

## LITHUANIA

### Follow-up - Jurisprudence Action by Treaty Bodies

CCPR A/58/40, vol. I (2003)

#### CHAPTER VI. Follow-up activities under the Optional Protocol

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223. The previous annual report of the Committee<sup>1</sup> contained a detailed country-by-country survey of follow-up replies received or requested and outstanding as of 30 June 2002. The list that follows updates that survey, indicating those cases in which replies are outstanding, but does not include responses concerning the Committee's Views adopted during the seventy-seventh and seventy-eighth sessions, for which follow-up replies are not yet due in the majority of cases. In many cases there has been no change since the previous report.\*

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Lithuania: Views in one case with findings of violations:

836/1998 - *Gelazauskas* (annex VI); follow-up reply not yet due.

#### Notes

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

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

## CCPR CCPR/C/80/FU/1 (2004)

### Follow-Up Progress Report submitted by The Special Rapporteur for Follow-Up on Views

#### Follow-up progress report

1. The current report updates the previous Follow-up Progress Report, (CCPR/C/71/R.13) [*Ed. Note: CCPR/C/71/R.13 is not publicly available*] which focused on cases in which, by the end of February 2001, no or only incomplete follow-up information had been received from States parties, or where follow-up information challenged the findings and recommendations of the Committee. In an effort to reduce the size of the follow-up report, this current report only reflects cases in which information was received from either the author or the State party from 1 March 2001 to 2 April 2004. It is the intention of the Special Rapporteur to update this report on an annual basis.

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#### 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.

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CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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230. The previous annual report of the Committee<sup>1</sup> contained a detailed country-by-country survey of follow-up replies received or requested and outstanding as of 30 June 2003. The list that follows updates that survey, indicating those cases in which replies are outstanding, but does not include responses concerning the Committee's Views adopted during the eightieth and eighty-first sessions, for which follow-up replies are not yet due in the majority of cases. In many cases there has been no change since the previous report.\*

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Lithuania: Views in two cases with findings of violations:

836/1998 - *Gelzauskas* (A/58/40); follow-up reply not yet received;

875/1999 - *Filipovich* (A/58/40); see paragraph 243 below for follow-up reply; in the follow-up report (CCPR/C/80/FU1), adopted by the Committee during its eightieth session, the Special Rapporteur recommended that neither of these cases should continue to be considered under the follow-up procedure as the State party had complied with the Committee's Views.

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OVERVIEW OF FOLLOW-UP REPLIES RECEIVED DURING THE REPORTING PERIOD,  
SPECIAL RAPPORTEUR'S FOLLOW-UP CONSULTATIONS AND OTHER DEVELOPMENTS

231. The Committee welcomes the follow-up replies that have been received during the reporting period and expresses its appreciation for all the measures taken or envisaged to provide victims of violations of the Covenant with an effective remedy. It encourages all States parties which have addressed preliminary follow-up replies to the Special Rapporteur to conclude their investigations in as expeditious a manner as possible and to inform the Special Rapporteur of their results. The follow-up replies received during the period under review and other developments are summarized below.

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246. Lithuania: as to case No. 836/1998 - *Gelzauskas* (A/58/40): on 25 July 2003, the State party informed the Committee that the author had been released 3 years, 2 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”.

247. Case No. 875/1999 - *Filipovich* (A/58/40): on 19 November 2003, the State party informed the Committee that, on 15 December 1998, the author had been released on parole 10 months and 19 days prior to the completion of 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 informed the Committee of its intention to make the necessary amendments to the Law on Compensation, to allow for the provision of compensation for damage caused by unlawful acts of State authorities. It provided a copy of the new Code of Criminal Procedure, which provides for effective domestic remedies in future cases of unreasonably prolonged pre-trial investigations. By submission of 11 February 2004, the author confirmed that the State party had provided him with compensation of 1,450 euros. On 6 February 2004, the State party provided the same information.

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#### Notes

1/ Ibid., *Fifty-eighth Session, Supplement No. 40* (A/58/40), vol. I, chap. VI.

\* The document symbol A/[session No.]/40 refers to the *Official Records of the General Assembly* in which the case appears; annex IX refers to the present report, volume II.

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**CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL**

224. In July 1990, the Committee established a procedure for the monitoring of follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and created the mandate of the Special Rapporteur for the follow-up on Views to this effect. Mr. Ando has been the Special Rapporteur since March 2001 (seventy-first session).

225. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information has been systematically requested in respect of all Views with a finding of a violation of Covenant rights. A total of 391 Views out of the 503 Views adopted since 1979 concluded that there had been a violation of the Covenant.

228. In many cases, the Secretariat has also received information from complainants to the effect that the Committee's Views have not been implemented. Conversely, in rare instances, the petitioner has informed the Committee that the State party has in fact given effect to the Committee's recommendations, even though the State party did not itself provide that information.

229. The present annual report adopts a different format for the presentation of follow-up information compared to previous annual reports. The table below displays a complete picture of follow-up replies from States parties received as of 28 July 2005, in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of complying with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up on Views continues. The notes following a number of case entries convey an idea of the difficulties in categorizing follow-up replies.

230. Follow-up information provided by States parties and by petitioners or their representatives since the last annual report is set out in a new annex VII, contained in Volume II of the present annual report. This, more detailed, follow-up information also indicates action still outstanding in those cases that remain under review.

## FOLLOW-UP RECEIVED TO DATE FOR ALL CASES OF VIOLATIONS OF THE COVENANT

State party and number of cases with violation	Communication number, author and location <sup>a</sup>	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response	Follow-up dialogue ongoing
...						
Lithuania (2)	836/1998, <i>Gelazauskas</i> A/58/40	X A/59/40	X			
	875/1999, <i>Filipovich</i> A/58/40	X A/59/40	X			

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

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## CHAPTER VI FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

227. In July 1990, the Committee established a procedure for the monitoring of follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and created the mandate of the Special Rapporteur for follow-up to Views to this effect. Mr. Ando has been the Special Rapporteur since March 2001 (seventy-first session).

228. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information has been systematically requested in respect of all Views with a finding of a violation of Covenant rights; 429 Views out of the 547 Views adopted since 1979 concluded that there had been a violation of the Covenant.

229. All attempts to categorize follow-up replies by States parties are inherently imprecise and subjective: it accordingly is not possible to provide a neat statistical breakdown of follow-up replies. Many follow-up replies received may be considered satisfactory, in that they display the willingness of the State party to implement the Committee's recommendations or to offer the complainant an appropriate remedy. Other replies cannot be considered satisfactory because they either do not address the Committee's Views at all or only relate to certain aspects of them. Some replies simply note that the victim has filed a claim for compensation outside statutory deadlines and that no compensation can therefore be paid. Still other replies indicate that there is no legal obligation on the State party to provide a remedy, but that a remedy will be afforded to the complainant on an *ex gratia* basis.

230. The remaining follow-up replies challenge the Committee's Views and findings on factual or legal grounds, constitute much-belated submissions on the merits of the complaint, promise an investigation of the matter considered by the Committee or indicate that the State party will not, for one reason or another, give effect to the Committee's Views.

231. In many cases, the Secretariat has also received information from complainants to the effect that the Committee's Views have not been implemented. Conversely, in rare instances, the petitioner has informed the Committee that the State party had in fact given effect to the Committee's recommendations, even though the State party had not itself provided that information.

232. The present annual report adopts the same format for the presentation of follow-up information as the last annual report. The table below displays a complete picture of follow-up replies from States parties received up to 7 July 2006, in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of their compliance with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up to Views continues. The Notes following a number of case entries convey an idea of the difficulties in categorizing follow-up replies.

233. Follow-up information provided by States parties and by petitioners or their representatives subsequent to the last annual report (A/60/40, vol. I, chap. VI) is set out in annex VII to volume II of the present annual report.

**FOLLOW-UP RECEIVED TO DATE FOR ALL CASES OF VIOLATIONS OF THE COVENANT**

<b>State party and number of cases with violation</b>	<b>Communication number, author and location</b>	<b>Follow-up response received from State party and location</b>	<b>Satisfactory response</b>	<b>Unsatisfactory response</b>	<b>No follow-up response received</b>	<b>Follow-up dialogue ongoing</b>
...						
Lithuania (2)	836/1998, <i>Gelazauskas</i> A/58/40	X A/59/40	X			
	875/1999, <i>Filipovich</i> A/58/40	X A/59/40	X			
...						

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## CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

213. In July 1990, the Committee established a procedure for the monitoring of follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and created the mandate of the Special Rapporteur for follow-up to Views to this effect. Mr. Ando has been the Special Rapporteur since March 2001 (seventy-first session).

214. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information has been systematically requested in respect of all Views with a finding of a violation of Covenant rights; 452 Views out of the 570 Views adopted since 1979 concluded that there had been a violation of the Covenant.

215. All attempts to categorize follow-up replies by States parties are inherently imprecise and subjective: it accordingly is not possible to provide a neat statistical breakdown of follow-up replies. Many follow-up replies received may be considered satisfactory, in that they display the willingness of the State party to implement the Committee's recommendations or to offer the complainant an appropriate remedy. Other replies cannot be considered satisfactory because they either do not address the Committee's Views at all or only relate to certain aspects of them. Some replies simply note that the victim has filed a claim for compensation outside statutory deadlines and that no compensation can therefore be paid. Still other replies indicate that there is no legal obligation on the State party to provide a remedy, but that a remedy will be afforded to the complainant on an *ex gratia* basis.

216. The remaining follow-up replies challenge the Committee's Views and findings on factual or legal grounds, constitute much-belated submissions on the merits of the complaint, promise an investigation of the matter considered by the Committee or indicate that the State party will not, for one reason or another, give effect to the Committee's Views.

217. In many cases, the Committee secretariat has also received information from complainants to the effect that the Committee's Views have not been implemented. Conversely, in rare instances, the petitioner has informed the Committee that the State party had in fact given effect to the Committee's recommendations, even though the State party had not itself provided that information.

218. The present annual report adopts the same format for the presentation of follow-up information as the last annual report. The table below displays a complete picture of follow-up replies from States parties received up to 7 July 2007, in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of their compliance with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up to Views continues. The Notes following a number of case entries convey an idea of the difficulties in categorizing follow-up replies.

219. Follow-up information provided by States parties and by petitioners or their representatives subsequent to the last annual report (A/61/40, vol. I, chap. VI) is set out in annex VII to volume II of the present annual report.

**FOLLOW-UP RECEIVED TO DATE FOR ALL CASES OF VIOLATIONS OF THE COVENANT**

<b>State party and number of cases with violation</b>	<b>Communication number, author and location</b>	<b>Follow-up response received from State party and location</b>	<b>Satisfactory response</b>	<b>Unsatisfactory response</b>	<b>No follow-up response received</b>	<b>Follow-up dialogue ongoing</b>
...						
Lithuania (2)	836/1998, <i>Gelazauskas</i> A/58/40	X A/59/40	X			
	875/1999, <i>Filipovich</i> A/58/40	X A/59/40	X			
...						

## VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

187. In July 1990, the Committee established a procedure for the monitoring of follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and created the mandate of the Special Rapporteur for follow-up to Views to this effect. Mr. Ando has been the Special Rapporteur since March 2001 (seventy-first session).

188. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information had been systematically requested in respect of all Views with a finding of a violation of Covenant rights; 429 Views out of the 547 Views adopted since 1979 concluded that there had been a violation of the Covenant.

189. All attempts to categorize follow-up replies by States parties are inherently imprecise and subjective: it accordingly is not possible to provide a neat statistical breakdown of follow-up replies. Many follow-up replies received may be considered satisfactory, in that they display the willingness of the State party to implement the Committee's recommendations or to offer the complainant an appropriate remedy. Other replies cannot be considered satisfactory because they either do not address the Committee's Views at all or relate only to certain aspects of them. Some replies simply note that the victim has filed a claim for compensation outside statutory deadlines and that no compensation can therefore be paid. Still other replies indicate that there is no legal obligation on the State party to provide a remedy, but that a remedy will be afforded to the complainant on an *ex gratia* basis.

190. The remaining follow-up replies challenge the Committee's Views and findings on factual or legal grounds, constitute much-belated submissions on the merits of the complaint, promise an investigation of the matter considered by the Committee or indicate that the State party will not, for one reason or another, give effect to the Committee's recommendations.

191. In many cases, the Secretariat has also received information from complainants to the effect that the Committee's Views have not been implemented. Conversely, in rare instances, the petitioner has informed the Committee that the State party had in fact given effect to the Committee's recommendations, even though the State party had not itself provided that information.

192. The present annual report adopts the same format for the presentation of follow-up information as the last annual report. The table below displays a complete picture of follow-up replies from States parties received up to 7 July 2008, in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of their compliance with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up to Views continues. The notes following a number of case entries convey an idea of the difficulties in categorizing follow-up replies.

193. Follow-up information provided by States parties and by petitioners or their representatives

subsequent to the last annual report (A/62/40) is set out in annex VII to volume II of the present annual report.

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
...						
Lithuania (2)	836/1998, <i>Gelazauskas</i> A/58/40	X A/59/40	X			
	875/1999, <i>Filipovich</i> A/58/40	X A/59/40	X			
...						

## VI. FOLLOW UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

230. In July 1990, the Committee established a procedure for the monitoring of follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and created the mandate of the Special Rapporteur for follow-up on Views to this effect. Ms. Ruth Wedgwood has been the Special Rapporteur since July 2009 (ninety-sixth session).

231. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information had been systematically requested in respect of all Views with a finding of a violation of Covenant rights; 543 Views out of the 681 Views adopted since 1979 concluded that there had been a violation of the Covenant.

232. All attempts to categorize follow-up replies by States parties are inherently imprecise and subjective: it accordingly is not possible to provide a neat statistical breakdown of follow-up replies. Many follow-up replies received may be considered satisfactory, in that they display the willingness of the State party to implement the Committee's recommendations or to offer the complainant an appropriate remedy. Other replies cannot be considered satisfactory because they either do not address the Committee's Views at all or relate only to certain aspects of them. Some replies simply note that the victim has filed a claim for compensation outside statutory deadlines and that no compensation can therefore be paid. Still other replies indicate that there is no legal obligation on the State party to provide a remedy, but that a remedy will be afforded to the complainant on an *ex gratia* basis.

233. The remaining follow-up replies challenge the Committee's Views and findings on factual or legal grounds, constitute much belated submissions on the merits of the complaint, promise an investigation of the matter considered by the Committee or indicate that the State party will not, for one reason or another, give effect to the Committee's recommendations.

234. In many cases, the Secretariat has also received information from complainants to the effect that the Committee's Views have not been implemented. Conversely, in rare instances, the petitioner has informed the Committee that the State party had in fact given effect to the Committee's recommendations, even though the State party had not itself provided that information.

235. The present annual report adopts the same format for the presentation of follow-up information as the last annual report. The table below displays a complete picture of follow-up replies from States parties received up to the ninety-sixth session (13-31 July 2009), in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of their compliance with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up on Views continues. The notes following a number of case entries convey an idea of the difficulties in categorizing follow-up replies.

236. Follow-up information provided by States parties and by petitioners or their representatives

subsequent to the last annual report (A/63/40) is set out in annex IX to volume II of the present annual report.

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
...						
Lithuania (2)	836/1998, <i>Gelzauskas</i> A/58/40	X A/59/40	X			
	875/1999, <i>Filipovich</i> A/58/40	X A/59/40	X			
...						