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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) 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.

ANGOLA:

Dias, Carlos v. Angola, Case no. 711/1996, Views adopted on 18 April 2000

Violation found: Article 9, paragraph 1

Issues of case: Failure to investigate crimes committed by persons in authority; harassment of the author and impossibility to return to Angola.

Remedy recommended: Adequate measures to protect the author's personal security from threats of any kind.

Deadline for State party follow-up information: 17 July 2000

Follow-up information from State Party: None

Follow-up information received from author: See previous follow-up report (CCPR/C/71/R.13) or the Committees Annual Report (A/57/40, Vol.1, Chapter VI).

Consultations with State party: In March 2002, during the 74th session, the Special Rapporteur met with representatives of the State party, who informed the Special Rapporteur that information would be supplied. None has been received.

Special Rapporteur's recommendations: Further reminder to be addressed to State party.

AUSTRALIA:

Rogerson v. Australia, Case no. 802/1998, Views adopted on 3 April 2002

Violations found: Article 14, paragraph 3(c)

Issues of case: Unfair contempt proceedings; discrimination on basis of professional status; multiple punishment for same offence

Remedy recommended: The finding of a violation of the rights of the author under article 14, paragraph 3 (c), of the Covenant constitutes a sufficient remedy.

Deadline for State party follow-up information: 10 September 2002

Follow-up information received from State party: The Committee received a submission from the State Party, dated 2 September 2002. The Australian Government considered that there are no measures which Australia is required to take to give effect to the Committee's views, since at paragraph 11 of final Views the Committee stated that it: "...considers that its finding of a violation of the rights of the author under article 14, paragraph 3(c), of the Covenant,

constitutes sufficient remedy.” The Australian Government affirmed its purpose to present the Committee’s Views in Parliament, in accordance with the Committee’s request, and in accordance with its established practice. The Government also observes that it has forwarded the Committee’s Views to the Government of the Northern Territory.

Follow-up information received from author: None

Special Rapporteur’s recommendations: No further consideration under the follow-up procedure required, as the State party has complied with the Committee’s recommendations.

C. v. Australia, Case no. 900/1999, Views adopted on 28 October 2002

Violations found: Articles 7 and 9, paragraphs 1 and 4

Issues of case: Immigration detention of asylum seeker with mental problems

Remedy recommended: As to the violations of articles 7 and 9 suffered by the author during the first period of detention, the State party should pay the author appropriate compensation. As to the proposed deportation of the author, the State party should refrain from deporting him to Iran. The State party is under an obligation to avoid similar violations in the future.

Deadline for State party follow-up information: 4 February 2003

Follow-up information received from State party: The State party informed the Committee, by note verbale of 10 February 2003, that the matter is being treated as a priority and that every effort is being made to resolve the situation as quickly as possible, but that, given that the issues raised are complex, high-level consultation among Government authorities is required.

Follow-up information received from author: None

Special Rapporteur’s recommendations: Reminder to be addressed to the State party.

Winata v. Australia, Case no. 930/2000, Views adopted on 26 July 2001

Violations found: Articles 17, 23, paragraph 1, and 24, paragraph 1.

Issues of case: Removal from Australia of Indonesian parents of Australian-born child.

Remedy recommended: To refrain from removing the authors from Australia before they have had an opportunity to have their application for parent visas examined with due consideration given to the protection required by their child’s status as a minor.

Deadline for State party follow-up information: 12 November 2001

Follow-up information received from State party: By note verbale of 3 December 2001, the State party provided an interim response. It stated that Mr. Winata and Ms. Li had met core requirements for the grant of a parent visa offshore on 13 August 2001, allowing their application to be placed in the parent queue. The State party noted that parent visas are in

high demand and only a limited number are granted each year. Visa places are allocated in order based on a person's queue date. On this basis, it would be some time before a parent place is available for Mr. Winata and Ms. Li. The State party reiterated that a criterion of a parent visa is that the applicant must be outside Australia when the visa is granted. Accordingly, Mr. Winata and Ms. Li must be outside Australia in order for a parent visa to be granted. If parent visas are granted, they would be entitled to return to Australia. The State party stated that it was currently considering whether and on what basis under Australian law Mr. Winata and Ms. Li may remain in Australia pending the grant of a parent visa, and that it would provide a full response as soon as possible. This reply has not yet been received. By note of 15 July 2002, the State party stated that, while it has not yet been possible to resolve the situation, Mr. Winata and Ms. Li remain in the community, and a number of options are being explored, including how the Committee's Views can be given effect.

Follow-up information received from author: None

Special Rapporteur's recommendations: A further update should be requested of the State party.

Cabal and Pasini v. Australia, Case no. 1020/2001, Views adopted on 7 August 2003

Violations found: Article 10, paragraph 1

Issues of case: Application of Covenant to privately run detention facilities, failure to segregate convicted and accused prisoners, effect of Australian reservation to art.10, degrading conditions.

Remedy recommended: Compensation

Deadline for State party follow-up information: 1 December 2003

Follow-up information received from State party: On 17 February 2004, the State party stated that it had forwarded the Views to the State of Victoria and that the Victorian government had informed it that the authors had refused the option of being placed in separate cells and had requested to remain together. It advised that it is very unusual for two people to be placed in such a cell and the Victorian police have been asked to take any necessary steps to ensure that a similar situation does not arise again. The State party does not accept that the authors are entitled to compensation.

Follow-up information received from author: None

Special Rapporteur's recommendations: No further consideration under the follow-up procedure

AUSTRIA:

Karakurt v. Austria, Case no. 965/2001, Views adopted on 4 April 2002

Violations found: Article 26

Issues of case: Racial discrimination in employment field

Remedy recommended: To modify the applicable law so that no improper differentiation is made between persons in the author's situation and EEA nationals.

Deadline for State party follow-up information: 21 August 2002

Follow-up information received from State party: By letter of 21 September 2002, the State party informed the Committee, that the original version of the Views was published on the homepage of the Constitutional Law Department of the Federal Chancellery, and that a German translation is being prepared; the Views became known to the general public through reports in major newspapers and press conferences given by the workers' representative body. It also submits, however, that as two cases raising similar issues are currently pending before the European Court of Human Rights and the European Court of Justice, it will await their outcome before deciding what steps to undertake. By letter of 6 August 2003, the State party reiterated its previous response.

Follow-up information received from author: None

Special Rapporteur's recommendations: Reminder to be addressed to the State party

Weiss v. Austria, Case no: 1086/2002, Views adopted on 3 April 2003

Violations found: Article 14, paragraph 1 read together with article 2, paragraph 3.

Issues of case: Extradition of complainant to the United States despite the request for interim protection

Remedy recommended: To make such representations to the United States' authorities as may be required to ensure that the author does not suffer any consequential breaches of his rights under the Covenant, which would flow from the State party's extradition of the author in violation of its obligations under the Covenant and the Optional Protocol. To take appropriate steps to ensure that the Committee's requests for interim measures of protection will be respected.

Deadline for State party follow-up information: 8 August 2003

Follow-up information received from State party: By letter of 6 August 2003, the State party informed the Committee of its efforts made to publish the Committee's Views. On 9 August 2003, the State party provided extensive follow-up submissions. It referred to current proceedings before the Supreme Court, judgment expected in September 2003, on the exclusion of remedies with respect to the author. It argues "further cases of this sort may in all likelihood be excluded". Legislative amendments to the extradition law resulting from the Views are under consideration. The US Department of Justice was informed of the Views, and asked to notify all procedural steps taken in the US after the surrender. In addition, as the US is a State party, there is "no indication", in its view, that the US "will not meet their international obligations under the Covenant."

Follow-up information received from author: By letter of 27 May 2003, counsel submitted a copy of a motion addressed, on the author's behalf, to the Minister of Justice. Counsel recalled that under the Committee's Views, Austrian authorities were obliged to address the competent U.S. authorities. Counsel seeks the Committee's assistance in securing the State party's timely compliance with this recommendation.

Special Rapporteur's recommendations: An update on the proceedings before the Supreme Court and any reaction from the US judicial authorities might be requested of the State party.

Pauger v. Austria, Case no. 716/1996, Views adopted on 25 March 1999

Violations found: Article 26

Issues of case: Discrimination in lump sum entitlement under the pension act

Remedy recommended: To provide him with a lump-sum payment calculated on the basis of full pension benefits, without discrimination.

Deadline for State party follow-up information: 25 June 1999

Follow-up information received from State party: See previous Follow-up Report (CCPR/C/71/R.13) or the Committee's Annual Report (A/57/40, Vol.1, paragraph 233). By note verbale of 21 January 2002, the State party informed the Committee that, since 1995, its law on survivors' pensions fully respects the principle of equal treatment since 1995. For budgetary reasons, however, the modified pension law could not apply retroactively. There was no legal possibility to effect an *ex gratia* payment to the author, which would also constitute unequal treatment of the author with other widowers in the same position. Accordingly, the State party could not implement the Committee's Views.

Follow-up information received from author: See previous Follow-up Report (CCPR/C/71/R.13) or the Committee's Annual Report (A/57/40, Vol.1, paragraph 233). By letter of 18 December 2001, the author informed the Committee that he had not been provided with an effective remedy, in particular, a lump sum payment on the basis of full pension benefits. He also stated that the State party has not discontinued this type of discrimination.

Special Rapporteur's recommendations: Although welcoming the State party's decision to amend its legislation, the State party should re-consider its decision not to implement the Committee's decision in this particular case and look into other possibilities of providing the author with a remedy.

BELARUS:

Bondarenko v. Belarus, Case no. 886/1999, Views adopted on 3 April 2003

Lyashkevich v. Belarus, Case no. 887/1999, Views adopted on 3 April 2003

Violations found: Articles 7

Issues of case: Failure to notify the authors of the scheduled date for the execution of their sons, and of the location of their sons' grave

Remedies recommended: Information on the location of their sons burial site, and compensation for the anguish suffered.

Deadline for State party follow-up information: 23 July 2003

Follow-up information received from State party: By letter of 20 August 2003, the State party informed the Committee that the competent authorities of Belarus are carefully examining the Views and will provide information in the "nearest future".

Follow-up information received from author: With respect to **Bondarenko v. Belarus** no information has been received. With respect to **Lyashkevich v. Belarus**, the author's mother informed the Committee, by letter of 5 April 2002, that the State party had failed to implement the Views and requested its intercession.

Consultations with State party: On 31 October 2003, in a meeting with the Permanent Representative in Geneva, the Special Rapporteur indicated his concern that to date no information had been received on the implementation of Views in either of these cases nor in the other two cases in which the Committee has found violations (A/57/40, Vol.1, para. 234): **Laptsevich v. Belarus, Case no. 780/1997, Views adopted on 20 March 2000;** and **Dergachev v. Belarus, Case no. 921/2000, Views adopted on 2 April 2002.** The State's representative noted that as Belarus is a relatively young country, the State party lacks the practical experience of how to implement the Views and would welcome any assistance the Secretariat could give in this regard. The representative confirmed his intention to obtain further information on the cases and expressed his willingness to meet more regularly in order to continue the dialogue on follow-up.

Special Rapporteur's recommendations: Reminder to be addressed to the State party.

CAMEROON:

Mazou v. Cameroon Case no. 630/1995, Views adopted on 26 July 2001

Violations found: Articles 25(c) and 2.

Issues of case: Unfair dismissal from public service; undue delay.

Remedy recommended: To reinstate the author in his career, with all the attendant consequences under Cameroonian law.

Deadline for State party follow-up information: 1 November 2001

Follow-up information received from State party: By a note verbale of 5 April 2002, the State party informed the Committee that the author had been reintegrated into the judicial corps, and that his career is following its normal course. The State party noted, however, that there is no right to "reconstitution" of the author's career. It was open to the author to apply to the

relevant administrative authority to this end, but to date he had not done so. As such, this element of the author's claim should be considered inadmissible. In any event, grade advancement is not automatic and depends on a variety of individual factors including budgetary resources. Moreover, the author had not made an application to the Ministry of Justice for advancement as was open to him. The State party undertook to guard against a future recurrence of delays in handling similar claims.

Follow-up information received from author: None

Special Rapporteur's recommendations: No further consideration under the follow-up procedure required, as the State party has complied with the Views.

CANADA:

Gauthier v. Canada, Case no. 633/1995, Views adopted on 7 April 1999

Violations found: Article 19, paragraph 2

Issues of case: Access to press facilities of Parliament

Remedy recommended: An independent review of the author's application to have access to the press facilities of Parliament.

Deadline for State party follow-up information: 6 July 1999

Follow-up information received from State party: See previous Follow-up Report (CCPR/C/71/R.13)

Follow-up information received from author: See previous Follow-up Report (CCPR/C/71/R.13) or the Committee's Annual Report (A/57/40, Vol.1, para. 236). By letter of 24 November 2001, the author informed the Committee that he had been granted a temporary six-month pass by the Canadian Parliamentary Press Gallery Corporation, which he had accepted under protest for economic reasons. He had been denied a permanent pass, with membership of the Press Gallery Corporation still required. The author stated that the Independent Expert appointed by the Speaker to review the author's case was summary and superficial, and came to opposite conclusions than those of the Committee. The Speaker now regarded the matter closed. By letter of 23 February 2002, the author informed the Committee that the State party had still failed to comply with the Committee's Views. The author has been advised that all dealings must be with the private Press Gallery organization, and had still only been provided a temporary pass with limited benefits. He sought the Committee's determination of the amount of damages that the State party should pay him. By letter of 15 April 2002, he again informed the Committee that its Views have not been implemented by the State party.

Special Rapporteur's recommendations: A copy of the Independent Expert's/Speaker's report should be requested from the State party.

Waldman v. Canada, Case no. 694/1996, Views adopted on 3 November 1999

Violation found: Article 26

Issues of case: Discrimination on the basis of religion in the distribution of subsidies to schools

Remedy recommended: An effective remedy eliminating this discrimination.

Deadline for State party follow-up information: 3 February 2000

Follow-up information received from State party: See previous follow-up report of 20 March 2001 (CCPR/C/71/R.13) or the Committee's Annual Report (A/56/40, Vol.1, para.187).

Follow-up information received from author: See previous the follow-up report of 20 March 2001 (CCPR/C/71/R.13) or the Committee's Annual Report (A/57/40, Vol. 1, para. 237). By letters of 20 March 2002 and 2 January 2004, the author reiterated that the Views had still not been implemented and requested to meet again with the Rapporteur. He also requested the Special Rapporteur to meet again with a representative of the State party.

Special Rapporteur's recommendation: A meeting should be arranged with a State party representative.

Judge v. Canada, Case no. 829/1998, Views adopted on 5 August 2003

Violations found: Articles 6, paragraph 1, and 2, paragraph 3.

Issues of case: Deportation to face the death penalty

Remedy recommended: To make such representations as are possible to the receiving state to prevent the carrying out of the death penalty on the author.

Deadline for State party follow-up information: 13 November 2003

Follow-up information received from State party: By note verbale of 17 November 2003, the State party informed the Committee that on 7 October 2003 pursuant to a request received by Amnesty International, the federal government officials, representatives of Amnesty and the author's counsel met to hear Amnesty's views on how Canada should give effect to the Views. On 24 October 2003, the Canadian Consul General in Buffalo contacted the Governor of Pennsylvania and raised the Judge case with him. On 7 November 2003, the Government of Canada delivered in person a diplomatic note to the Government of the United States, which included a copy of the Views and requested the United States not to carry out the death penalty against Mr. Judge. It also requested that this request not to carry out the death penalty be transmitted to relevant state authorities expeditiously. The State party informed the Committee that since the Supreme Court of Canada's decision in *U.S. v. Burns* and *Rafaey* in 2001, it has been in substantial compliance with the Committee's interpretation of article 6, paragraph 1 as stated in its Views. The Views have been posted on the Department of Canadian Heritage website.

The State party notes that the Committee's interpretation of article 6, paragraph 1, goes beyond the language in resolution 2003/67 of the 59th session of the Commission on Human

Rights. It expresses concern over the Committee's statement that the rights in the Covenant should be interpreted by reference to the time of the Committee's examination, and not by reference to the time the alleged violation took place. It asserts that compliance with the Covenant should not be assessed against an interpretation of Covenant rights that had no currency at the time of the alleged violation and thus could not have been reasonably anticipated at the time of their actions.

Follow-up information received from author: By letter of 1 December 2003, author's counsel expressed doubts about the effectiveness of the State party's attempts to have the author removed from death row. He has received no information either on the nature of the intervention made by the State party nor its outcome.

Special Rapporteur's recommendation: State party should be requested to provide any further update received from the US authorities on the author's situation.

COLOMBIA:

Bautista v. Columbia, Case no. 563/1993, Views adopted on 27 October 1995

Violations found: Articles 6, paragraph 1, 7 and 9, paragraph 1

Issues of case: Disappearance and subsequent murder of a Colombian citizen

Remedy recommended: Damages and appropriate protection of members of the victim's family from harassment. The Committee expressed its appreciation for the content of Resolution 13, adopted by the National Delegate for Human Rights on 5 July 1995, and of the judgment of the Administrative Tribunal of Cundinamarca of 22 June 1995, which provide an indication of the measure of damages that would be appropriate in the instant case. Moreover, although the Committee noted with equal appreciation the promulgation of Presidential Decree No. 1504 of 11 September 1995, it urged the State party to expedite the criminal proceedings leading to the prompt prosecution and conviction of the persons responsible for the abduction, torture and death of Nydia Bautista.

Deadline for State party follow-up information: Not available

Follow-up information received from State party: See previous follow-up report (CCPR/C/71/R.13) or the Committee's Annual Report (A/57/40, Vol. 1, para. 229). By note verbale of 25 October 2002, the State party informed the Committee that it is taking measures to ensure that no similar events will happen in the future. Before the House of Representatives, the Government submitted two draft bills, which became Law 589 and 599 of 2000. Genocide, torture and enforced disappearances are now considered criminal offences. The State party also describes measures enacted into laws and decrees, which were implemented after the Committee's views, such as Law 288 of 1996. The State party also informs the Committee that it had ratified the Statute of the International Criminal Court. The State party notes that a payment of damages of 36.935.300 Colombian pesos was paid to the victim, in compliance with the Committee's views.

Follow-up information received from author: See previous follow-up report (CCPR/C/71/R.13)

Special Rapporteur's recommendations: No further consideration under the follow-up procedure, as the State party has complied with the Views.

Rojas García v. Columbia, Case no. 687/1996, Views adopted on 3 April 2001

Violations found: Articles 7, and 17, paragraph 1

Issues of case: Raid on family home

Remedy recommended: Compensation to author and his family

Deadline for State party follow-up information: 4 September 2001

Follow-up information received from State party: By note verbale of 29 October 2002, the State party informed the Committee that, by virtue of resolution N.1 of 3 May de 2002, it decided to apply Law 288 of 1996 in favor of the author.

Follow-up information received from author: None

Special Rapporteur's recommendations: Request for further information from the State party on the issue of payment of compensation.

Coronel et al v. Colombia, Case no. 778/1997, Views adopted on 24 October 2002

Violations found: Article 6, paragraph 1; and 7 in respect of Gustavo Coronel Navarro, Nahún Elías Sánchez Vega, Luis Ernesto Ascanio Ascanio and Luis Honorio Quintero Ropero; article 9; and article 17 of the Covenant.

Issues of case: Right to life; freedom from torture; arbitrary detention; freedom from arbitrary interference with family life.

Remedy recommended: Compensation, and to conclude without delay the investigations into the violation of articles 6 and 7; to speed up the criminal proceedings against the perpetrators in the ordinary criminal courts.

Deadline for State party follow-up information: 10 February 2003

Follow-up information received from State party: By note verbale of 21 February 2003, the State party informed the Committee that its Views were forwarded to the competent State authorities (Presidential Program of Human Rights, Ministry of Justice, Office of the Attorney General, Defence Ministry, and National Police). By note verbale of 14 April 2003, it informed the Committee that the Committee of Ministers decided to implement the Committee's Views and to pay the author's family damages. It intends to update the Committee on this matter.

Follow-up information received from author: None

Special Rapporteur's recommendations: Request for information from the State party on the issue of payment of compensation and the outcome of the criminal proceedings against the perpetrators.

Rodríguez Orejuela v. Colombia, Case no.848/1999, Views adopted on 23 July 2002

Violations found: Article 14

Issues of case: "Faceless" courts applying extraordinary procedure; change of tribunal between commission of crime and trial

Remedy recommended: An "effective remedy" to the author.

Deadline for State party follow-up information: 24 October 2002

Follow-up information received from State party: By note verbale of 5 November 2002, the State party requested the Committee to reconsider and review its decision. The State party claims it did not receive the last communication from the author dated 23 April 2002, which was considered in the Committee's Views, and that, consequently, its right to procedural guarantees was violated, under the Optional Protocol and the Committee's Rules of Procedure.

Follow-up information received from author: By letters of 25 November 2002 and 16 December 2002, the author informed the Committee that the State party had refused to implement the Committee's Views. The author notes that the Colombian Government has ordered his transfer from the National Prison of Palmira to the High Security Section of the National Prison of Combita, where he is subjected to cruel and inhuman treatment. He could not communicate confidentially with his counsel. By resolution N.1058, of 14 April 2002, the Second Judge for execution of punishment and security measures (*Ejecución de Penas y Medidas de seguridad*) of Tunja, Boyacá, ordered the author's parole, under article 64 of the Criminal Code. Nevertheless, the Government has failed to serve the judge's order on the author.

Consultations with State party: On 6 November 2003, the Special Rapporteur met with the Permanent Representative of the State party. He referred to the current case, as well as **Jiménez Vaca v. Colombia** (below) and requested of the State representatives whether they had any update on the implementation in these cases. They provided detailed reasons why both of these cases should be "re-considered" by the Committee and provided submissions from the State party to this effect. The Rapporteur confirmed that the information therein would be provided to the Committee during the discussion of its follow-up report and a decision taken thereon.

Special Rapporteur's recommendations: There is no provision under the Committee's rules to re-consider its Views. The State party's challenge to its findings is simply noted.

Jiménez Vaca v. Colombia, Case no. 859/1999, Views adopted on 25 March 2002

Violations found: Articles 6, paragraph 1, 9, paragraph 1, and 12, paragraphs 1 and 4.

Issues of case: Obligation to investigate attempts on life; ensuring personal safety; freedom of movement; arbitrary interference with correspondence.

Remedy recommended: Compensation, and to take appropriate measures to protect the author's life, so as to allow him to return to his own country; carry out an independent inquiry into the attempt on his life and to expedite criminal proceedings against those responsible for it.

Deadline for State party follow-up information: 26 September 2002

Follow-up information received from State party: By letter of 1 November 2002, the State party disagreed with the Committee's decision and requested its reconsideration and revision. According to the State party, the Committee did not take note of its comments of 22 April 2002, in violation of the procedural guaranties of the Optional Protocol and the Committee's rules of procedures. The State party presented new arguments and challenges the finding of a violation of article 12 by the Committee.

Follow-up information received from author: By letter of 22 October 2002 and 3 June 2003, counsel informed the Committee that neither he nor his client had received any information from the State party on the implementation of the Views. By letter of 13 March 2003, the author referred to the State party's challenge to Views.

Consultations with State party: On 6 November 2003, the Special Rapporteur met with the representatives of the State party. He referred to the current case, as well as **Orejuela v. Columbia** (above) and requested whether the State party had any update on the implementation of the Views. He was given reasons why both cases should be "re-considered" by the Committee, and given submissions from the State party to this effect. The Special Rapporteur confirmed that the information therein would be provided to the Committee during the discussion of its follow-up report, and a decision taken thereon.

Special Rapporteur's recommendations: There is no provision under the Committee's rules to re-consider its Views. The State party's challenge to its findings is simply noted.

CROATIA:

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

Violations found: Article 14, paragraph 3 (c)

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

Remedy recommended: Compensation

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

Follow-up information received from State party: By note verbale of 29 October 2002, the State party informed the Committee that the author had filed a request with the Ministry of Justice for compensation of material and non-material damage suffered as a result of

“unjustified” arrest (custody), in the amount of Kn 1 million, and that the Ministry of Justice was considering the matter. The Municipal Court in Zagreb recognized the time spent in custody as a basis for claiming non-pecuniary damages, but disputed the requested amount of compensation. A preliminary hearing was held on 5 February 2002 and on 18 April 2002, where the plaintiff provided evidence. A further hearing is expected. Concerning the proceedings before the Municipal Court in Split, State party affirmed that the author has never approached the Ministry of Justice with a request for damages.

Follow-up information received from author: None

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

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.

DEMOCRATIC REPUBLIC OF THE CONGO:

Mbenge et al v. Democratic Republic of the Congo, Case no. 16/1977, Views adopted on 25 March 1983

Violations found: Articles 6, paragraph 2, and 14, paragraph 3(a), (b), (d), and (e)

Issues of case: Political persecution – political refugee

Remedy recommended: Compensation

Deadline for State party follow-up information: 7 June 1991

Follow-up information received from State party: None

Follow-up information received from author: By letter of 3 June 2002, the author informed the Committee that the State party, both before and after the change of regime, had failed for over a decade to give effect to the Committee's Views. The author has remained without the use of his property and has not been compensated for his losses. The authorities ensured that certain property of other persons was returned to them, but the author had not been treated in like fashion.

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

Adrien Mundy Busyo, Thomas Ostudi Wongodi, René Sibum Matubuka et al. v. Democratic Republic of the Congo, Case no. 933/2000, Views adopted on 31 July 2003

Violations found: Articles 25 (c), 14, paragraph 1, 9, and 2, paragraph 1

Issues of case: Unfair dismissal of judges, arbitrary arrest and detention and independency of the judiciary

Remedy recommended: Inter alia: (a) reinstatement of the victims in the public service and in their posts, with all the consequences that that implies, or, if necessary, in similar posts; (b) compensation calculated on the basis of an amount equivalent to the salary they would have received during the period of non-reinstatement. The State party should ensure that a dismissal measure can be taken only in accordance with the provisions of the Covenant.

Deadline for State party follow-up information: 18 November 2003

Follow-up information received from State party: By letter of 10 October 2003, the State party informed the Committee that “le Gouvernement de la République Démocratique du Congo a chargé le Ministre de la Justice de l’application de la résolution du Dialogue Inter-Congolais relative au cas des 315 magistrats civils et militaires révoqués.”

Follow-up information received from author: By email of 9 December 2003, one of the authors informed the Committee that the Presidential Decree, which was the subject of the Committee’s Views and on the basis of which the authors had lost their jobs, had been annulled on 25 November 2003. However, he also stated that the authors had not received any compensation. He did not say whether any of the authors had been reinstated in their posts.

Consultations with State party: On 23 October 2003, in a meeting with the Permanent Representative of the DRC in Geneva, the Special Rapporteur reminded the Representative that the Committee had never received any follow-up response from the State party on any of the cases in which it had found violations: Mbenge et al v. DRC, Case no. 16/1977, Views adopted on 25 March 1983; Luyeye v. Zaire, Case no. 90/1981, Views adopted on 21 July 1983; Muteba v. Zaire, Case no. 124/1982, Views adopted on 24 July 1984; Mpandanjila et al v. Zaire, Case no. 138/1983, Views adopted on 26 March 1986; Mpaka Nsusu v. Zaire, Case no. 157/1983, Views adopted on 26 March 1986; Miango v. Zaire, Case no. 194/1985, Views adopted on 27 October 1987; Birindwa and Tshisekedi v. Zaire, Case nos. 241/1987 and 242/1987, Views adopted on 2 November 1989; Kanana v. Zaire, Case no. 366/1989, Views adopted on 2 November 1993; Tshishimbi v. DRC, Case no. 542/1993, Views adopted on 25 March 1996; Gedumbe v. DRC, Case no. 641/1995, Views adopted on 9 July 2002. The Permanent Representative assured the Special Rapporteur that he would relay his concerns to the State party and remind it of its obligations under the Optional Protocol. In this regard, he requested the Secretariat to forward to the Mission a copy of the minutes of the consultation with a reminder of the names of the cases in which the Committee have requested follow-up information. The Secretariat forwarded this information on 20 November 2003. To date no further information has been received from the State party.

Special Rapporteur’s recommendations: Further information and clarification should be requested from the authors. The State party should be sent a reminder for information on all the above cases, including Adrien Mundyo Busyo, Thomas Ostudi Wongodi, René Sibum Matubuka et al. v. Democratic Republic of the Congo.

FINLAND:

Äärelä et al. V. Finland, Case no. 779/1997, Views adopted on 24 October 2001

Violations found: Articles 14, paragraph 1 and 2.

Issues of case: Indigenous rights; inequality before the courts.

Remedy recommended: In terms of the award of costs against the authors, the Committee considered that as the costs award violated article 14, paragraph 1, of the Covenant and, moreover, followed proceedings themselves in violation of article 14, paragraph 1, the State

party was under an obligation to restate to the authors that proportion of the costs award already recovered, and to refrain from seeking execution of any further portion of the award. As to the violation of article 14, paragraph 1, arising from the process applied by the Court of Appeal in handling the brief submitted late by the Forestry Service, the Committee considered that, as the decision of the Court of Appeal was tainted by a substantive violation of fair trial provisions, the State party was under an obligation to reconsider the authors' claims.

Deadline for State party follow-up information: 7 February 2002

Follow-up information received from State party: By submission of 24 January 2002, the State party informed the Committee that authors had been restituted the costs awarded against them. Part of the restitution may be considered compensation for non-pecuniary damage concerning non-communication of the Forestry Service brief. As to the reconsideration of the author's claims, under the Finnish legal system a final judgment may be challenged by means of a so-called "extraordinary appeal" which was provided for in Chapter 31 of the Code of Judicial Procedure. The injured party may lodge a request for the annulment of a judgment with the Supreme Court which would examine the request and decide whether there was reason to annul the judgment. Furthermore, it was possible for the Chancellor of Justice to independently make a request for annulment in cases involving significant public interests. Thus, the Government would submit the Committee's views to the Chancellor of Justice, in order for an assessment of whether there still are grounds for extraordinary appeal. Moreover, the Committee's Views would, in accordance with standard procedure, be sent to the relevant authorities.

Follow-up information received from author: None

Special Rapporteur's recommendations: While welcoming the State party's decision to provide compensation to the authors, the State party should make every effort to fully implement the Views and the Committee wishes to receive information on the outcome of the application for an extraordinary appeal.

HUNGARY:

Borisenko v. Hungary, Case no. 852/1999, Views adopted on 14 October 2002

Violations found: Articles 9, paragraph 3 and 14, paragraph 3 (d)

Issues of case: Arbitrary arrest and detention of the victim; unfair trial.

Remedy recommended: An effective remedy including compensation

Deadline for State party follow-up information: 27 February 2003

Follow-up information received from State party: On 5 February 2003, the State party expressed disagreement with the Committee's Views and informed the Committee that its Views were translated and were placed on the Web page of the Ministry of Justice.

Follow-up information received from author: By letter of 11 August 2003, the author contested the State party's challenge to the Committee's Views and requested implementation.

Special Rapporteur's recommendations: The Committee notes the State party's challenge to its Views, but requests that it reexamine its position with a view to finding a possible remedy for the author.

IRELAND:

Kavanagh v. Ireland, Case no. 819/1998, Views adopted on 4 April 2001

Violations found: Articles 26

Issues of case: Fair trial, Procedure before a Special Criminal Court

Remedy recommended: State party should ensure that persons are not tried before the Special Criminal Court unless reasonable and objective criteria for the decision are provided.

Deadline for State party follow-up information: 2 August 2001

Follow-up information received from State party: On 1 and 13 August 2001, the State party offered £1,000 for the individual violation and, with respect to the systemic issue, enclosed an interim Committee report on possible modifications to the Special Criminal Court system.

Follow-up information received from author: On 22 August 2001, counsel rejected the State party's offer of £1,000 compensation. On 22 August and 5 October 2001, counsel supplied detailed submissions on the (in)adequacy of the proposed £1,000 compensation payment. On 21 February 2002, counsel stated by email that the Government had taken no action to change the law or the procedure in relation to the DPP's power to refer cases to the Special Criminal Court. The Government had sent the Human Rights Committee an interim report of a Committee set up here to review the Offences Against the State Acts but no action had so far been taken on that interim report. The (National) Committee to Review the Offences Against the State Acts had not yet completed its report although was said to be near to doing so. When the report would be completed, it would be submitted to the Government but there was no commitment as to when the Government would decide whether or not to act on its recommendations. Counsel concluded that one was no nearer a decision on Mr. Kavanagh's domestic proceedings or on any Government action to change the law or practice to avoid further breaches of the Covenant. On 25 February 2002, counsel advised that the Supreme Court would hand down judgment on 1 March 2002 on a lower court's refusal to grant leave to seek judicial review of a failure to release Mr. Kavanagh after adoption of the Committee's Views. On 6 March 2002, counsel elaborated on the Supreme Court decision (supplying also the original notices of motion and appeal), noting the rejection of the applicability within Ireland of the Covenant or the Committee's Views. On 21 May 2002, counsel advised that there had been no response from the State party subsequent to the rejection of its offer in August of 2001, and that the DPP continues to send people for trial before the Special Criminal Court, without providing reasons. By letter of 25 February 2003, counsel noted, inter alia, that legislation had recently been introduced which would amend the Offences Against the State Act, but the draft contained nothing on this issue. He adds that the State

party has not taken any action to give publicity to the Committee's Views. On 25 June and 7 October 2003, counsel reminded the Committee that the author was released from prison in July last after serving his full sentence. In the circumstances, the author requested the Special Rapporteur on Follow-Up to raise this case with a representative of the State party during the 79th session of the Human Rights Committee. On 11 February 2004, author's counsel informed the Secretariat that in January questions were asked about this case in Dail Eireann (the lower House of the Irish Parliament) and written replies to the questions were provided by the Minister of Justice, Equality and Law Reform and the Minister for Foreign Affairs.

Consultations with State party: On 4 November 2003, the Special Rapporteur met with the Permanent Representative of Ireland to Geneva, who reiterated the contents of the information provided by the State party on the implementation of Views; namely, the offer of compensation to the author, the reference to the Committee's findings in the report of the Committee reviewing the Offences Against the State Act, and the intention of this Committee duly to consider the Views in proposing amendments to the Offences Against the States Act.

Special Rapporteur's recommendations: While noting the author's dissatisfaction with the remedy offered by the State party, the Committee does not intend to consider the matter any further under the follow-up procedure.

JAMAICA:

Smith & Stewart v. Jamaica, Case no. 668/1995, Views adopted on 8 April 1999

Violations found: Articles 14, paragraphs 3 (c), (d), and 5, 7, 10, paragraph 1 and 14, paragraph 3 (c).

Issues of case: no effective representation on appeal (Mr. Smith only); delay in hearing the appeal; conditions of detention and lack of medical treatment (Mr. Stewart only)

Remedy recommended: Compensation to both authors; release of Mr. Smith

Deadline for State party follow-up information: 15 August 1999

Follow-up information received from State party: By note verbale of 4 July 2001, the State party indicated that Mr. Smith is now eligible to apply for parole, and that the date of eligibility has been advanced by six years.

Follow-up information received from author: None

Special Rapporteur's recommendation: Further information should be requested from the State party on the issue of compensation.

Simpson v. Jamaica, Case no. 695/1996, Views adopted on 31 October 2001

Violations found: Articles 10, and 14, paragraph 3(d)

Issues of case: Conditions of detention and absence of lawyer during the hearing of witnesses

Remedy recommended: Compensation, an improvement in the present conditions of detention and due consideration of early release.

Deadline for State party follow-up information: 5 February 2002

Follow-up information received from State party: By note verbale of 18 June 2003, the State party informed the Committee that the author's conditions of detention have improved since he was removed from St. Catherine Adult Correctional Centre to the South Camp Road Adult Correctional Centre in September 2002, which is a better facility. He has been receiving regular medical attention and has had 25 medical appointments. The Registrar of the Court of Appeal is in the process of making arrangements to have the question of the author's eligibility for parole to be heard before a single judge of that court. He is awaiting the assignment of legal aid to the author.

Follow-up information received from author: By letters of 18 February 2002 and 10 November 2003, author's counsel informed the Committee that the Court of Appeal had still not reviewed the author's non-parole period, leaving him still ineligible for parole. To counsel's knowledge, the State party has not taken steps towards finding a remedy for the author's medical problems.

Special Rapporteur's recommendations: Updated information is to be requested of the State party, including information on his current state of health.

KOREA:

Kang v. Korea, Case no. 878/1999, Views adopted on 15 July 2003

Violations found: Articles 10, paragraphs 1 and 3, 18, paragraph 1, and 19, paragraph 1, read together with 26

Issues of case: Restriction of freedom of expression and manifestation of belief on the basis of political opinion

Remedy recommended: To compensate the author commensurate with the seriousness of the breaches in question.

Deadline for State party follow-up information: 6 October 2003

Follow-up information received from State party: By note verbale of 14 October 2003, the State party informed the Committee that the author may submit an application for compensation to the state Compensation Deliberation Committee or file a lawsuit, in accordance with provisions of the State Compensation Act. The "law-abidance oath system" was abolished for fear that it infringed the freedom of conscience and expression as enshrined in the Constitution as well as the Covenant rights. Detainees are generally accommodated in cells on their own rather than in groups. Such "single confinement", according to the State party, is misinterpreted in the Views as "solitary confinement". Detainees in single cells are

given the same treatment as those in group cells. The Committee's Views have been published.

Follow-up information received from author: None

Special Rapporteur's recommendation: The author is requested to comment on the State party's submission.

LATVIA:

Ignatane v. Latvia, Case no. 884/1999, Views adopted on 25 July 2001

Violations found: Article 25

Issues of case: Arbitrary denial of candidate eligibility on basis of language

Remedy recommended: "An effective remedy" for the author.

Deadline for State party follow-up information: 29 October 2001

Follow-up information received from State party: By notes verbales of 24 October 2001 and 7 March 2002, the State party informed the Committee that a special working group had submitted to the Cabinet of Ministers proposals on measures to be taken to give effect to the Committee's Views. On 6 November 2001, the Cabinet accepted two legislative amendments to the "Statutes of the State Language Centre" and "Regulations on the Proficiency Degree in the State Language Required for the Performance of the Professional and Positional Duties on the Procedure of Language Proficiency Tests", thus removing the problematic issues identified by the Committee. The State party also informed the author on 3 December 2001 of the steps it had taken to give effect to the Committee's Views.

Follow-up information received from author: None

Special Rapporteur's recommendations: The State party should provide the Committee with copies of the legislative amendments.

LITHUANIA:

Gelazauskas v. Lithuania, Case no. 836/1998, Views adopted on 17 March 2003

Violations found: Article 14, paragraph 5

Issues of case: Unfair trial; no appeal.

Remedy recommended: The opportunity to lodge a new appeal or, should this no longer be possible, to give due consideration to releasing the author.

Deadline for State party follow-up information: 18 November 2003

Follow-up information received from State party: By note verbale of 25 July 2003, the State party informed the Committee that the author was released (three years, two months and 10 days) prior to the completion of his sentence pursuant to the decision of the District Court of Kaisiadorys District. Also, since the reform of the court system and the adoption of the new Code of Criminal Procedure which came into force on 1 May 2003, the State party guarantees to every person under its jurisdiction the requirement provided in article 14, paragraph 5, of the Covenant, that everyone convicted of a crime shall have the right “to his conviction and sentence being reviewed by a higher tribunal according to law”.

Follow-up information received from author: None

Special Rapporteur’s recommendations: No further consideration under the follow-up procedure required, as the State party has complied with the Committee’s recommendations.

Filipovich v. Lithuania, Case no. 875/1999, Views adopted on 4 August 2003

Violations found: Article 14, paragraph 3(c).

Issues of case: Unfair trial; unduly prolonged proceedings; heavier retroactive punishment.

Remedy recommended: Compensation to the author.

Deadline for State party follow-up information: 3 November 2003

Follow-up information received from State party: By note verbale of 19 November 2003, the State party informed the Committee that, on 15 December 1998, the author was released on parole (10 months and 19 days) prior to serving his sentence. Subsequently, on 9 October 2003, an offer of compensation in the amount of 1,450 euros was made to the author by the State party. It is awaiting a response from the author. It informs the Committee of its intention to make the necessary amendments to the Law on Compensation, to allow for the provision of same for damage caused by unlawful acts of state authorities. It provides a copy of the new Code of Criminal Procedure which came into force on 1 May 2003 and which provides for effective domestic remedies in future cases of unreasonably prolonged pre-trial investigations. For these reason the State party submits that it has given full effect to the Views of the Committee.

Follow-up information received from author: By submission of 11 February 2004, the author confirmed that the State party had provided him with compensation of 1.450 euros.

Special Rapporteur’s recommendation: No further consideration under the follow-up procedure required, as the State party has complied with the Committee’s recommendations.

NAMIBIA :

Diergaardt v. Namibia, Case no. 760/1997, Views adopted on 25 July 2000

Violation found: Article 26

Issues of case: Rehoboth Baster Community - Self-government, right to enjoy their own culture, unfair hearing (right to equality before the Courts), lack of language legislation

Remedy recommended: To allow the authors to respond in other languages than the State party's official one in a nondiscriminatory manner.

Deadline for State party follow-up information: 21 December 2000

Follow-up information received from State party: The State party, following consultations with the Special Rapporteur during the seventy-fourth session, informed the Committee, by note verbale of 28 May 2002, that its Constitution does not prohibit the use of languages other than English in schools, and the authors did not claim that they had established a non-English school and had been asked to close it. The State party states that there are no private courts, and no law barring the traditional courts of the authors from using their language of choice. Persons appearing before the official English-speaking tribunals are provided State-paid interpreters in any of the 12 State languages, and proceedings do not continue if interpreters are unavailable. The authors' community's proceedings are conducted, as others, in the language of choice, but all communities' proceedings are recorded in the official language of English. The State party notes that no African State provides translations for all persons wishing to communicate in non-English languages, and that, contrary to the previous regime, civil servants must work all over the country. If a civil servant speaks a non-official language, she or he will endeavour to assist a person using that language. The State party refers to a circular of the Minister of Justice of 9 July 1990 to the effect that civil servants may receive and process non-English correspondence, but should respond in writing in English.

Follow-up information received from author: None

Special Rapporteur's recommendations: No further consideration under the follow-up procedure required, as the State party has complied with the Committee's recommendations.

Muller and Engelhard v. Namibia, Case no. 919/2000, Views adopted on 26 March 2002

Violation found: Article 26

Issues of case: Discrimination in assumption of spouse's surname

Remedy recommended: In providing an effective remedy should avoid any discrimination in the choice of their common surname.

Deadline for State party follow-up information: 25 September 2002

Follow-up information received from State party: By note verbale of 23 October 2002, the State party notes that it informed the authors, through their legal representative (the Legal Assistance Centre, Windhoek) that they may proceed, under the Aliens Act 1937, to assume as family name the surname of the wife in accordance with procedures laid down by the aforementioned Act. Further, the Government has published the Committee's Views on the website of the Human Rights and Documentation Centre of the University of Namibia, a body devoted to human rights education and information. As far as the Government of the

State party is concerned, it is argued that it is not within the Government's power to dictate to the courts of law of Namibia, including the Supreme Court, what should be their discretion with respect to the award of costs in matters before them. Due to the principle of separation of powers, the Government cannot interfere with the order of costs awarded to the successful party in the matter in question.

Follow-up information received from author: None

Special Rapporteur's recommendations: No further consideration under the follow-up procedure, as the State party has complied with the Views.

NETHERLANDS:

Jansen-Gielen, Case no. 846/1999, Views adopted on 3 April 2001

Violations found: Article 14, paragraph 1

Issues of case: Inequality of arms in judicial proceedings

Remedy recommended: "An effective remedy" to the authors.

Deadline for State party follow-up information: 28 August 2001

Follow-up information received from State party: By submission of 10 September 2001, the State party informed the Committee that it had paid the author *ex gratia* 5,000 guilders, including any costs of psychiatric reports provided in the national proceedings, and a further 3,500 guilders by way of reimbursement for legal assistance. As to the systemic issue, the entry into force of the General Administrative Law Act on 1 January 1994 prevents recurrence of future similar violations.

Follow-up information received from author: None

Special Rapporteur's recommendations: No further consideration under the follow-up procedure required, as the State party has complied with the Committee's recommendations.

NEW ZEALAND:

Rameka v. New Zealand, Case no. 1090/2002, Views adopted on 6 November 2003

Violation found: Article 9, paragraph 4.

Issues of case: Preventative detention

Remedy recommended: The ability to challenge the justification of his continued detention for preventive purposes once the seven and a half year period of punitive sentence has been served

Deadline for State party follow-up information: 9 February 2004

Follow-up information received from State party: On 3 February 2004, the State party informed the Committee that Section 25(3) of the Parole Act 2000 provides that the Minister of Justice may designate a class of offenders who have not yet reached their parole eligibility dates for early consideration by the Parole Board, who would review the justification for a person's continued detention for preventative purposes. The Minister for Justice proposes to designate as a class of offenders for early consideration by the Parole Board, any offender who has been sentenced to preventative detention under the Criminal Justice Act if: (1) a Court has indicated that, had preventative detention not been imposed, the finite sentence that would have instead been imposed on the offender would have been less than 10 years imprisonment; and (2) the offender has served a period of imprisonment of not less than the full term of the notional finite sentence; and (3) the offender has applied for early parole consideration. This designation should ensure that Mr. Harris has the ability to challenge his continued detention at the time the notional finite sentence period mentioned in the Court of Appeal judgment has expired. In addition, the State party advises that the law on preventative detention has been amended. The Sentencing Act 2002 requires the Court to make an order at the time a sentence of preventative detention is imposed as to the minimum period of detention, which must be for a period of not less than five years. The offender becomes eligible for regular review once the minimum period of detention has expired.

Follow-up information received from author: On 12 March 2004, the authors responded to the State party's submission, and stated that the remedy was ineffective that the remedy itself is a new violation of article 15 and that the State party failed to publicise the Views. The authors referred to article 15 which provides that "...If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby." They argue that they are being denied their rights contained in article 15, as a lighter penalty now applies following the passing of the Sentencing Act 2002 as advised by the State party. Under the terms of the new Act the authors are entitled to consideration of parole as of right after 5 years imprisonment, not a minimum of 10 years as provided in the previous legislation, or at 7 and a half years for Harris. As the new Act itself defines the imprisonment period as a "sentence", the authors argue that the sentence reduction from 10 years to 5 years before consideration of parole is clearly a lighter penalty for the purposes of article 15. Neither the Special Rapporteur on New Communications nor the Special Rapporteur on Follow-up to Views considered the submission to pertain to follow-up but is in fact a new communication and should be dealt with in the ordinary course.

Special Rapporteur's recommendations: While noting the author's dissatisfaction with the remedy offered by the State party, the Committee does not intend to consider the matter any further under the follow-up procedure.

NICARAGUA:

Zelaya Blanco v. Nicaragua, Case no.328/1988, Views adopted on 20 July 1994

Violations found: Articles 7, 9, paragraph 1, 10, paragraph 1 and 14, paragraph 3 (g)

Issues of case: Arbitrary arrest, ill-treatment, denial of medical treatment and forced confession

Remedy recommended: Appropriate compensation and an official investigation into the allegations of ill-treatment and torture

Deadline for State party follow-up information: 22 December 1994

Follow-up information received from State party: By submissions of 23 July 2001 and 19 March 2002, the State party informed the Committee that there is no special procedure for demanding compensation in cases of torture and ill-treatment. The author could, however, request compensation through the ordinary courts pursuant to the Code of Civil Procedure. Compensation cannot be paid by virtue of an executive decree or administrative decision, but would require a judicial decision. With regard to the Committee's request that the State party carry out an official investigation into the torture and ill-treatment suffered by the author, the State party explained that in view of the many years that have elapsed since the violations, it is very difficult for the State party to carry out the necessary investigations, also taking into account that the Oficina de Seguridad de Estado no longer exists, the old prison authorities have been transferred elsewhere and certain amnesties are now in force.

Follow-up information received from author: See previous follow-up report (CCPR/C/71/R.13) or the Committee's Annual Report (A/57/40, Vol.1, para. 246.

Consultations with State party: During the 74th session, the Special Rapporteur met with the representative of the State party who reiterated the abovementioned information previously supplied.

Special Rapporteur's recommendations: The Committee should request further information on this case during consideration of the next report.

PERU:

Ato del Avellanal v. Peru, Case no. 202/1986, Views adopted on 28 October 1988

Violations found: Articles 3, 14, paragraph 1 and 26.

Issues of case: Discrimination on ground of sex

Remedy recommended: To take effective measures to remedy the violations suffered by the victim

Deadline for State party follow-up information: 9 June 1989

Follow-up information received from State party: See previous Follow-up report of 20 March 2001 (CCPR/C/71/R.13) or the Committee's Annual Report (A/56/40, Vol.1, para.194).

Follow-up information received from author: In numerous letters between 1 October 1999 and 31 July 2003, the author informed the Committee that the State party had still not implemented the Views and requested the Committee to intercede.

Consultations with State party: As referred to in the previous follow-up report (CCPR/C/71/R.13) and the Committee's Annual Report (A/56/40, Vol.1, para.194), the Special Rapporteur met with a representative of Peru on 24 October 2000. The Delegate indicated that the law had been changed and would provide information in writing.

Special Rapporteur's recommendations: A further follow-up consultation with the State party should be arranged.

Munoz Hermoza v. Peru, Case no. 203/1986, Views adopted on 4 November 1998

Violations found: Article 14, paragraph 1

Issues of case: Denial of reinstatement of ex-sergeant to his post, unduly prolonged judicial proceedings

Remedy recommended: Adequate compensation to the author.

Deadline for State party follow-up information: 11 June 1991

Follow-up information received from State party: In follow-up consultations held during the 79th session, the State party orally informed the Committee that a remedy had been granted to the author. Written confirmation of this information and clarification of the nature of the remedy granted has not been provided.

Follow-up information received from author: See previous follow-up report (CCPR/C/71/R.13).

Special Rapporteur's recommendations: Another follow-up consultation with the State party should be arranged.

Gutiérrez Vivanco v. Peru, Case no. 678/1996, Views adopted on 26 March 2002

Violations found: Article 14, paragraphs 1 and 3(c)

Issues of case: Charges for terrorism; trial before court of "faceless" judges.

Remedy recommended: Compensation

Deadline for State party follow-up information: 23 September 2002

Follow-up information received from State party: By note verbale of 1 October 2002, the State party requested an extension of the 90 days deadline to provide information on follow-up. No further information received.

Follow-up information received from author: None

Special Rapporteur's recommendations: A follow-up consultation with the State party should be arranged.

Arredondo v. Peru, Case no. 688/1996, Views adopted on 27 July 2000

Violations found: Articles 9, paragraph 1, 10, paragraph 1; article 14, paragraphs 1, and 3(c)

Issues of case: Arbitrary arrest, undue delay in proceedings, unfair trial, inhuman conditions of detention

Remedy recommended: The Committee considered that Ms. Arredondo should be released and adequately compensated.

Deadline for State party follow-up information: 24 September 2000

Follow-up information received from State party: By note verbale of 16 December 2002, the State party informed the Committee that by decision of the 28th Criminal Judge of Lima, the author was released on 6 December 2002.

Follow-up information received from author: The author informed the Committee, by letter of 2 July 2002, that the State Party did not implement the Committee's Views and that Mrs. Arredondo remains in prison.

Special Rapporteur's recommendations: The author should be requested to comment on the State party's submission of 16 December 2002.

Vargas Machuca v. Peru, Case no. 906/2000, Views adopted on 22 July 2002

Violations found: Article 25 (c), read together with article 2, paragraph 3.

Issues of case: Unfair trial; access to public service

Remedy recommended: Effective reinstatement of the author to his duties and to his post, with all the consequences that that implies, at the rank that he would have held had he not been dismissed in 1991, or to a similar post; compensation comprising a sum equivalent to the payment of the arrears of salary and remuneration that he would have received from the time at which he was not reinstated to his post.

Deadline for State party follow-up information: 11 November 2002

Follow-up information received from State party: By note verbale of 1 October 2002, the State party requested an extension of the 90 days for the submission of its follow-up replies. No further submission since then.

Follow-up information received from author: The author informed the Committee, by letter of 29 November 2002, that in spite of all the steps he has taken with the Ministry of Foreign Affairs of Peru and the National Counsel of Human Rights of the Justice Ministry (Consejo Nacional de Derechos Humanos del Ministerio de Justicia-Lima), the Committee's Views have not been implemented. He has not been reinstated in his military position, nor received compensation. He requested the Peruvian authorities to award him the grade of Lieutenant Colonel, which would correspond to his 17 years of army service. The author provides expert evidence which evaluates his damages at 452,344.58 new soles in terms of lost remuneration,

and 100,000 dollars for court costs. By letter of 23 August 2003, the author reiterated that the State party had not implemented the Views.

Special Rapporteur's recommendations: A follow-up consultation with the State party should be arranged.

PHILIPPINES:

Cagas v. Philippines, Case no. 788/1997, Views adopted on 23 October 2001

Violations found: Articles 9, paragraph 3, and 14, paragraphs 2, and 3 (c).

Issues of case: Preventative: Detention without bail; undue pre-trial delay.

Remedy recommended: Adequate compensation for the time the authors have been unlawfully detained.

Deadline for State party follow-up information: Not available

Follow-up information received from State party: None

Follow-up information received from author: The authors informed the Committee, by letters of 22 October and 4 November 2002, that the Views have not been published and that the presiding Judge of the Regional Court has consistently refused to rule on the case.

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

Carpo v. Philippines, Case no. 1077/2002, Views adopted on 28 March 2003

Violation found: Article 6, paragraph 1

Issues of case: Mandatory nature of death penalty

Remedy recommended: Commutation

Deadline for State party follow-up information: 12 August 2003

Follow-up information received from State party: None

Follow-up information received from author: On 3 February 2004, author's counsel informed the Secretariat that on the bases of the Views a petition for a Writ of Habeas Corpus had been heard before the Supreme Court but was denied. A motion for reconsideration was subsequently filed and is pending. The author sent a letter to the Office of the President seeking some action pursuant to the Committee's Views but no response has been forthcoming. Counsel requests the Committee to urge the State party to implement its Views.

Special Rapporteur's recommendations: A reminder should be sent to the State party and a meeting should be arranged with a representative of the State party

RUSSIAN FEDERATION:

Gridin v. Russian Federation, Case no. 770/1997, Views adopted on 20 July 2000

Violations found: Articles 9, paragraph 1 and 14, paragraphs 1, 2 and 3(c).

Issues of case: Unlawful arrest and detention (warrant issued 3 days after the beginning of the detention) and denial of access to a lawyer, unfair trial, violation of the presumption of innocence.

Remedy recommended: Compensation for and immediate release of the author.

Deadline for State party follow-up information: 14 December 2000

Follow-up information received from State party: By note verbale of 18 October 2001, the State party informed the Committee that the Supreme Court and the General Prosecutor's Office had re-examined the case in the light of the Committee's Views but did not share the Committee's opinion. All procedures were carried out according to law. As soon as the author's family requested legal advice, it was provided. Although afforded the opportunity, many of the issues pleaded before the Committee were not raised by the author or his counsel during proceedings, and, of those that were raised, some were resolved in his favour.

Follow-up information received from author:

By letter of 14 January 2002, the author responded to the State party's submission of 28 October 2001, that the State party had not duly considered the Committee's Views, and that the statements advanced by the State party should have been supplied prior to the determination of the case. In any case, the author claims that the State party's factual contentions and conclusions were incorrect. By submission of 3 September 2003, the author informed the Committee that the State party had not given effect to the Views and requested the Committee to remind the State party of its obligation to do so.

Consultations with State party: On 27 October 2003, in a meeting with a representative of the State party in Geneva, the Special Rapporteur referred to the instant case as well as the case of Lantsova v. Russian Federation, Case no. 763/1997, Views adopted on 26 March 2002 (See A/58/40, Vol. 1, para. 247), in which the Committee found violations of the Covenant by the State party. He referred to the response by the State in which it informed the Special Rapporteur that the General Prosecutor's Office had reexamined these cases and challenged the Committee's findings. He reminded the State party's representative that irrespective of whether it may have a different view from the Committee, it assumes that upon ratification of the Covenant and Optional Protocol, the SP will take appropriate steps to fulfill these obligations and reminded the State party of its bona fide obligation to implement the Committee's decisions. The representative explained the conflicting views of different Ministries on the nature of the Committee's Views. She suggested further interaction between her colleagues within the State party and the Committee members as well as members of the Secretariat to become more au fait with the work of the Committee and to help combat the challenges posed in the implementation of Views.

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

SIERRE LEONE:

Mansaraj et al. v. Sierre Leone, Case no. 839/1998, Views adopted on 16 July 2001

Gborie Tamba, v. Sierre Leone, Case no. 840/1998, Views adopted on 16 July 2001

Sesay et al. V. Sierre Leone, Case no. 841/1998, Views adopted on 16 July 2001

Violations found: Articles 6 and 14, paragraph 5

Issues of case: No right of appeal by conviction from court martial

Remedy recommended: To provide Anthony Mansaraj, Alpha Saba Kamara, Nelson Williams, Beresford R. Harleston, Bashiru Conteh and Arnold H. Bangura, with an effective remedy. The Committee considered that they should be released unless Sierra Leonian law provides for the possibility of fresh trials that do offer all the guarantees required under article 14 of the Covenant. The Committee also considers that the next of kin of Gilbert Samuth Kandū-Bo, Khemalai Idrissa Keita, Tamba Gborie, Alfred Abu Sankoh (alias Zagalo), Hassan Karim Conteh, Daniel Kobina Anderson, John Amadu Sonica Conteh, Abu Bakarr Kamara, Abdul Karim Sesay, Kula Samba, Victor L. King, and Jim Kelly Jalloh should be afforded an appropriate remedy which should entail compensation.

Deadline for State party follow-up information: 28 October 2001

Follow-up information received from State party: By note verbale of 5 April 2002, the State party informed the Committee that a right of appeal from courts martial had been re-instated, but that it was otherwise not in a position to comply with the Views, as the Committee "did not have jurisdiction to hear the complaint".

Follow-up information received from authors: None

Consultations with State party: At the 74th session, the Special Rapporteur met with the State party representative who indicated that the six persons in question had been released, but also indicated that the Committee had no jurisdiction to hear complaints.

Special Rapporteur's recommendations: Although welcoming the State party's decision to amend its legislation and information that it has released the six living authors, the State party should re-consider its decision not to grant the families of the deceased victims compensation as requested by the Committee, so as to fully implement the Committee's Views.

THE SLOVAK REPUBLIC:

Mátyus v. Slovak Republic, Case no. 923/2000, Views adopted on 22 July 2002

Violations found: Article 25 (a) and (c).

Issues of case: Inequality in elections

Remedy recommended: Given that cancelling elections after they have already taken place may not always be the appropriate remedy in the case of an inequality in the elections, especially when the inequality was inherent in the laws and regulations laid down before the elections, rather than irregularities in the elections themselves. Furthermore, in the specific circumstances of the case, given the time lapse since the elections in December 1998, the Committee is of the opinion that its finding of a violation is of itself a sufficient remedy.

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

Follow-up information received from State party: On 21 October 2002, the State party accepted that the author's rights had been violated by the incorrect application of the electoral regulations. To prevent future violations of this nature the Minister of the Interior has issued directives to the administrative bodies responsible for organizing elections on the correct application of these regulations. The Views have been published.

Follow-up information received from author: None

Special Rapporteur's recommendations: No further consideration under the follow-up procedure.

SPAIN:

Hill v. Spain, Case no. 526/1993, Views adopted on 2 April 1997

Violations found: Articles 9, paragraph 3, 10 and 14, paragraph 3 (c) and (5) for both authors, plus article 14, paragraph 3 (d) in respect of M. Hill only.

Issues of case: Prolonged pre-trial detention and impossibility of the accused to defend themselves in person before the Spanish Courts

Remedy recommended: Compensation

Deadline for State party follow-up information: 29 October 1997

Follow-up information received from State party: See previous Follow-Up report

Follow-up information received from author: On 10 October 2002, the authors provided a copy of an article from "EL PAÍS", where it is, wrongly, stated that the Supreme Court had implemented the Committee's Views. The authors informed the Committee that B. Hill's administrative claim for compensation was rejected by the State Council on 21 March 2002 as his judicial matters are still pending. M. Hill's was similarly notified on 28 May 2003 that his claim was also rejected, with no reasons provided. It appears, that M. Hill has the option of appealing this decision to the Administrative Court in Madrid but that this could take four to seven years. The authors intend to provide further information to the Committee on receipt of two further decisions of the Spanish courts on 9 and 19 of September.

Special Rapporteur's recommendations: A request for clarification should be sent to the State party.

Gómez Vásquez v. Spain, Case no. 701/1996, Views adopted on 20 July 2000

Violations found: Article 14, paragraph 5

Issues of case: Denial of an effective appeal against conviction and sentence for the most serious crimes (incomplete judicial review)

Remedy recommended: Author's conviction must be set aside unless it is subjected to review in accordance with article 14, paragraph 5.

Deadline for State party follow-up information: 14 November 2000

Follow-up information received from State party: See previous follow-up report (CCPR/C/71/R.13) or the Committee's Annual Report (A/57/40, Vol. 1, para. 250). By note verbale of 27 September 2001, the State party informed the Committee of the legislative steps initiated to amend the law on criminal procedure. By note verbale of 4 January 2002, it provided the Committee with a copy of the judgment of the Tribunal Supremo, and further described the progress of the legislative amendments to its law of criminal procedure.

Follow-up information received from author: See previous follow-up report (CCPR/C/71/R.13) or the Committee's Annual Report (A/57/40, Vol. 1, para. 250). By letter of 25 August 2001, author's counsel stated that while the Sala General de Magistrados del Tribunal Supremo had decided to give effect to the Committee's Views, his petitions to the Sala de lo Penal del Tribunal Supremo had been unsuccessful. By letter of 28 December 2001, the author's counsel provided a copy of the judgment of the Tribunal Supremo of 14 December 2001, rejecting his application. Author's counsel criticized the terms and tone of the judgment, and indicated that he had lodged an application before the Constitutional Court against this decision. By letter of 13 May 2002, author's counsel provided a copy of the Judgment of the Constitutional Court dated 3 April 2002, rejecting his application. According to counsel, the Supreme Court had requested the Government to amend the law. In the same letter, counsel requested a meeting between the Committee and the State party. By letters of 26 April and 5 September 2002, he informed the Committee that its Views had still not been implemented. By letter of 4 March 2003, he reported that on 8 January 2002 he filed amparo proceedings in the Constitutional Court. No reply has been received.

Consultations with State party: On 25 July 2002, the Special Rapporteur on Follow-up met with the Permanent Representative. He was asked for information on the latest developments in the case and if the legal system had been reformed in accordance with the Committee's Views. The State's representative replied that she would convey this message to the Spanish Government and answer as soon as possible

Special Rapporteur's recommendations: . On 26 December 2003, the Committee received information that the Spanish Gazette had published a notification of the reform of the legal system in accordance with the Committee's Views (see El Mundo of 4 January 2004). The State party should be requested to provide clarification as to the extent and impact of the legislation.

Semey v. Spain, Case no. 986/2001, Views adopted on 30 July 2003

Violations found: Article 14, paragraph 5

Issues of case: Right to have criminal trial reviewed

Remedy recommended: Conviction should be reviewed in conformity with the requirements of article 14, paragraph 5, of the Covenant.

Deadline for State party follow-up information: 20 November 2003

Follow-up information received from State party: None

Follow-up information received from author: By letter of 16 November 2003, the author complained about the State party's failure to implement the Committee's Views. According to the author, although legislation has been proposed to institute an appeal remedy against sentences delivered by the Audiencia, this would not constitute a proper remedy in his case. In his opinion, the appropriate remedy would be either the annulment of his sentence or his release from prison.

Special Rapporteur's recommendation: Reminder to be sent to the State party.

Sineiro Fernández v. Spain, Case no. 1007/2001, Views adopted on 7 August 2003

Violations found: Article 14, paragraph 5

Issues of case: Arbitrary detention; unfair trial; and right to review

Remedy recommended: An effective remedy. The author's conviction must be reviewed in accordance with article 14, paragraph 5, of the Covenant.

Deadline for State party follow-up information: 10 November 2003

Follow-up information received from State party: None

Follow-up information received from author: On 23 September 2003, Counsel informed the Committee that the author requested the National Audience to suspend his sentence. He also requested an effective remedy under article 2.3 a) of the Covenant before the Supreme Court and subsequently by appeal to the Constitutional Court. He also requested a pardon from the Ministry of Justice. Counsel also provides articles from the 'EL PAÍS' and 'El mundo' newspaper, which refer to the Committee's Views.

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

SRI LANKA:

Jayawardena v. Sri Lanka, Case no. 916/2000, Views adopted on 22 July 2002

Violations found: Article 9, paragraph 1

Issues of case: Death threats against a Member of Parliament

Remedy recommended: “An appropriate remedy” for the author.

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

Follow-up information received from State party: By note verbale of 29 October 2002, the State party informed the Committee that the Government was looking actively into the Committee’s recommendations. It requested an additional 30 days to enable the Sri Lankan authorities to inform the Committee of all measures undertaken by the Government to give effect to its views on the above communication. No further reply received since then.

Follow-up information received from author: In January 2003, the author visited the OHCHR and indicated that he had joined the Cabinet after a change in Government in 2002.

Special Rapporteur’s Recommendations: Reminder to be sent to the State party.

Sarma v. Sri Lanka, Case no. 950/2000, Views adopted on 16 July 2003

Violations found: Articles 7 and 9

Issues of case: Military detention, mistreatment and disappearance

Remedy recommended: A thorough and effective investigation into the disappearance and fate of the author's son, his immediate release if he is still alive, adequate information resulting from its investigation, and adequate compensation for the violations suffered by the author's son, the author and his family. To expedite the current criminal proceedings and ensure the prompt trial of all persons responsible for the abduction of the author's son under section 356 of the Sri Lankan Penal Code and to bring to justice any other person who has been implicated in the disappearance.

Deadline for State party follow-up information: 4 November 2003

Follow-up information received from State party: On 16 March 2004, the State party informed the Committee that it had conducted further investigations into the disappearance of the author’s son, which included taking statements from the author and circulating notices in three newspapers urging anyone who may have information on his disappearance to come forward. No new information has been received to date and considering the lack of news, the State party is of the view that the author’s son is probably dead. The Attorney General has directed the State Counsel to expedite the trial of a Mr. Ratnamala Mudiyansele Sarath Jayasinghe Perera, a former soldier, who is to be prosecuted in the High Court of Trincomalee. Apparently, there was a delay in the proceedings as firstly the accused did not appear in court and when he finally did appear he did so without a lawyer and the trial had to be adjourned. He has since been assigned state counsel and the trial judge will be appraised of the Views of the Committee and requested to expedite the trial. In the event, that the person indicted for his disappearance is found guilty there is provision for the Court to award compensation to the victim’s family. It is also possible for the family to claim compensation from the State.

Follow-up information received from author: None

Special Rapporteur's recommendations: The author should be requested to comment on the State party's submission and the State party requested to provide regular updates on the investigation, the criminal trial and any request for compensation from the author and his family.

TAJIKISTAN:

Kurbanov v. Tajikistan, Case no.1096/2002, Views adopted on 6 November 2003.

Violations found: Articles 6, 7, 9, paragraph 2, and 3, 10, 14, paragraph 1, 3 (a) and (g)

Issues of case: Arbitrary arrest and detention, torture, unfair trial, no/inadequate legal representation, no right to appeal, no interpretation, inhuman conditions, death sentence following unfair trial

Remedy recommended: Compensation and a new trial before an ordinary court and with all the guarantees of article 14, or, should this not be possible, release.

Deadline for State party follow-up information: 10 February 2003

Follow-up information received from State party: None

Follow-up information received from author: On 9 February 2004, the Secretariat received information from the author's mother that the State party intended to execute her son despite the Committee Views. On 12 February, a reminder was immediately sent to the State party to provide information on how it had or intended to implement its Views and reminded the State party of its obligations under article 2 of the Covenant. On 13 February, the Acting High Commissioner, requested the Minister for Foreign Affairs of Tajikistan not to execute the author, reiterated the State party's obligations under article 2 and requested information on the current situation of Mr. Kurbanov. On 10 March 2004, the Secretariat received information that the President of Tajikistan had agreed to grant Mr. Kurbanov a pardon.

Special Rapporteur's recommendations: The State party should be requested to confirm the information received from the author's representative.

TOGO:

Aduayom et al v. Togo, Cases nos. 422-424/1990, Views adopted on 30 June 1994

Violations found: Articles 19, and 25 (c).

Issues of case: Removal from university employment of Togolese citizens openly critical of the State party's President.

Remedy recommended: Compensation determined on the basis of a sum equivalent to the salary which the authors would have received during the period of non-reinstatement starting from 30 June 1988.

Deadline for State party follow-up information: 29 November 1994

Follow-up information received from State party: By note verbale of 24 September 2001, the State party contended that the withdrawal of the charges against Mr. Aduayom et al. did not indicate that the acts charged had not taken place, and accordingly it was not possible to pay any compensation. The State party argued that the authors were seeking politically to destabilize the country, and that accordingly its actions were justified under article 19, paragraph 3, of the Covenant, and no compensation was due. As to article 25, the State party contended that this article was inapplicable to persons already having had access to, or who were in, the public service. Accordingly, one could only speak of a regularization of the authors' situations, which had occurred.

Follow-up information received from authors: None

Consultations with State party: At the seventy-fourth session, the Special Rapporteur held consultations with representatives of the Permanent Mission of Togo in New York.

Special Rapporteur's recommendations: No further action under the follow-up procedure proposed.

Ackla v. Togo, Case no. 505/1992, Views adopted on 25 March 1996

Violations found: Article 12, paragraph 1

Issues of case: Togolese citizen prohibited from entering his home district and native village.

Remedy recommended: Measures to immediately restore Mr. Ackla's freedom of movement and residence, as well as appropriate compensation.

Deadline for State party follow-up information: 29 July 1996

Follow-up information received from State party: By note verbale of 24 September 2001, the State party advised that the author's allegations against the State party relating to restrictions of his movement and the confiscation of his house were wholly groundless.

Follow-up information received from author: See previous follow-up report (CCPR/C/71/R.13).

Consultations with State party: At the seventy-fourth session, the Special Rapporteur held consultations with representatives of the Permanent Mission of Togo in New York.

Special Rapporteur's recommendations: No further action under the follow-up procedure proposed.

TRINIDAD AND TOBAGO:

Soogrim v. Trinidad and Tobago, Case no.362/1989, Views adopted on 8 April 1993

Violations found: Articles 7 and 10, paragraph 1

Issues of Case: Ill-treatment of prisoner under sentence of death and failure to provide inmate with medical treatment.

Remedy recommended: Compensation to the author.

Deadline for State party follow-up information: 6 September 1993

Follow-up information received from State party: None

Follow-up information received from author: See previous follow-up report ((CCPR/C/71/R.13) or the Committee's Annual Report (A/57/40, Vol.1, para. 252). The author informed the Committee, by letters of 20 March and 16 December 2002, that the Committee's Views are still not implemented and that he remains in prison. The author requests the Committee to take the necessary steps to see its Views implemented.

Special Rapporteur's Recommendations: The previous follow-up report (CCPR/C/71/R.13) referred to the possibility of a Mission to Trinidad and Tobago. By note verbale of 17 November 1997, the Ambassador confirmed that the Committee's request for a mission had been forwarded to the Port-of-Spain. There has been no further reaction from the State party. In the light of developments since 2001, follow-up missions to other States parties might appear to be more appropriate.

Neptune v. Trinidad and Tobago, Case no. 523/1992, Views adopted on 16 July 1996

Violations found: Articles 9, paragraph 3, 10, paragraph 1 and 14, paragraphs 3(c), and 5

Issues of Case: Unjustifiable length of judicial proceedings; inhumane conditions of detention.

Remedy recommended: Early release, and, pending release, the immediate improvement of the circumstances of Mr. Neptune's detention.

Deadline for State party follow-up information: Not available

Follow-up information received from State party: See previous follow-up report (CCPR/C/71/R.13).

Follow-up information received from author: The author informed the Committee, by letters of 1 January, 15 April and 17 December 2002, that the Committee's Views are still not implemented, that he remains in prison with worsening conditions of detention, and has no access to counsel.

Special Rapporteur's Recommendations: The previous follow-up report (CCPR/C/71/R.13) referred to the possibility of a Mission to Trinidad and Tobago. By note verbale of 17 November 1997, the Ambassador confirmed that the Committee's request for a mission had been forwarded to the Port-of-Spain. There has been no further reaction from the State party. In the light of developments since 2001, follow-up missions to other States parties might appear to be more appropriate.

Kennedy, Rawle v. Trinidad and Tobago, Case no. 845/1999, Views adopted on 26 March 2002

Violations found: Articles 2, paragraph 3, 6, paragraph 1, 7, 9, paragraph 3, 10, paragraph 1 and article 14, paragraph 1, 3, (c), (d), and 5.

Issues of Case: Mandatory death penalty; delays; mistreatment; poor conditions; unfair clemency procedure; permissibility of reservations to the Covenant and Optional Protocol.

Remedy recommended: Compensation and consideration of early release

Deadline for State party follow-up information: Not available

Follow-up information received from State party: By note verbale of 25 July and 3 September 2002, the State party informed the Committee, that the Views were transmitted to the competent authorities in the Port of Spain for its attention.

Follow-up information received from author: None

Special Rapporteur's Recommendations: The previous follow-up report (CCPR/C/71/R.13) referred to the possibility of a Mission to Trinidad and Tobago. By note verbale of 17 November 1997, the Ambassador confirmed that the Committee's request for a mission had been forwarded to the Port-of-Spain. There has been no further reaction from the State party. In the light of developments since 2001, follow-up missions to other States parties might appear to be more appropriate.

Francis et al. v. Trinidad and Tobago, Case no. 899/1999, Views adopted on 25 July 2002

Violations found: Article 10

Issues of Case: Delay in trial and appeal, poor conditions of detention

Remedy recommended: Adequate compensation. In the light of the long years spent by the authors in deplorable conditions of detention that violate article 10 of the Covenant, the State party should consider early release of the authors.

Deadline for State party follow-up information: 3 November 2002

Follow-up information received from State party: By note verbale of 25 July and 3 September 2002, the State party informed the Committee, that the Views were transmitted to the competent authorities in Port of Spain for its attention.

Follow-up information received from authors: None

Special Rapporteur's Recommendations: The previous follow-up report (CCPR/C/71/R.13) referred to the possibility of a Mission to Trinidad and Tobago. By note verbale of 17 November 1997, the Ambassador confirmed that the Committee's request for a mission had been forwarded to the Port-of-Spain. There has been no further reaction from the State party. In the light of developments since 2001, follow-up missions to other States parties might appear to be more appropriate.

UKRAINE:

Zheludkov v. Ukraine, Case no. 726/1996, Views adopted on 5 November 2002

Violations found: Article 9, paragraph 3, and article 10, paragraph 1

Issues of Case: Denial of access to medical records; failure to be brought promptly before a judicial officer

Remedy recommended: Compensation, and to take effective measures to ensure that similar violations do not recur in the future, especially by taking immediate steps to ensure that the decisions concerning the extension of custody are taken by an authority, having the institutional objectivity and impartiality necessary to be considered an "officer authorized to exercise judicial power" within the meaning of article 9, paragraph 3 of the Covenant.

Deadline for State party follow-up information: 30 February 2002

Follow-up information received from State party: By note verbale of 29 January 2003, the State party informed the Committee that, following an exhaustive investigation by the Attorney General's office, the author's conviction was considered lawful and well-founded. Torture of the author during the investigation was not demonstrated. It acknowledged violations of procedural rules at the time of the preliminary investigation. It accepted that when the author was informed about expert testimony, his counsel was not present. However, these violations do not affect the lawfulness of the judgment. It referred to the European Court's jurisprudence in *Shisser v. Switzerland* case, in which the Court declared that the Regional Attorney is an officer authorized by law to exercise judicial power and that the Swiss Attorney executes investigation functions and also accusation functions. The State party adds that the author was released on parole on 29 December 1998, i.e. 1 month and 25 days before the expiry of his sentence. He did not complain about bad prison conditions, or his state of health. It could not be determined whether the author's mother or his counsel requested medical consultations, or access to his medical file, nor who requested to forward him medication. Following a request from the local Helsinki Committee, several medical examinations were administered to the author in the Regional Hospital, on 31 October 1994.

Follow-up information received from author: None

Special Rapporteur's Recommendations: No further action under the follow-up procedure required.

ZAMBIA:

Mukunto v. Zambia, Case no. 768/1997, Views adopted on 2 August 1999

Violations found: Article 14, paragraph 1

Issues of case: Denial of access to court

Remedy recommended: Compensation for the undue delay in deciding the authors compensation claim for the illegal detention he suffered in 1979

Deadline for State party follow-up information: 9 November 1999

Follow-up information received from State party: By note verbale of 12 June 2002, the State party indicated that both parties had agreed that the sum of \$5,000 compensation was a full and final settlement, and supplied a signed undertaking of full satisfaction by the author of a sum of 20 million Kwacha.

Follow-up information received from author: By letter of 2 April 2002, the author informed the Committee that the State party had paid him US\$ 5,000 as compensation. The author regarded this payment as insufficient satisfaction of his claim for US\$ 80,000, and pointed out further that the State party had not published the Committee's Views.

Special Rapporteur's recommendations: No further consideration under the follow-up procedure, as the State party has complied with the Committee's recommendations.

Chongwe v. Zambia, Case no. 821/1998, Views adopted on 25 October 2000

Violations found: Articles 6, paragraph 1, and 9, paragraph 1.

Issues of case: Attempted murder of the chairman of the opposition alliance.

Remedy recommended: Adequate measures to protect the author's personal security and life from threats of any kind. The Committee urged the State party to carry out independent investigations of the shooting incident, and to expedite criminal proceedings against the persons responsible for the shooting. If the outcome of the criminal proceedings reveals that persons acting in an official capacity were responsible for the shooting and hurting of the author, the remedy should include damages to Mr Chongwe.

Deadline for State party follow-up information: 8 February 2001

Follow-up information received from State party: By note verbale of 10 October 2001, the State party contended that the Committee had not indicated the quantum of damages payable, much less directed payment of the US\$ 2.5 million claimed by the author. By its note verbale of 14 November 2001, the State party provided copies of correspondence between its Attorney-General and the author, in which the author was provided assurances that the State party would respect his right to life and invited him to return to its territory. As to the issue of compensation, the Attorney-General indicated to the author that this would be dealt with at the conclusion of further investigations into the incident, which had been hindered by the

author's earlier refusal to cooperate. By letter of 28 February 2002, the State party noted that the domestic courts could not have awarded the quantum of damages sought, that the author had fled the country for reasons unrelated to the incident in question, and that, while the Government saw no merit in launching a prosecution, it was open to the author to do so. By note verbale of 13 June 2002, the State party reiterated its position that it was not bound by the Committee's decision as domestic remedies had not been exhausted. The author chose to leave the country of his own will, but remained at liberty to commence proceedings even in his absence. In any event, the new President had confirmed to the author that he was free to return. Indeed the State hoped that he would do so and then apply for legal redress. Mr. Kaunda, who was attacked at the same time as the author, is said to be a free citizen carrying on his life without any threat to his liberties.

Follow-up information received from author: On 5 and 13 November 2001, the author objected to the State party's observations in its notes of 10 October and 14 November 2001, and sought an effective remedy. By letter of 26 April 2002, the author pointed out that the State party had provided compensation in other Optional Protocol cases. The author also speaks of further attempts upon Mr. Kaunda's life by State agents since the incident forming the subject of the communication. He reiterated his fears for his safety if he returned. The author noted that no action had been taken on the conclusions of a recent commission of inquiry into torture of suspects in the 1997 attempted coup attempt. He repeated his request for a full remedy.

Consultations with State party: On 20 October 2001, at the Committee's seventy-third session, the Special Rapporteur met with a representative of the Zambian mission. It was explained that the case could not be reopened and that the State party was given the opportunity to make submissions to the Committee within the prescribed deadlines.

Special Rapporteur's recommendations: No further action under the follow-up procedure.