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Help

The implementation of decisions adopted on the basis of individual communications represents a specific challenge, since findings of violations should in principle lead to remedies being provided to the individual aggrieved, or compensation made to him/her; in addition, measures of a general nature, such as a change in legislation, may be required.

UN human rights treaty bodies generally expect the State to provide them with information about the follow-up measures that they adopt to take into account the decision in the instances where they conclude that there has been a violation. The following is a typical paragraph at the end of a decision of the Human Rights Committee concluding that the ICCPR has been violated:

"Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether or not there has been a violation of the Covenant, and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy when a violation is found to have occurred, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to the present Views. The State party is also invited to publish the present Views."

In practice, implementation of the findings of violation are highly uneven. Some studies in fact conclude that, statistically, the percentage of cases in which States comply with the findings of the UN human rights treaty bodies has declined in recent years.

This should be treated with caution, however: over the past twenty years, a large number of States, with a variable commitment to the rule of law and human rights, have joined the system established under the UN human rights treaties. This may result in a statistical bias: though the average level of positive response from States may have lowered, the range of States concerned has changed significantly over the years, as the system has now become truly universal.





Individual communications outcomes | [8.4]...

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