enquire what action had been taken in response to its decision.

8. Mr. MAVROMMATIS sought clarification as to the cut-off date for applying follow up procedures to old reports of States parties. Given the quasi-legal nature of complaints, he suggested that all such cases should be reviewed to ensure compliance with the Committee's recommendations. Perhaps a document could be prepared setting out the details of each complaint and the follow-up action that had been taken on it.

9. He questioned the usefulness of conducting an investigation into the Hajrizi Dzemajl et al. v. Yugoslavia (Serbia and Montenegro) case, given that it had occurred so long ago and adequate compensation had already been paid. As for the Ristic v. Yugoslavia (Serbia and Montenegro) case, he observed that when a corpse was exhumed for further forensic examinations at the request of relatives, the relatives were entitled to be present or represented at the event. He wondered whether that had in fact happened in the case concerned; such information could make a difference when the committee considered the additional submission by the complainant.

10. Ms. GAER noted that follow-up procedures had been introduced at the Committee's thirtieth session in May 2003, and it had been decided at that time that they should not be applied to State party reports considered prior to that date.

11. Mr. EL MASRY said it was not clear from the information available on the Ristic v. Yugoslavia (Serbia and Montenegro) case whether the relatives had been present during the forensic examination. He would follow the matter up with the State party.

12. He had asked the secretariat to draw up a list of the more than 700 complaints considered by the Committee thus far, in 53 of which violations of the Convention had been found. Copies of that list would be distributed to the Committee. Ms. Gaer had rightly noted that follow up procedures were not supposed to be applied to complaints that had been considered prior to the introduction of such procedures; however, the Committee might wish to review that decision.

13. The CHAIRPERSON said that it now seemed unlikely that the State party would hold an investigation into the Dzemajl et al v. Yugoslavia (Serbia and Montenegro) case. He suggested that, with a view to ensuring fair treatment, the secretariat might be requested to review complaints that had been considered prior to the introduction of follow-up procedures in order to ascertain whether any follow-up was actually necessary.

14. Mr. MAVROMMATIS said that the difference between States parties' reports and decisions concerning individual complaints was that States parties always had an opportunity to submit their views to the Committee in the future, whereas the decision taken on a complaint was final. The Human Rights Committee did not have a cut-off date for the consideration of its communications, some of which were discussed 10 years after their submission. It was up to Mr. El Masry, as Chairman of the pre-sessional working group, to decide whether any of the older cases were serious enough to warrant review.

15. Mr. El MASRY proposed that, with the Committee's agreement, he should review the older complaints and decide if any of them required follow-up, particularly with respect to the issue of compensation.

16. It was so decided.

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**CAT, A/60/44 (2005)**

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**CHAPTER VI. CONSIDERATION OF COMPLAINTS UNDER ARTICLE 22 OF THE CONVENTION**

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**D. Follow-up activities**

150. At its twenty-eighth session, in May 2002, the Committee against Torture revised its rules of procedure and established the function of a Rapporteur for follow-up of decisions on complaints submitted under article 22.

151. The Rapporteur on follow-up submitted an oral report to the Committee at its thirty-third session. The report contained information received since the thirty-second session from either the complainants or the States parties on the issue of follow-up to a number of decisions in which the Committee had found violations of the Convention. During the consideration of this report, the Committee requested the Special Rapporteur to provide information on follow-up to all decisions in which the Committee had found violations of the Convention, including decisions in which the Committee found violations, prior to the commencement of the Rapporteur's mandate.

152. During the thirty-fourth session, the Special Rapporteur presented a report on follow-up to all the Committee's decisions, including new information received from both the complainants and States parties since the thirty-third session. This report is provided below.

## Report on follow-up to individual complaints to the<sup>1</sup> Committee against Torture

### Complaints in which the Committee has found violations of the Convention up to thirty-fourth session

Case	Date of adoption	Nationality of complainant and country of removal if applicable	Article of Covenant violated	Interim measures granted and State party's response	Remedy	Follow-up	Further action
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No. 113/1998 <i>Ristic v. Serbia and Montenegro</i>	11 May 2001	Yugoslav	12 and 13	None	The Committee urges the State party to carry out such investigations without delay and to provide an appropriate remedy.	Ongoing  See first follow-up report (CAT/C/32/FU/1). During the thirty-third session, the Rapporteur reported on a meeting he had had on 22 November 2004, with a representative of the State party. Following a new postmortem investigation into the complainant's death, on 11 November 2004, the District Court in Sabaca transmitted new information to the Institute of Forensic Medicine in Belgrade for an additional examination. The State party indicated its intention to update the Committee on the outcome of this examination.	Request update

						<p>On 25 March 2005, the Committee received information from the Humanitarian Law Centre in Belgrade, to the effect that the First Municipal Court in Belgrade had ordered the State party to pay compensation of 1 million dinars to the complainant's parents for failure to conduct an expedient, impartial and comprehensive investigation into the causes of the complainant's death, in compliance with the decision of the Committee against Torture.</p> <p>The Rapporteur requested confirmation that this compensation was paid as well as copies of the relevant documents, judgement etc. from the State party.</p>	
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No. 161/2000 <i>Hajrizi Dzemajl et al. v. Yugoslavia</i>	21 Nov. 2002	Yugoslav	16, para. 1, 12 and 13 <sup>6</sup>	None	The Committee urges the State party to conduct a proper investigation into the events that occurred on 15 April 1995, prosecute and punish the persons responsible for	Ongoing  See first follow-up report (CAT/C/32/FU/1). Following the thirty-third session, and while welcoming the State party's provision of	Update on implementation to be requested
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					those acts and provide the complainants with redress, including fair and adequate compensation, and to inform it, within 90 days from the date of the transmittal of this decision, of the steps taken in response to its observations.	compensation to the complainants for the violations found, the Committee considered that the State party should be reminded of its obligation to conduct a proper investigation into the facts of the case.	
No. 171/2000 <i>Dimitrov v. Serbia and Montenegro</i>	3 May 2005	Not applicable	2, para. 1, in connection with 1, 12, 13 and 14	Not applicable	The Committee urges the State party to conduct a proper investigation into the facts alleged by the complainant and, in accordance with rule 112, paragraph 5, of its rules of procedure, to inform it, within 90 days from the date of the transmittal of this decision, of the steps taken in response to its observations.	90 days has not expired	No action required
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No. 207/2002 <i>Dimitrijevic, Dragan v. Serbia and Montenegro</i>	24 Nov. 2004	Serbian	2, para. 1, in connection with 1, 12, 13 and 14	None	The Committee urges the State party to conduct a proper investigation into the facts alleged by the complainant.	The 90 day period expired in February 2005 with no information provided	Reminder to State party
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<sup>1</sup> The present report reflects information up to the end of the thirty-fourth session

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<sup>6</sup> Regarding article 14, the Committee declared that article 16, paragraph 1, of the Convention does not mention article 14 of the Convention. Nevertheless, article 14 of the Convention does not mean that the State party is not obliged to grant redress and fair and adequate compensation to the victim of an act in breach of article 16 of the Convention. The positive obligations that flow from the first sentence of article 16 of the Convention include an obligation to grant redress and compensate the victims of an act in breach of that provision. The Committee is therefore of the view that the State party has failed to observe its obligations under article 16 of the Convention by failing to enable the complainants to obtain redress and to provide them with fair and adequate compensation.

**CAT/C/SR.717 (2006)**

COMMITTEE AGAINST TORTURE

Thirty-sixth session

SUMMARY RECORD OF THE 717th MEETING

Held at the Palais des Nations, Geneva,  
on Tuesday, 16 May 2006, at 10 a.m.

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CONSIDERATION OF COMMUNICATIONS UNDER ARTICLE 22 OF THE  
CONVENTION (agenda item 9) (continued)

50. The CHAIRPERSON invited the Special Rapporteur to introduce the report on follow-up activities (document without a symbol) relating to the Committee's decisions on complaints submitted under article 22 of the Convention.

51. Mr. MARIÑO MENÉNDEZ, Special Rapporteur on Follow-up, summarized the comprehensive report on replies received with regard to all cases in which the Committee had found violations of the Convention and one case in which it had not found a violation but had made a recommendation.

52 It was proposed to send reminders requesting information or updates to the following States parties with regard to the specified communications: Austria (Halimi-Nedibi Quani, 8/1991); Canada (Tahir Hussain Khan, 15/1994; Falcon Ríos, 133/1999); France (Brada, 195/2003); Netherlands (A, 91/1997); Serbia and Montenegro (Ristic, 113/1998; Hajrizi Dzemajl et al., 161/2000; Nikolic, 174/2000; Dimitrijevic, Dragan, 207/2002); Spain (Ecaración Blanco Abad, 59/1996; Urra Guridi, 212/2002); Sweden (Tharina, 226/2003; Agiza, 233/2003); Venezuela (Chipana, 110/1998).

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68. Mr. MARIÑO MENÉNDEZ said that, in the absence of information from either the State party or the complainant, he would like the secretariat to ascertain the status of case 91/1997 involving the Netherlands. In case 113/1998 involving Serbia and Montenegro, updated information was required from the State party to confirm that it had effectively acknowledged a violation of the Convention through the payment of compensation to the complainant's parents.

**CAT, CAT/C/SR.749 (2006)**

COMMITTEE AGAINST TORTURE

Thirty seventh session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)\* OF THE 749th MEETING

Held at the Palais Wilson, Geneva,  
on Wednesday, 22 November 2006, at 3 p.m.

ORGANIZATIONAL AND OTHER MATTERS (continued)

Follow up procedures (CAT/C/37/R.2)

1. Mr. MARIÑO MENÉNDEZ, Rapporteur on follow up to communications, reporting on follow up to communications during the thirty sixth and thirty seventh sessions, drew attention to document CAT/C/37/R.2. It explained the status of communications on which the Committee had requested additional information or further action. Five States parties had not responded to the Committee's requests for information. The document contained detailed information on six communications.

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4. As far as the Ristic v. Yugoslavia (Republic of Serbia) case was concerned, the latest noteworthy judicial development in the State party had been the decision of the Supreme Court of Serbia to overturn the decisions of a lower court and order an impartial investigation into the death of Mr. Ristic. He proposed that the State party should be requested to report on the outcome of the investigation and indicate whether compensation had been paid to the victim's family.

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**CAT, A/61/44 (2006)**

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CHAPTER VI. CONSIDERATION OF COMPLAINTS UNDER ARTICLE 22 OF THE CONVENTION

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**D. Follow-up activities**

75. At its twenty-eighth session, in May 2002, the Committee against Torture revised its rules of procedure and established the function of a Rapporteur for follow-up of decisions on complaints submitted under article 22. At its 527th meeting, on 16 May 2002, the Committee decided that the Rapporteur shall engage, *inter alia*, in the following activities: monitoring compliance with the Committee's decisions by sending notes verbales to States parties enquiring about measures adopted pursuant to the Committee's decisions; recommending to the Committee appropriate action upon the receipt of responses from States parties, in situations of non-response, and upon the receipt henceforth of all letters from complainants concerning non-implementation of the Committee's decisions; meeting with representatives of the permanent missions of States parties to encourage compliance and to determine whether advisory services or technical assistance by the Office of the High Commissioner for Human Rights would be appropriate or desirable; conducting with the approval of the Committee follow-up visits to States parties; preparing periodic reports to the Committee on his/her activities.

76. During its thirty-fourth session, the Committee, through its Special Rapporteur on follow-up to decisions, decided that in cases in which it had found violations of the Convention, including Decisions made by the Committee prior to the establishment of the follow-up procedure, the States parties should be requested to provide information on all measures taken by them to implement the Committee's Decisions.

77. In a follow-up report presented to the Committee during the thirty-fifth session, the Special Rapporteur on follow-up to decisions provided information received from four States parties pursuant to this request: France; Serbia and Montenegro (in relation to 113/1998, Ristic); Switzerland; and Sweden. The following countries did not respond to the request: Austria; Canada (with respect to Tahir Hussain Khan, 15/1994); the Netherlands; Spain; and Serbia and Montenegro (in relation to 161/2000, Hajrizi Dzemajl, 171/2000, Dimitrov, and 207/2002, Dragan Dimitrijevic).

78. Action taken by the States parties in the following cases complied fully with the Committee's Decisions and no further action will be taken under the follow-up procedure: *Mutombo v. Switzerland* (13/1993); *Alan v. Switzerland* (21/1995); *Aemei v. Switzerland* (34/1995); *Tapia Paez v. Sweden* (39/1996); *Kisoki v. Sweden* (41/1996); *Tala v. Sweden* (43/1996); *Avedes Hamayak Korban v. Sweden* (88/1997); *Ali Falakaflaki v. Sweden* (89/1997); *Orhan Ayas v. Sweden* (97/1997); *Halil Haydin v. Sweden* (101/1997). In the following cases, the States parties either responded partially to the request, are in the process of taking further measures and further updates will be requested or comments on the action taken by the State are awaited from the complainant: *Arana v. France* (63/1997); *Brada v. France* (195/2003);

*Ristic v. Serbia and Montenegro* (113/1998); and *Agiza v. Sweden* (233/2003).

79. During the thirty-sixth session, the Special Rapporteur on follow-up to decisions presented new follow-up information that had been received since the thirty-fifth session with respect to the following cases: *Dadar v. Canada* (258/2004), *Thabti v. Tunisia* (187/2001), *Abdelli v. Tunisia* (188/2001) and *Ltaief v. Tunisia* (189/2001) and *Chipana v. Venezuela* (110/1998). Represented below is a comprehensive report of replies received with regard to all cases in which the Committee has found violations of the Convention to date and in one case in which it did not find a violation but made a recommendation. Where there is no field entitled "Committee's decision" at the end of the provision of information in a particular case, the follow-up to the case in question is ongoing and further information has or will be requested of the complainant or the State party.

### **Complaints in which the Committee has found violations of the Convention up to the thirty-fourth session**

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<b>State party</b>	<b>SERBIA AND MONTENEGRO</b>
Case	Ristic, 113/1998
Nationality and country of removal if applicable	Yugoslav
Views adopted on	11 May 2001
Issues and violations found	Failure to investigate allegations of torture by police - articles 12 and 13
Interim measures granted and State party response	None
Remedy recommended	Urges the State party to carry out such investigations without delay. An appropriate remedy.
Due date for State party response	6 January 1999
Date of reply	Latest note verbale 5 August 2005
State party response	Ongoing See first follow-up report (CAT/C/32/FU/1). During the thirty-third session, the Special Rapporteur reported upon a meeting he had on 22 November 2004, with a representative of the State party. Following a new

post-mortem into the author's death, on 11 November 2004, the District Court in Sabaca transmitted new information to the Institute of Forensic Medicine in Belgrade for an additional examination. The State party indicated its intention to update the Committee on the outcome of this examination.

Having received information that the payment of compensation was ordered, the Special Rapporteur requested confirmation that compensation was paid as well as copies of the relevant documents, judgement etc. from the State party.

Pursuant to the Committee's request of 18 April 2005 on follow-up measures taken, the State party, by note verbale of 5 August 2005, confirmed that the First Municipal Court in Belgrade by decision of 30 December 2004 found that the complainant's parents should be paid compensation. However, as this case is being appealed to the Belgrade District Court this decision is neither effective nor enforceable at this stage. The State party also informed the Committee that the Municipal Court had found inadmissible the request to conduct a thorough and impartial investigation into the allegations of police brutality as a possible cause of Mr. Ristic's death.

Author's response

On 25 March 2005, the Committee received information from the Humanitarian Law Center in Belgrade to the effect that the First Municipal Court in Belgrade had ordered the State party to pay compensation of 1,000,000 dinars to the complainant's parents for failure to conduct an expedient, impartial and comprehensive investigation into the causes of the complainant's death in compliance with the decision of the Committee against Torture.

Case

Hajrizi Dzemajl et al., 161/2000

Nationality and country of removal if applicable

Yugoslav

Views adopted on

21 November 2002

Issues and violations found

Burning and destruction of houses, failure to investigate

and failure to provide compensation - articles 16, paragraph 1, 12 and 136/

Interim measures granted and State party response

None

Remedy recommended

Urges the State party to conduct a proper investigation into the facts that occurred on 15 April 1995, prosecute and punish the persons responsible for those acts and provide the complainants with redress, including fair and adequate compensation

Due date for State party response

None

Date of reply

See CAT/C/32/FU/1

State party response

Ongoing  
See first follow-up report (CAT/C/32/FU/1). Following the thirty-third session and while welcoming the State party's provision of compensation to the complainants for the violations found, the Committee considered that the State party should be reminded of its obligation to conduct a proper investigation into the case.

Author's response

None

Case

Dimitrov, 171/2000

Nationality and country of removal if applicable

Yugoslav

Views adopted on

3 May 2005

Issues and violations found

Torture and failure to investigate - article 2, paragraph 1, in connection with 1, 12, 13 and 14

Interim measures granted and State party response

N/A

Remedy recommended

The Committee urges the State party to conduct a proper investigation into the facts alleged by the complainant

Due date for State party response	18 August 2005
Date of reply	None
State party response	None
Author's response	N/A
Case	Dimitrijevic, 172/2000
Nationality and country of removal if applicable	Serbian
Views adopted on	16 November 2005
Issues and violations found	Torture and failure to investigate - articles 1, 2, paragraphs 1, 12, 13, and 14
Interim measures granted and State party response	N/A
Remedy recommended	The Committee urges the State party to prosecute those responsible for the violations found and to provide compensation to the complainant, in accordance with rule 112, paragraph 5, of its rules of procedure, to inform it, within 90 days from the date of the transmittal of this decision, of the steps taken in response to the views expressed above.
Due date for State party response	26 February 2006
Date of reply	None
State party response	None
Author's response	N/A
Case	Nikolic, 174/2000
Nationality and country of removal if applicable	N/A
Views adopted on	24 November 2005
Issues and violations found	Failure to investigate - articles 12 and 13

Interim measures granted and State party response	N/A
Remedy recommended	Information on the measures taken to give effect to the Committee's Views, in particular on the initiation and the results of an impartial investigation of the circumstances of the death of the complainant's son.
Due date for State party response	27 February 2006
Date of reply	None
State party response	None
Author's response	N/A
Case	Dimitrijevic, Dragan, 207/2002
Nationality and country of removal if applicable	Serbian
Views adopted on	24 November 2004
Issues and violations found	Torture and failure to investigate - article 2, paragraph 1, in connection with articles 1, 12, 13, and 14
Interim measures granted and State party response	None
Remedy recommended	To conduct a proper investigation into the facts alleged by the complainant.
Due date for State party response	February 2005
Date of reply	None
State party response	None
Author's response	On 1 September 2005, the complainant's representative informed the Committee that having made recent enquiries, it could find no indication that the State party had started any investigation into the facts alleged by the complainant.

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6/ Regarding article 14, the Committee declared that article 16, paragraph 1, of the Convention does not mention article 14 of the Convention. Nevertheless, article 14 of the Convention does not mean that the State party is not obliged to grant redress and fair and adequate compensation to the victim of an act in breach of article 16 of the Convention. The positive obligations that flow from the first sentence of article 16 of the Convention include an obligation to grant redress and compensate the victims of an act in breach of that provision. The Committee is therefore of the view that the State party has failed to observe its obligations under article 16 of the Convention by failing to enable the complainants to obtain redress and to provide them with fair and adequate compensation.

**CAT, A/62/44 (2007)**

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**VI. CONSIDERATION OF COMPLAINTS UNDER ARTICLE 22 OF THE CONVENTION**

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**Complaints in which the Committee has found violations of the Convention up to the thirty-eighth session**

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<b>State party</b>	<b>SERBIA AND MONTENEGRO</b>
Case	Ristic, 113/1998
Nationality and country of removal if applicable	Yugoslav
Views adopted on	11 May 2001
Issues and violations found	Failure to investigate allegations of torture by police - articles 12 and 13
Interim measures granted and State party response	None
Remedy recommended	Urges the State party to carry out such investigations without delay. An appropriate remedy.
Due date for State party response	6 January 1999
Date of reply	Latest note verbale 28 July 2006 (had replied on 5 August 2005 - See the annual report of the Committee, A/61/44).
State party response	The Committee will recall that by note verbale of 5 August 2005, the State party confirmed that the First Municipal Court in Belgrade by decision of 30 December 2004 found that the complainant's parents should be paid compensation. However, as this case is being appealed to the Belgrade District Court, this decision was neither effective nor enforceable at that stage. The State party also informed the Committee that the Municipal Court

had found inadmissible the request to conduct a thorough and impartial investigation into the allegations of police brutality as a possible cause of Mr. Ristic's death.

On 28 July 2006, the State party informed the Committee that the District Court of Belgrade had dismissed the complaint filed by the Republic of Serbia and the State Union of Serbia and Montenegro in May 2005. On 8 February 2006, the Supreme Court of Serbia dismissed as unfounded the revised statement of the State Union of Serbia and Montenegro, ruling that it is bound to meet its obligations under the Convention. It was also held responsible for the failure to launch a prompt, impartial and full investigation into the death of Milan Ristic.

Complainant's response

On 25 March 2005, the Committee received information from the Humanitarian Law Center in Belgrade to the effect that the First Municipal Court in Belgrade had ordered the State party to pay compensation of 1,000,000 dinars to the complainant's parents for failure to conduct an expedient, impartial and comprehensive investigation into the causes of the complainant's death in compliance with the decision of the Committee against Torture.

Case

Hajrizi Dzemajl et al., 161/2000

Nationality and country of removal if applicable

Yugoslav

Views adopted on

21 November 2002

Issues and violations found

Burning and destruction of houses, failure to investigate and failure to provide compensation - articles 16, paragraph 1, 12 and 13<sup>12</sup>

Interim measures granted and State party response

None

Remedy recommended

Urges the State party to conduct a proper investigation into the facts that occurred on 15

April 1995, prosecute and punish the persons responsible for those acts and provide the complainants with redress, including fair and adequate compensation.

Due date for State party response	None
Date of reply	See CAT/C/32/FU/1
State party response	See first follow-up report (CAT/C/32/FU/1). Following the thirty-third session and while welcoming the State party's provision of compensation to the complainants for the violations found, the Committee considered that the State party should be reminded of its obligation to conduct a proper investigation into the case.
Complainant's response	None
Case	Dimitrov, 171/2000
Nationality and country of removal if applicable	Yugoslav
Views adopted on	3 May 2005
Issues and violations found	Torture and failure to investigate - article 2, paragraph 1, in connection with 1, 12, 13 and 14
Interim measures granted and State party response	N/A
Remedy recommended	The Committee urges the State party to conduct a proper investigation into the facts alleged by the complainant.
Due date for State party response	18 August 2005
Date of reply	None
State party response	None
Complainant's response	N/A
Case	Dimitrijevic, 172/2000

Nationality and country of removal if applicable	Serbian
Views adopted on	16 November 2005
Issues and violations found	Torture and failure to investigate - articles 1, 2, paragraphs 1, 12, 13, and 14
Interim measures granted and State party response	N/A
Remedy recommended	The Committee urges the State party to prosecute those responsible for the violations found and to provide compensation to the complainant, in accordance with rule 112, paragraph 5, of its rules of procedure, to inform it, within 90 days from the date of the transmittal of this decision, of the steps taken in response to the views expressed above.
Due date for State party response	26 February 2006
Date of reply	None
State party response	None
Complainant's response	N/A
Case	Nikolic, 174/2000
Nationality and country of removal if applicable	N/A
Views adopted on	24 November 2005
Issues and violations found	Failure to investigate - articles 12 and 13
Interim measures granted and State party response	N/A
Remedy recommended	Information on the measures taken to give effect to the Committee's Views, in particular on the initiation and the results of an impartial investigation of the circumstances of the death of the complainant's son.

Due date for State party response	27 February 2006
Date of reply	None
State party response	None
Complainant's response	N/A
Case	Dimitrijevic, Dragan, 207/2002
Nationality and country of removal if applicable	Serbian
Views adopted on	24 November 2004
Issues and violations found	Torture and failure to investigate - article 2, paragraph 1, in connection with articles 1, 12, 13, and 14.
Interim measures granted and State party response	None
Remedy recommended	To conduct a proper investigation into the facts alleged by the complainant.
Due date for State party response	February 2005
Date of reply	None
State party response	None
Complainant's response	On 1 September 2005, the complainant's representative informed the Committee that having made recent enquiries, it could find no indication that the State party had started any investigation into the facts alleged by the complainant.

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12/ Regarding article 14, the Committee declared that article 16, paragraph 1, of the Convention does not mention article 14 of the Convention. Nevertheless, article 14 of the Convention does not mean that the State party is not obliged to grant redress and fair and adequate compensation to the victim of an act in breach of article 16 of the Convention. The positive obligations that flow from the first sentence of article 16 of the Convention include an

obligation to grant redress and compensate the victims of an act in breach of that provision. The Committee is therefore of the view that the State party has failed to observe its obligations under article 16 of the Convention by failing to enable the complainants to obtain redress and to provide them with fair and adequate compensation.

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## CHAPTER VI. CONSIDERATION OF COMPLAINTS UNDER ARTICLE 22 OF THE CONVENTION

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### D. Follow up activities

93. At its twenty-eighth session, in May 2002, the Committee against Torture revised its rules of procedure and established the function of a Rapporteur for follow-up of decisions on complaints submitted under article 22. At its 527th meeting, on 16 May 2002, the Committee decided that the Rapporteur shall engage, inter alia, in the following activities: monitoring compliance with the Committee's decisions by sending notes verbales to States parties enquiring about measures adopted pursuant to the Committee's decisions; recommending to the Committee appropriate action upon the receipt of responses from States parties, in situations of non response, and upon the receipt henceforth of all letters from complainants concerning non implementation of the Committee's decisions; meeting with representatives of the permanent missions of States parties to encourage compliance and to determine whether advisory services or technical assistance by the Office of the United Nations High Commissioner for Human Rights would be appropriate or desirable; conducting with the approval of the Committee follow up visits to States parties; preparing periodic reports for the Committee on his/her activities.

94. During its thirty fourth session, the Committee, through its Special Rapporteur on follow up to decisions, decided that in cases in which it had found violations of the Convention, including Decisions made by the Committee prior to the establishment of the follow up procedure, the States parties should be requested to provide information on all measures taken by them to implement the Committee's recommendations made in the Decisions. To date, the following countries have not yet responded to these requests:... Serbia and Montenegro (with respect to *Dimitrov*, No. 171/2000, *Danil Dimitrijevic*, No. 172/2000, *Nikolić, Slobodan and Ljiljana*, No. 174/2000 and *Dragan Dimitrijevic*, No. 207/2002);...

...

97. In the following cases, either further information is awaited from the States parties or the complainants and/or the dialogue with the State party is ongoing:... *Ristic v. Serbia and Montenegro* (No. 113/1998); *Hajrizi Dzemajl et al. v. Serbia and Montenegro* (No. 161/2000);...

...

99. Represented below is a comprehensive report of replies received with regard to all 45 cases in which the Committee has found violations of the Convention to date and in one case in which although the Committee did not find a violation of the Convention it did make a recommendation.

**Complaints in which the Committee has found violations of the  
Convention up to the fortieth session**

...

<b>State party</b>	<b>SERBIA AND MONTENEGRO</b>
<b>Case</b>	<b>Ristic, 113/1998</b>
Nationality and country of removal if applicable	Yugoslav
Views adopted on	11 May 2001
Issues and violations found	Failure to investigate allegations of torture by police - articles 12 and 13
Interim measures granted and State party response	None
Remedy recommended	Urges the State party to carry out such investigations without delay. An appropriate remedy.
Due date for State party response	6 January 1999
Date of reply	Latest note verbale 28 July 2006 (had replied on 5 August 2005 - See the annual report of the Committee, A/61/44)
State party response	The Committee will recall that by note verbale of 5 August 2005, the State party confirmed that the First Municipal Court in Belgrade by decision of 30 December 2004 found that the complainant's parents should be paid compensation. However, as this case is being appealed to the Belgrade District Court, this decision was neither effective nor enforceable at that stage. The State party also informed the Committee that the Municipal Court had found inadmissible the request to conduct a thorough and impartial investigation into the allegations of police brutality as a possible cause of Mr. Ristic's death. On 28 July 2006, the State party informed the

Committee that the District Court of Belgrade had dismissed the complaint filed by the Republic of Serbia and the State Union of Serbia and Montenegro in May 2005. On 8 February 2006, the Supreme Court of Serbia dismissed as unfounded the revised statement of the State Union of Serbia and Montenegro, ruling that it is bound to meet its obligations under the Convention. It was also held responsible for the failure to launch a prompt, impartial and full investigation into the death of Milan Ristic.

Complainant's response

On 25 March 2005, the Committee received information from the Humanitarian Law Center in Belgrade to the effect that the First Municipal Court in Belgrade had ordered the State party to pay compensation of 1,000,000 dinars to the complainant's parents for failure to conduct an expedient, impartial and comprehensive investigation into the causes of the complainant's death in compliance with the decision of the Committee against Torture.

**Case**

**Hajrizi Dzemajl et al., 161/2000**

Nationality and country of removal if applicable

Yugoslav

Views adopted on

21 November 2002

Issues and violations found

Burning and destruction of houses, failure to investigate and failure to provide compensation - articles 16, paragraph 1, 12 and 13.<sup>12</sup>

Interim measures granted and State party response

None

Remedy recommended

Urges the State party to conduct a proper investigation into the facts that occurred on 15 April 1995, prosecute and punish the persons responsible for those acts and provide the complainants with redress, including fair

	and adequate compensation.
Due date for State party response	None
Date of reply	See CAT/C/32/FU/1
State party response	See first follow-up report (CAT/C/32/FU/1). Following the thirty-third session and while welcoming the State party's provision of compensation to the complainants for the violations found, the Committee considered that the State party should be reminded of its obligation to conduct a proper investigation into the case.
Complainant's response	None
<b>Case</b>	<b>Dimitrov, 171/2000</b>
Nationality and country of removal if applicable	Yugoslav
Views adopted on	3 May 2005
Issues and violations found	Torture and failure to investigate - article 2, paragraph 1, in connection with 1, 12, 13 and 14
Interim measures granted and State party response	N/A
Date of reply	None
State party response	None
Complainant's response	N/A
<b>Case</b>	<b>Dimitrijevic, 172/2000</b>
Nationality and country of removal if applicable	Serbian
Views adopted on	16 November 2005
Issues and violations found	Torture and failure to investigate - articles 1,

2, paragraphs 1, 12, 13, and 14

Interim measures granted and State party response

N/A

Remedy recommended

The Committee urges the State party to prosecute those responsible for the violations found and to provide compensation to the complainant, in accordance with rule 112, paragraph 5, of its rules of procedure, to inform it, within 90 days from the date of the transmittal of this decision, of the steps taken in response to the views expressed above.

Due date for State party response

26 February 2006

Date of reply

None

State party response

None

Complainant's response

N/A

**Case**

**Nikolic, 174/2000**

Nationality and country of removal if applicable

N/A

Views adopted on

24 November 2005

Issues and violations found

Failure to investigate - articles 12 and 13

Interim measures granted and State party response

N/A

Remedy recommended

Information on the measures taken to give effect to the Committee's Views, in particular on the initiation and the results of an impartial investigation of the circumstances of the death of the complainant's son.

Due date for State party response

27 February 2006

Date of reply

None

State party response

None

Complainant's response	N/A
<b>Case</b>	<b>Dimitrijevic, Dragan, 207/2002</b>
Nationality and country of removal if applicable	Serbian
Views adopted on	24 November 2004
Issues and violations found	Torture and failure to investigate - article 2, paragraph 1, in connection with articles 1, 12, 13, and 14.
Interim measures granted and State party response	None
Remedy recommended	To conduct a proper investigation into the facts alleged by the complainant.
Due date for State party response	February 2005
Date of reply	None
State party response	None
Complainant's response	On 1 September 2005, the complainant's representative informed the Committee that having made recent enquiries, it could find no indication that the State party had started any investigation into the facts alleged by the complainant.

...

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...

12/ Regarding article 14, the Committee declared that article 16, paragraph 1, of the Convention does not mention article 14 of the Convention. Nevertheless, article 14 of the Convention does not mean that the State party is not obliged to grant redress and fair and adequate compensation to the victim of an act in breach of article 16 of the Convention. The positive obligations that flow from the first sentence of article 16 of the Convention include an obligation to grant redress and compensate the victims of an act in breach of that provision. The Committee is therefore of the view that the State party has failed to observe its obligations under article 16 of the Convention by failing to enable the complainants to obtain redress and to

provide them with fair and adequate compensation.

...

**CAT, CAT/C/SR.855 (2008)**

COMMITTEE AGAINST TORTURE

Forty-first session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)\* OF THE 855th MEETING

Held at the Palais Wilson, Geneva,

on Friday, 14 November 2008, at 3 p.m.

...

**CONSIDERATION OF COMMUNICATIONS UNDER ARTICLE 22 OF THE CONVENTION** (continued)

Follow-up progress report of the Committee against Torture on individual communications (CAT/C/41/R.1)

1. The CHAIRPERSON invited the Special Rapporteur to introduce the follow-up progress report (CAT/C/41/R.1) relating to the Committee's decisions on complaints submitted under article 22 of the Convention.

2. Mr. MARIÑO MENÉNDEZ (Special Rapporteur on Follow-up), introducing the report, said that it contained follow-up information submitted since the Committee's fortieth session. No information had been received from: Canada concerning communication No. 15/1994; Spain concerning communications No. 59/1996 and No. 212/2002; Serbia and Montenegro concerning communications Nos. 171/2000, 172/2000 and 207/2002; or Tunisia concerning communication No. 269/2005. Both Serbia and Montenegro had rejected responsibility for the above-mentioned cases, as well as for the case of Milan Ristic (communication No. 113/1998), which had not been referred to in the report. He proposed that reminders requesting follow-up information should be sent to all those States parties. In the absence of a response from Serbia and Montenegro, a meeting should be convened between State party representatives and himself to clarify legal responsibility for the cases.

3. The CHAIRPERSON said that, if there was no objection, he would take it that the Committee agreed to the course of action proposed by the Special Rapporteur.

4. It was so decided.

...

The public part of the meeting rose at 4.35 p.m.

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\*/ The summary record of the second part (closed) of the meeting appears as document CAT/C/SR. 855/Add.1.

CAT, A/64/44 (2009)

## VI. CONSIDERATION OF COMPLAINTS UNDER ARTICLE 22 OF THE CONVENTION

...

### D. Follow-up activities

89. At its twenty-eighth session, in May 2002, the Committee against Torture revised its rules of procedure and established the function of a Rapporteur for follow-up of decisions on complaints submitted under article 22. At its 527th meeting, on 16 May 2002, the Committee decided that the Rapporteur shall engage, inter alia, in the following activities: monitoring compliance with the Committee's decisions by sending notes verbales to States parties enquiring about measures adopted pursuant to the Committee's decisions; recommending to the Committee appropriate action upon the receipt of responses from States parties, in situations of non response, and upon the receipt henceforth of all letters from complainants concerning non implementation of the Committee's decisions; meeting with representatives of the permanent missions of States parties to encourage compliance and to determine whether advisory services or technical assistance by the Office of the United Nations High Commissioner for Human Rights would be appropriate or desirable; conducting with the approval of the Committee follow up visits to States parties; preparing periodic reports for the Committee on his/her activities.

90. During its thirty fourth session, the Committee, through its Special Rapporteur on follow up to decisions, decided that in cases in which it had found violations of the Convention, including decisions made by the Committee prior to the establishment of the follow up procedure, the States parties should be requested to provide information on all measures taken by them to implement the Committee's recommendations made in the decisions. To date, the following countries have not yet responded to these requests: ... Serbia and Montenegro (with respect to *Dimitrov*, No. 171/2000, *Danil Dimitrijevic*, No. 172/2000, *Nikolić, Slobodan and Ljiljana*, No. 174/2000 and *Dragan Dimitrijevic*, No. 207/2002); ...

...

93. In the following cases, either further information is awaited from the States parties or the complainants and/or the dialogue with the State party is ongoing: ... *Ristic v. Serbia and Montenegro* (No. 113/1998);... and *Besim Osmani v. Republic of Serbia* (No. 261/2005) (response from State party not due until 9 August 2009).

...

95. Represented below is a comprehensive report of replies received with regard to all 48 cases in which the Committee has found violations of the Convention to date and in 1 case in which although the Committee did not find a violation of the Convention it did make a recommendation.

### Complaints in which the Committee has found violations of the Convention up to the forty-second session

...

<b>State party</b>	<b>SERBIA AND MONTENEGRO</b>
<b>Case</b>	<b>Ristic, 113/1998</b>
Nationality and country of removal if applicable	Yugoslav
Views adopted on	11 May 2001
Issues and violations found	Failure to investigate allegations of torture by police - articles 12 and 13
Interim measures granted and State party response	None
Remedy recommended	Urges the State party to carry out such investigations without delay. An appropriate remedy.
Due date for State party response	6 January 1999
Date of reply	Latest note verbale 28 July 2006 (had replied on 5 August 2005 - see the annual report of the Committee, A/61/44).
State party response	<p>The Committee will recall that by note verbale of 5 August 2005, the State party confirmed that the First Municipal Court in Belgrade by decision of 30 December 2004 found that the complainant's parents should be paid compensation. However, as this case is being appealed to the Belgrade District Court, this decision was neither effective nor enforceable at that stage. The State party also informed the Committee that the Municipal Court had found inadmissible the request to conduct a thorough and impartial investigation into the allegations of police brutality as a possible cause of Mr. Ristic's death.</p> <p>On 28 July 2006, the State party informed the Committee that the District Court of Belgrade had dismissed the complaint filed by the Republic of Serbia and the State Union of Serbia and Montenegro in May 2005. On 8 February 2006, the Supreme Court of Serbia dismissed as</p>

unfounded the revised statement of the State Union of Serbia and Montenegro, ruling that it is bound to meet its obligations under the Convention. It was also held responsible for the failure to launch a prompt, impartial and full investigation into the death of Milan Ristic.

Complainant's response

On 25 March 2005, the Committee received information from the Humanitarian Law Centre in Belgrade to the effect that the First Municipal Court in Belgrade had ordered the State party to pay compensation of 1,000,000 dinars to the complainant's parents for failure to conduct an expedient, impartial and comprehensive investigation into the causes of the complainant's death in compliance with the decision of the Committee against Torture.

Committee's decision

The follow-up dialogue is ongoing.

**Case**

**Hajrizi Dzemajl et al., 161/2000**

Nationality and country of removal if applicable

Yugoslav

Views adopted on

21 November 2002

Issues and violations found

Burning and destruction of houses, failure to investigate and failure to provide compensation - articles 16, paragraph 1, 12 and 13<sup>11</sup>

Interim measures granted and State party response

None

Remedy recommended

Urges the State party to conduct a proper investigation into the facts that occurred on 15 April 1995, prosecute and punish the persons responsible for those acts and provide the complainants with redress, including fair and adequate compensation.

Due date for State party response

None

Date of reply

See CAT/C/32/FU/1.

See first follow-up report (CAT/C/32/FU/1).

State party response	<p>Following the thirty-third session and while welcoming the State party's provision of compensation to the complainants for the violations found, the Committee considered that the State party should be reminded of its obligation to conduct a proper investigation into the case.</p> <p>During consideration of the State party's initial report to the Committee on 11 and 12 November 2008, the State party indicated that compensation had been paid to the complainants and that given the length of time since the incident in question, it would not be possible to make any further investigation.</p>
Complainant's response	None
Committee's decision	Given the payment of compensation in this case, the fact that the case is quite old and the declaration of independence of the State party (the Republic of Montenegro) since the incident in question, the Committee decided that it need not consider this communication any further under the follow-up procedure.
<b>Case</b>	<b>Dimitrov, 171/2000</b>
Nationality and country of removal if applicable	Yugoslav
Views adopted on	3 May 2005
Issues and violations found	Torture and failure to investigate - article 2, paragraph 1, in connection with articles 1, 12, 13 and 14
Interim measures granted and State party response	N/A
Date of reply	None
State party response	None
Complainant's response	N/A

Committee's decision The follow-up dialogue is ongoing.

**Case Dimitrijevic, 172/2000**

Nationality and country of removal if applicable Serbian

Views adopted on 16 November 2005

Issues and violations found Torture and failure to investigate - articles 1, 2, paragraphs 1, 12, 13, and 14

Interim measures granted and State party response N/A

Remedy recommended The Committee urges the State party to prosecute those responsible for the violations found and to provide compensation to the complainant, in accordance with rule 112, paragraph 5, of its rules of procedure, to inform it, within 90 days from the date of the transmittal of this decision, of the steps taken in response to the views expressed above.

Due date for State party response 26 February 2006

Date of reply None

State party response None

Complainant's response N/A

Committee's decision The follow-up dialogue is ongoing.

**Case Nikolic, 174/2000**

Nationality and country of removal if applicable N/A

Views adopted on 24 November 2005

Issues and violations found Failure to investigate - articles 12 and 13

Interim measures granted and State party response N/A

Information on the measures taken to give effect to

Remedy recommended	the Committee's Views, in particular on the initiation and the results of an impartial investigation of the circumstances of the death of the complainant's son.
Due date for State party response	27 February 2006
Date of reply	None
State party response	None
Complainant's response	On 27 April 2009, the complainant indicated that on 2 March 2006, the Minister of Justice sent a letter to the Office of the District Public Prosecutor (ODPP) pointing to the binding nature of the Committee's decisions and requesting the initiation of an "appropriate procedure in order to establish the circumstances under which Nikola Nikolić lost his life". On 12 April 2006, the ODPP requested the Belgrade District Court Investigative Judge to procure a new forensic report to determine the complainant's cause of death. On 11 May 2006, the trial chamber of the District Court rendered a decision dismissing the request on the grounds that the cause of his death had been sufficiently clarified in the report to the Belgrade Medical School Expert Commission of 27 November 1996 and in its subsequent report. On 27 December 2007, the ODPP made an extraordinary request to the Serbian Supreme Court for "protection of legality", against the District Court decision. On 14 November 2008, the Supreme Court dismissed this request as unfounded. Thus, the complainant claims that the State party has failed to implement the Committee's decision and is responsible for repeating the violation of article 13.
Committee's decision	The follow-up dialogue is ongoing.
<b>Case</b>	<b>Dimitrijevic, Dragan, 207/2002</b>
Nationality and country of removal if applicable	Serbian
Views adopted on	24 November 2004

Issues and violations found	Torture and failure to investigate - article 2, paragraph 1, in connection with articles 1, 12, 13, and 14
Interim measures granted and State party response	None
Remedy recommended	To conduct a proper investigation into the facts alleged by the complainant.
Due date for State party response	February 2005
Date of reply	None
State party response	None
Complainant's response	On 1 September 2005, the complainant's representative informed the Committee that having made recent enquiries, it could find no indication that the State party had started any investigation into the facts alleged by the complainant.
Committee's decision	The follow-up dialogue is ongoing.
<b>Case</b>	<b>Besim Osmani, 261/2005</b>
Nationality and country of removal if applicable	N/A
Views adopted on	8 May 2009
Issues and violations found	Cruel, inhuman or degrading treatment or punishment, failure to investigate promptly and impartially, failure to provide compensation - article 16, paragraph 1; article 12; and article 13
Interim measures granted and State party response	N/A
Remedy recommended	The Committee urges the State party to conduct a proper investigation into the facts that occurred on 8 June 2000, prosecute and punish the persons responsible for those acts and provide the complainant with redress, including fair and adequate compensation.

Due date for State party response	12 August 2009
Date of reply	Not yet due
State party response	Not yet due
Complainant's response	N/A
Committee's decision	The follow-up dialogue is ongoing.

...

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...

11/ Regarding article 14, the Committee declared that article 16, paragraph 1, of the Convention does not mention article 14 of the Convention. Nevertheless, article 14 of the Convention does not mean that the State party is not obliged to grant redress and fair and adequate compensation to the victim of an act in breach of article 16 of the Convention. The positive obligations that flow from the first sentence of article 16 of the Convention include an obligation to grant redress and compensate the victims of an act in breach of that provision. The Committee is therefore of the view that the State party has failed to observe its obligations under article 16 of the Convention by failing to enable the complainants to obtain redress and to provide them with fair and adequate compensation.

...

CAT, A/65/44 (2010)

...

## CHAPTER VI. CONSIDERATION OF COMPLAINTS UNDER ARTICLE 22 OF THE CONVENTION

...

### D. Follow-up activities

108. At its twenty-eighth session, in May 2002, the Committee against Torture revised its rules of procedure and established the function of a Rapporteur for follow-up of decisions on complaints submitted under article 22. At its 527th meeting, on 16 May 2002, the Committee decided that the Rapporteur shall engage, inter alia, in the following activities: monitoring compliance with the Committee's decisions by sending notes verbales to States parties enquiring about measures adopted pursuant to the Committee's decisions; recommending to the Committee appropriate action upon the receipt of responses from States parties, in situations of non-response, and upon the receipt henceforth of all letters from complainants concerning non-implementation of the Committee's decisions; meeting with representatives of the permanent missions of States parties to encourage compliance and to determine whether advisory services or technical assistance by the Office of the United Nations High Commissioner for Human Rights would be appropriate or desirable; conducting with the approval of the Committee follow-up visits to States parties; preparing periodic reports for the Committee on his/her activities.

109. During its thirty-fourth session, the Committee, through its Rapporteur for follow-up of decisions on complaints, decided that in cases in which it had found violations of the Convention, including decisions made by the Committee prior to the establishment of the follow-up procedure, the States parties should be requested to provide information on all measures taken by them to implement the Committee's recommendations made in the decisions. To date, the following countries have not yet responded to these requests: Canada (with respect to *Tahir Hussain Khan*, No. 15/1994); Serbia<sup>1</sup> and Montenegro (with respect to *Dimitrov*, No. 171/2000,<sup>2</sup> *Danil Dimitrijevic*, No. 172/2000, *Nikolić, Slobodan and Ljiljana*, No. 174/2000, *Dragan Dimitrijevic*, No. 207/2002 and *Besim Osmani v. Republic of Serbia*, No. 261/2005); and Tunisia (with respect to *Ali Ben Salem*, No. 269/2005).

110. Action taken by the States parties in the following cases complied fully with the Committee's decisions and no further action will be taken under the follow-up procedure: *Halimi-Nedibi Quani v. Austria* (No. 8/1991); *M.A.K. v. Germany* (No. 214/2002);<sup>3</sup> *Hajrizi Dzemajl et al. v. Serbia and Montenegro* (No. 161/2000), *the Netherlands* (with respect to *A.J.*, No. 91/1997); *Mutombo v. Switzerland* (No. 13/1993); *Alan v. Switzerland* (No. 21/1995); *Aemei v. Switzerland* (No. 34/1995); *V.L. v. Switzerland* (No. 262/2005); *El Rgeig v. Switzerland* (No. 280/2005); *Tapia Paez v. Sweden* (No. 39/1996); *Kisoki v. Sweden* (No. 41/1996); *Tala v. Sweden* (No. 43/1996); *Avedes Hamayak Korban v. Sweden* (No. 88/1997); *Ali Falakflaki v. Sweden* (No. 89/1997); *Orhan Ayas v. Sweden* (No. 97/1997); *Halil Haydin v. Sweden* (No.

101/1997); *A.S. v. Sweden* (No. 149/1999); *Chedli Ben Ahmed Karoui v. Sweden* (No. 185/2001); *Dar v. Norway*<sup>4</sup> (No. 249/2004); *Tharina v. Sweden* (No. 266/2003); *C.T. and K.M. v. Sweden* (No. 279/2005); and *Jean-Patrick Iya v. Switzerland* (No. 299/2006).

111. In the following cases, the Committee considered that for various reasons no further action should be taken under the follow-up procedure: *Elmi v. Australia* (No. 120/1998); *Arana v. France* (No. 63/1997); and *Ltaief v. Tunisia* (No. 189/2001). In one case, the Committee deplored the State party's failure to abide by its obligations under article 3 having deported the complainant, despite the Committee's finding that there were substantial grounds for believing that he would be in danger of being tortured: *Dadar v. Canada* (No. 258/2004). In one case, given the author's voluntary return to his country of origin, the Committee decided not to consider the case any further under the follow-up procedure: *Falcon Rios v. Canada* (No. 133/1999).

112. In the following cases, either further information is awaited from the States parties or the complainants and/or the dialogue with the State party is ongoing: *Dadar v. Canada* (No. 258/2004); *Brada v. France* (No. 195/2003); *Guengueng et al. v. Senegal* (No. 181/2001); *Ristic v. Serbia and Montenegro* (No. 113/1998); *Blanco Abad v. Spain* (No. 59/1996); *Urra Guridi v. Spain* (No. 212/2002); *Agiza v. Sweden* (No. 233/2003); *Thabti v. Tunisia* (No. 187/2001); *Abdelli v. Tunisia* (No. 188/2001); *M'Barek v. Tunisia* (No. 60/1996); *Saadia Ali v. Tunisia* (No. 291/2006); *Chipana v. Venezuela* (No. 110/1998); *Pelit v. Azerbaijan* (No. 281/2005); *Bachan Singh Sogi v. Canada* (No. 297/2006); *Tebourski v. France* (No. 300/2006); and *Besim Osmani v. Republic of Serbia* (No. 261/2005).

113. During the forty-third and forty-fourth sessions, the Rapporteur for follow-up of decisions on complaints presented new follow-up information that had been received since the last annual report with respect to the following cases: *Guengueng et al. v. Senegal* (No. 181/2001); *Agiza v. Sweden* (No. 233/2003); *Bachan Singh Sogi v. Canada* (No. 297/2006); *Falcon Rios v. Canada* (No. 133/1999); *Blanco Abad v. Spain* (No. 59/1996); *Urra Guridi v. Spain* (No. 212/2002); *M'Barek v. Tunisia* (No. 60/1996); *Saadia Ali v. Tunisia* (No. 291/2006).

114. Represented below is a comprehensive report of replies received with regard to all 49 cases in which the Committee has found violations of the Convention to date and in 1 case in which although the Committee did not find a violation of the Convention it did make a recommendation.

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<sup>1</sup> On 11 June 2008, following requests by the Committee to Serbia and Montenegro to confirm which State would be following up on Decisions adopted by the Committee and registered against the State party "Serbia and Montenegro", the Secretariat received a response from Montenegro only which stated that all the cases were within the remit of the Republic of Serbia.

<sup>2</sup> In December 2009, the Secretariat learned verbally from the State party that this case had been subsequently reopened but nothing has been received in writing to this effect.

<sup>3</sup> Although no violation was found in this case, the Committee welcomed the State party's readiness to monitor the complainant's situation and subsequently provided satisfactory information in this regard (see chart below).

<sup>4</sup> The State had already remedied the breach prior to consideration of the case.

### **Complaints in which the Committee has found violations of the Convention up to the forty-fourth session**

...

<b>State party</b>	<b>Serbia and Montenegro</b>
<b>Case</b>	<i>Ristic, 113/1998</i>
<b>Nationality and country of removal if applicable</b>	Yugoslav
<b>Views adopted on</b>	11 May 2001
<b>Issues and violations found</b>	Failure to investigate allegations of torture by police - articles 12 and 13
<b>Interim measures granted and State party response</b>	None
<b>Remedy recommended</b>	Urges the State party to carry out such investigations without delay. An appropriate remedy.
<b>Due date for State party response</b>	6 January 1999
<b>Date of reply</b>	Latest note verbale 28 July 2006 (had replied on 5 August 2005 - see the annual report of the Committee, A/61/44).
<b>State party response</b>	The Committee will recall that by note verbale of 5 August 2005, the State party confirmed that the First Municipal Court in Belgrade by decision of 30 December 2004 found that the complainant's parents should be paid compensation. However, as this case is being appealed

to the Belgrade District Court, this decision was neither effective nor enforceable at that stage. The State party also informed the Committee that the Municipal Court had found inadmissible the request to conduct a thorough and impartial investigation into the allegations of police brutality as a possible cause of Mr. Ristic's death.

**Complainant's comments**

On 25 March 2005, the Committee received information from the Humanitarian Law Centre in Belgrade to the effect that the First Municipal Court in Belgrade had ordered the State party to pay compensation of 1,000,000 dinars to the complainant's parents for failure to conduct an expedient, impartial and comprehensive investigation into the causes of the complainant's death in compliance with the decision of the Committee against Torture.

**State party response**

On 28 July 2006, the State party informed the Committee that the District Court of Belgrade had dismissed the complaint filed by the Republic of Serbia and the State Union of Serbia and Montenegro in May 2005. On 8 February 2006, the Supreme Court of Serbia dismissed as unfounded the revised statement of the State Union of Serbia and Montenegro, ruling that it is bound to meet its obligations under the Convention. It was also held responsible for the failure to launch a prompt, impartial and full investigation into the death of Milan Ristic.

**Committee's decision**

The follow-up dialogue is ongoing.

**Case**

*Hajrizi Dzemajl et al., 161/2000*

**Nationality and country of removal if applicable**

Yugoslav

**Views adopted on**

21 November 2002

**Issues and violations found**

Burning and destruction of houses, failure to investigate and failure to provide compensation - articles 16, paragraph 1, 12 and 13<sup>12</sup>

**Interim measures granted and State**

None

**party response**

**Remedy recommended** Urges the State party to conduct a proper investigation into the facts that occurred on 15 April 1995, prosecute and punish the persons responsible for those acts and provide the complainants with redress, including fair and adequate compensation.

**Due date for State party response** None

**Date of reply** See *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 44 (A/59/44)*, chap. V, para. 267.

**State party response** See first follow-up report.<sup>13</sup> Following the thirty-third session and while welcoming the State party's provision of compensation to the complainants for the violations found, the Committee considered that the State party should be reminded of its obligation to conduct a proper investigation into the case. During consideration of the State party's initial report to the Committee on 11 and 12 November 2008, the State party indicated that compensation had been paid to the complainants and that given the length of time since the incident in question, it would not be possible to make any further investigation.

**Complainant's comments** None

**Committee's decision** Given the payment of compensation in this case, the fact that the case is quite old and the declaration of independence of the State party (the Republic of Montenegro) since the incident in question, the Committee decided that it need not consider this communication any further under the follow-up procedure

<sup>12</sup> Regarding article 14, the Committee declared that article 16, paragraph 1, of the Convention does not mention article 14 of the Convention. Nevertheless, article 14 of the Convention does not mean that the State party is not obliged to grant redress and fair and adequate compensation to the victim of an act in breach of article 16 of the Convention. The positive obligations that flow from the first sentence of article 16 of the Convention include an obligation to grant redress and compensate the victims of an act in breach of that provision. The Committee is therefore of the view that the State party has failed to observe its obligations under article 16 of the Convention by failing to enable the complainants to obtain redress and to provide them with fair and adequate compensation.

<sup>13</sup> *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 44 (A/59/44), chap. V, paras. 266-267.*

**Case** *Dimitrov, 171/2000*

**Nationality and country of removal if applicable** Yugoslav

**Views adopted on** 3 May 2005

**Issues and violations found** Torture and failure to investigate - article 2, paragraph 1, in connection with articles 1, 12, 13 and 14

**Interim measures granted and State party response** N/A

**Remedy recommended** None

**Due date for State party response** None

**Date of reply** N/A

**Committee's decision** The follow-up dialogue is ongoing

**Case** *Dimitrijevic, 172/2000*

**Nationality and country of removal if applicable** Serbian

**Views adopted on** 16 November 2005

**Issues and violations found** Torture and failure to investigate - articles 1, 2, paragraphs 1, 12, 13, and 14

<b>Interim measures granted and State party response</b>	N/A
<b>Remedy recommended</b>	The Committee urges the State party to prosecute those responsible for the violations found and to provide compensation to the complainant, and, in accordance with rule 112, paragraph 5, of its rules of procedure, to inform it, within 90 days from the date of the transmittal of this decision, of the steps taken in response to the views expressed above.
<b>Due date for State party response</b>	26 February 2006
<b>Date of reply</b>	None
<b>State party response</b>	None
<b>Complainant's response</b>	N/A
<b>Committee's decision</b>	The follow-up dialogue is ongoing.
<b>Case</b>	<i>Nikolic, 174/2000</i>
<b>Nationality and country of removal if applicable</b>	N/A
<b>Views adopted on</b>	24 November 2005
<b>Issues and violations found</b>	Failure to investigate - articles 12 and 13
<b>Interim measures granted and State party response</b>	N/A
<b>Remedy</b>	Information on the measures taken to give effect to the Committee's

<b>recommended</b>	Views, in particular on the initiation and the results of an impartial investigation of the circumstances of the death of the complainant's son.
<b>Due date for State party response</b>	27 February 2006
<b>Date of reply</b>	None
<b>State party response</b>	None
<b>Complainant's comments</b>	On 27 April 2009, the complainant indicated that on 2 March 2006, the Minister of Justice sent a letter to the Office of the District Public Prosecutor (ODPP) pointing to the binding nature of the Committee's decisions and requesting the initiation of an "appropriate procedure in order to establish the circumstances under which Nikola Nikolić lost his life". On 12 April 2006, the ODPP requested the Belgrade District Court Investigative Judge to procure a new forensic report to determine the complainant's cause of death. On 11 May 2006, the trial chamber of the District Court rendered a decision dismissing the request on the grounds that the cause of his death had been sufficiently clarified in the report to the Belgrade Medical School Expert Commission of 27 November 1996 and in its subsequent report. On 27 December 2007, the ODPP made an extraordinary request to the Serbian Supreme Court for "protection of legality", against the District Court decision. On 14 November 2008, the Supreme Court dismissed this request as unfounded. Thus, the complainant claims that the State party has failed to implement the Committee's decision and is responsible for repeating the violation of article 13.
<b>Committee's decision</b>	The follow-up dialogue is ongoing.
<b>Case</b>	<i>Dimitrijevic, Dragan, 207/2002</i>
<b>Nationality and country of removal if applicable</b>	Serbian

<b>Views adopted on</b>	24 November 2004
<b>Issues and violations found</b>	Torture and failure to investigate - article 2, paragraph 1, in connection with articles 1, 12, 13, and 14
<b>Interim measures granted and State party response</b>	None
<b>Remedy recommended</b>	To conduct a proper investigation into the facts alleged by the complainant.
<b>Due date for State party response</b>	February 2005
<b>Date of reply</b>	None
<b>State party response</b>	None
<b>Complainant's comments</b>	On 1 September 2005, the complainant's representative informed the Committee that having made recent enquiries, it could find no indication that the State party had started any investigation into the facts alleged by the complainant.
<b>Committee's decision</b>	The follow-up dialogue is ongoing.
<b>Case</b>	<i>Besim Osmani, 261/2005</i>
<b>Nationality and country of removal if applicable</b>	N/A
<b>Views adopted on</b>	8 May 2009
<b>Issues and violations found</b>	Cruel, inhuman or degrading treatment or punishment, failure to investigate promptly and impartially, failure to provide compensation - articles 16, paragraph 1; 12; and 13

**Interim measures granted and State party response**

N/A

**Remedy recommended**

The Committee urges the State party to conduct a proper investigation into the facts that occurred on 8 June 2000, prosecute and punish the persons responsible for those acts and provide the complainant with redress, including fair and adequate compensation.

**Due date for State party response**

12 August 2009

**Date of reply**

Not yet due

**State party response**

Not yet due

**Complainant's comments**

N/A

**Committee's decision**

The follow-up dialogue is ongoing.

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