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Human Rights Committee

Follow-up progress report on individual communications*

A. Introduction

1. At its thirty-ninth session (9–27 July 1990), the Human Rights Committee established a procedure and designated a special rapporteur to monitor follow-up on its Views adopted under article 5 (4) of the Optional Protocol to the Covenant. The Special Rapporteur for follow-up on Views prepared the present report in accordance with rule 106 (3) of the Committee's rules of procedure. In the light of the high number of Views on which follow-up is required and the limited resources that the secretariat can devote to follow-up on Views, it has not been possible to ensure systematic, timely and comprehensive follow-up on all cases, particularly given the applicable word limitations of the present report. The present report is based on the information available on the cases presented below, reflecting at least one round of exchanges with the State Party and the author(s) and/or counsel.

2. At the end of the 141st session, in July 2024, the Committee concluded that there had been a violation of the Covenant in 1,516 (85 per cent) of the 1,765 Views that it had adopted since 1979.

3. At its 109th session (14 October–1 November 2013), the Committee decided to include in its reports on follow-up to Views an assessment of the replies received from and action taken by States Parties. The assessment is based on criteria similar to those applied by the Committee in the procedure for follow-up to its concluding observations on State Party reports.

4. At its 118th session (17 October–4 November 2016), the Committee decided to revise its assessment criteria.

Assessment criteria (as revised during the 118th session)

Assessment of replies:

A **Reply/action largely satisfactory:** The State Party has provided evidence of significant action taken towards the implementation of the recommendation made by the Committee.

B **Reply/action partially satisfactory:** The State Party has taken steps towards the implementation of the recommendation, but additional information or action remains necessary.

C **Reply/action not satisfactory:** A response has been received, but the action taken or information provided by the State Party is not relevant or does not implement the recommendation.

D **No cooperation with the Committee:** No follow-up report has been received after the reminder(s).

* Adopted by the Committee at its 142nd session (14 October–7 November 2024).

E Information or measures taken are contrary to or reflect rejection of the recommendation.

5. At its 121st session, on 9 November 2017, the Committee decided to revise its methodology and procedure for monitoring follow-up on its Views.

Decisions taken:

- Grading will no longer be applied in cases where the Views have been merely published and/or circulated;
- Grading will be applied for the State Party's response on measures of non-repetition only if such measures are specifically included in the Views;
- The follow-up report will contain only information on cases that are ready for grading by the Committee, that is, where there is a reply by the State Party and information provided by the author.

6. At its 127th session (14 October–8 November 2019), the Committee decided to adjust the methodology for preparing the reports on follow-up to Views and the status of cases by establishing a list of priorities based on objective criteria. Specifically, the Committee decided in principle to: (a) close cases in which it has determined that implementation has been satisfactory or partially satisfactory; (b) retain active those cases on which it needs to maintain dialogue; and (c) suspend cases for which no further information has been provided in the past five years either by the State Party concerned or by the author(s) and/or counsel, moving them to a separate category of "cases without sufficient information on satisfactory implementation". The Committee is not expected to ensure any proactive follow-up on these cases that have been suspended for lack of information, unless one of the parties submits an update. Priority and focus will be given to recent cases and cases where one or both parties are regularly providing the Committee with information.

7. At its 136th session (10 October–4 November 2022), the Committee adopted guidelines on the procedure for follow-up to Views,[1] in order to improve the process by which it aims to ascertain the measures taken by States Parties to give effect to its Views. The guidelines, which draw on the Committee's experience since 1990, were conceived as a road map for the future activity of the Committee on the issue of follow-up to Views and will be implemented progressively.

B. Follow-up information received and processed up until July 2024

1. Colombia

Communication No. 2134/2012, *Serna et al.*

Views adopted:	9 July 2015
Violation:	Articles 6, 7, 9 and 16, and article 2 (3) read in conjunction with articles 6, 7, 9 and 16, in respect of Mr. Anzola and Mr. Molina, and article 7, and article 2 (3) read in conjunction with article 7, in respect of the authors
Remedy:	Effective remedy, including: (a) performing an independent, thorough and effective investigation of the disappearance of Mr. Anzola and Mr. Molina and prosecuting and punishing those responsible; (b) releasing Mr. Anzola and Mr. Molina should they still be alive; (c) if they are dead, handing over their remains to their family; and (d) providing effective reparation, including adequate compensation, medical and

[1] CCPR/C/162.

	psychological rehabilitation and appropriate measures of satisfaction for the authors for the violations suffered. The State Party is also under an obligation to prevent similar violations from occurring in the future and to ensure that any forced disappearances give rise to a prompt, impartial and effective investigation.
Subject matter:	Enforced disappearance by paramilitary groups
Previous follow-up information:	None
Submissions from the State Party:	14 March 2016[2] and 25 May 2022[3]

In its submission dated 14 March 2016, the State Party asserts and extensively illustrates that it is committed to continuing to work to strengthen the institutional capacities of mechanisms for searching for victims of disappearance, and the support provided to their families.

With regard to this communication, the State Party indicates that there is no sufficiently decisive material evidence to support the allegation that this is a situation of enforced disappearance, though it confirms that it will continue investigations under the leadership of the "Fiscalía 74 Seccional de Descongestión de Medellín" and in cooperation with the Legal Medicine Institute and the Commission on the Search for Missing Persons.

The State Party adds that 35 investigative activities have been carried out aimed at establishing the facts and identifying the alleged perpetrators. The investigation is currently at the last stage and the facts have been registered in the National Register of Disappeared Persons.

The State Party also points out that efforts are still under way to search for and locate the direct victims through the Unit for the Search for Persons Deemed Missing, which learned of the disappearances on 1 November 2018. In this light, the State Party describes the key steps taken by this authority and mentions the proposal to set up a technical round table aimed at establishing a channel for dialogue and collaboration.

The State Party indicates that on 2 April 2018 a Committee of Ministers, established in accordance with Law No. 288 of 1996, issued an unfavourable decision (resolution No. 2646) finding that there was not enough evidence to infer an enforced disappearance. The authors lodged a restoration of rights and a nullity action against the decision of the Committee of Ministers, still at its initial stages given that the authors are waiting for the decision on an application for reconsideration, which they brought against an order by the State Council to refer the dossier to the Antioquia Administrative Tribunal.

The State Party recalls that the Unit for the Search for Persons Deemed Missing was developed within the framework of the peace negotiations with the Revolutionary Armed Forces of Colombia – People's Army (FARC-EP) and in response to calls from relatives of disappeared persons and civil society organizations. The body in question has gained constitutional status, has various functions and operates as an extrajudicial mechanism devoted to searching for persons reported missing in the context of the armed conflict.

The State Party refers further to the report it submitted to the Committee on Enforced Disappearances on 7 May 2022.

[2] The submission was acknowledged to the State Party and transmitted to the authors for comments on 3 August 2016.

[3] The submission was acknowledged to the State Party and transmitted to the authors for comments on 11 August 2022.

Submissions from the authors' counsel: 22 August 2016,[4] 8 November 2021,[5] 11 October 2022[6] and 11 December 2023[7]

Counsel submits that the State Party has failed to take appropriate and effective measures to guarantee the rights of the victims and has not taken the requisite steps to ensure compliance with the Committee's Views.

Counsel notes that more than 21 years after the enforced disappearances, the investigation remains at its preliminary stages, with the circumstances not clarified and the perpetrators not identified. The State Party has failed to provide information on concrete measures for a thorough investigation or effective remedy. Concerning the State Party's claim of ongoing search efforts, no significant search activities have been conducted by the authorities for over 16 years. Regarding the institutional and legal framework on enforced disappearances, obstacles persist to the effective functioning of the National Commission on the Search for Missing Persons, such as limited resources, lack of autonomy, and coordination challenges. Enforced disappearances persist in the State Party's territory, with impunity prevailing. Counsel also notes the interim and provisional nature of the agreement to establish a unit in charge of searching for disappeared persons (Unit for the Search for Persons Deemed Missing).

Under Law No. 288 of 1996, the State Party is required to compensate for human rights violations identified by international bodies such as the Human Rights Committee. Law No. 288 provides that a Committee of Ministers will decide within a specific time frame and that the decision ought to be favourable when legal requirements are met or when no second instance exists, as with the Human Rights Committee. After several attempts to obtain a decision, resolution No. 2646 was issued on 6 April 2018. On 23 July 2018, counsel filed a nullity action before the State Council, seeking an order for a favourable resolution from the Committee of Ministers. The procedure has been delayed for more than three years, without a substantive decision.

Counsel notes that more than 20 years have passed since the investigation began, yet the State Party has not fulfilled its duty to investigate, judge and punish those responsible for the enforced disappearances. The State Party still questions the legal classification of the offence as an enforced disappearance. The efforts of the Unit for the Search for Persons Deemed Missing have been primarily driven by the victims' representatives. The State Party denies the victims' rights by claiming that the Committee's Views are not final and requiring a new pronouncement. There is an absence of inter-institutional coordination and failure by the competent authorities to advance the search for the victims in an effective way. The National Commission on the Search for Missing Persons did not have a positive impact on the establishment of facts. Counsel notes that more than four years after initiating the nullity action before the State Council and submitting various applications, objections and appeals, the State Council referred the case to the Antioquia Administrative Tribunal on 22 June 2021, restarting the entire process.

On 28 June 2021, counsel filed an appeal for reversal and, alternatively, an application for reconsideration, calling into question the State Council's competence and aiming to have resolution No. 2646 of 2 April 2018 nullified. On 20 September 2021, the State Council dismissed the appeal for reversal but accepted the application for reconsideration. On 29 March 2022, counsel submitted an application before the competent official requesting that a decision be taken. On 14 July 2022, the State Council confirmed the Antioquia Administrative Tribunal's competence, which heard the case on 14 September 2022. On 8 March 2023, the Antioquia Administrative Tribunal agreed with the State Council on the need for conciliation as a prerequisite to lodging the restoration of rights and nullity actions

[4] The submission was acknowledged to the authors and transmitted to the State Party for information on 25 March 2022.

[5] The submission was acknowledged to the authors and transmitted to the State Party for information on 11 November 2021.

[6] The submission was acknowledged to the authors and transmitted to the State Party for information on 31 October 2022.

[7] The submission was acknowledged to the authors and transmitted to the State Party for information on November 2024.

and declared the process complete. On 14 March 2023, counsel appealed, seeking permission to make up for the failure of the conciliation process, so as to protect the victims' rights. The Antioquia Administrative Tribunal closed the case without publishing the decision and later confirmed the completion of the process. On 1 June 2023, counsel requested the Office of the General Prosecutor to organize a conciliation meeting, which, after rescheduling, took place on 11 August 2023 and was declared unsuccessful. On 15 August 2023, counsel refiled a restoration of rights and nullity action seeking adequate compensation, which was assigned to the Cundinamarca Administrative Tribunal. No decision has yet been made. In the light of the above, the authors request the Committee to consider the State Party's response as unsatisfactory.

Committee's assessment:

(a) Performing an independent, thorough and effective investigation and prosecuting and punishing those responsible: C;

(b) Releasing Mr. Anzola and Mr. Molina, should they still be alive: C;

(c) If they are dead, handing over their remains to their family: C;

(d) Providing effective reparation: C;

(e) Non-repetition: C;

(f) Ensuring that, in the future, any enforced disappearances give rise to a prompt, impartial and effective investigation: B.

Committee's decision: Follow-up dialogue ongoing.

2. Colombia

Communication No. 3076/2017, *Múnera López et al.*

Views adopted:	1 March 2020
Violation:	Articles 2 (3), 6 (1), 9 (1) and (5), 14 (6) and 17, as well as articles 1, 2, 3 and 5 (2) (b) of the Optional Protocol
Remedy:	Effective remedy, including: (a) promptly conducting a thorough, effective, impartial, independent and transparent investigation into the circumstances surrounding Mr. Múnera López's murder, in order to establish the truth of the matter; (b) providing those of Mr. Múnera López's family members who are the authors of the communication with detailed information about the results of this investigation; and (c) providing adequate compensation to the family members who are the authors of the communication, including sufficient compensation to cover the reasonable legal expenses they have incurred. The State Party is also under an obligation to prevent similar violations in the future.
Subject matter:	Killing of a trade unionist
Previous follow-up information:	None
Submissions by the State Party:	10 December 2020[8] and 16 March 2021[9]

[8] The submission was acknowledged to the State Party and transmitted to the authors for comments on 1 April 2022.

[9] The submission was acknowledged to the State Party and transmitted to the authors for comments on 3 November 2022.

On 10 December 2020, State Party submitted that with regard to the criminal investigations, the Attorney General's Office had reported that, thus far, no evidence had been identified that would warrant continuation of the investigation with regard to other perpetrators of the murder. Furthermore, no evidence had been uncovered that would substantiate the hypothesis of intellectual authorship.

With regard to adequate compensation for the families of the authors, the Committee of Ministers met on 20 August 2020 and subsequently adopted a resolution expressing a favourable opinion in relation to the Views adopted by the Human Rights Committee.

The State Party reported that it would proceed with the compensation procedure provided for in Law No. 288 of 1996 that established instruments for compensating victims of human rights violations by the payment of damages, in accordance with the provisions of certain international human rights bodies.

Concerning the publication and dissemination of the Committee's Views, the State indicated that the Office of the Presidential Adviser on Human Rights and International Affairs published the Views on Monday, 31 August 2020, on the website of that entity. It is also possible to access the Views through the website of the Ministry of Foreign Affairs.

On 16 March 2021, the State Party reported that it would proceed with the compensation procedure provided for in Law No. 288 of 1996 in accordance with the rules and criteria of its domestic legal system.

Submissions from the authors' counsel: 1 June 2022[10] and 3 January 2023[11]

Counsel regrets that the Committee's Views have not been implemented. Regarding the compensation for the families of the authors, the authors were not made aware of the favourable opinion in resolution No. 3507 of 3 December 2020 until 19 May 2021. Furthermore, the compensation proposal put forth by the Ministry of Foreign Affairs was narrowly focused on financial compensation, without adequately addressing other crucial aspects of comprehensive reparations, such as rehabilitation, satisfaction, restitution and guarantees of non-repetition.

The authors had proposed several measures of satisfaction and non-repetition to the Ministry of Foreign Affairs. These proposals were dismissed without any discussion or attempt at mediation. There are no forums within the State Party through which to discuss the proposed measures of satisfaction.

On several occasions, the Ministry of Foreign Affairs was requested to hold meetings to assess the progress of the process and to discuss a conciliation proposal that would meet the needs and expectations of the victims. That meeting was held on 9 July 2021, at which the authors expressed their expectations and interest in maintaining fluid communication on the elaboration of the proposal, and stated the difficulties in obtaining some evidentiary documents, due to restrictions imposed by the coronavirus disease (COVID-19) virus and the fact that some of the petitioners resided abroad, which meant having to have an apostille issued for documents and carry out additional procedures. No further meeting was held.

On 12 August 2022, the petition for damages was filed before the Administrative Court of Cundinamarca, pursuant to article 11 of Law No. 288 of 1996, requesting the amount of compensation be determined. On 16 August 2022, the Court granted the application. However, on 30 August 2022, the Ministry of Foreign Affairs objected to the transfer of the application for the settlement of damages, proposing removal of the compulsory joinder on the grounds that the claims were not related to the competences of the entity. It also requested that the Ministry of National Defence, the Ministry of the Interior and the Ministry of Justice be involved. On 12 December 2022, the Court acknowledged that there was no need for a compulsory joinder of defendants from the Ministry of Foreign Affairs and the other entities.

[10] The submission was acknowledged to the authors and transmitted to the State Party for comments on 3 November 2022.

[11] The submission was acknowledged to the authors and transmitted to the State Party for comments on 25 January 2023.

The State Party has not conducted the criminal investigation in a way conducive to identifying the perpetrators or to shedding light on the reasons behind the murder and the intellectual authorship.

Committee's assessment:

(a) Investigation into the circumstances of the murder of Mr. Múnera López: C;

(b) Investigating and sanctioning any type of action that might have hindered the effectiveness of the searching and tracing process: C;

(c) Providing the authors with detailed information about the investigation: C;

(d) Prosecuting and punishing those responsible: C;

(e) Psychological rehabilitation and medical treatment for the authors: C;

(f) Reparation: C;

(g) Non-repetition: C.

Committee's decision: Follow-up dialogue ongoing.

3. Ecuador

Communication No. 2244/2013, *Dassum and Dassum*

Views adopted:	30 March 2016
Violation:	Article 14 (1)
Remedy:	Effective remedy, including: (a) making full reparation to the persons whose rights under the Covenant have been violated; and (b) ensuring that due process is followed in the relevant suits at law, in accordance with article 14 (1) of the Covenant.
Subject matter:	Criminal conviction and seizure of authors' assets.
Previous follow-up information:	CCPR/C/122/3
Submission by the State Party:	1 April 2019

In addressing the author's request for restitution of seized assets, the State Party emphasizes that the Committee did not recommend restitution but instead called for effective remedies to be ensured. It also notes that the Covenant does not recognize a right to property. The State Party argues that the author's claims of irregularities in the seizure process do not align with the Committee's Views, in which the seizure was not declared illegal.

The Committee identified that the violation of the authors' rights stemmed from Legislative Decree No. 13, which had denied them due process to challenge the process. As a remedy, the Committee ordered the State to provide an effective remedy and to publish its Views, but did not address the seizure process as the authors incorrectly claimed. The State Party refers to similar cases to support the premise that restitution is considered only when specifically stated by the Committee.

Regarding effective remedies, the State asserts that the protection action prohibited by Legislative Decree No. 13 is not the sole option, and that the authors could have appealed against the administrative decisions. The authors initially sought annulment of the seizure in 2016, acknowledging this as an effective remedy.

In 2018, the authors requested constitutional interim measures against Inmobiliar, and a court in Guayaquil temporarily prevented any actions regarding the lands claimed by the authors until the full reparation process had been clarified. The State Party argues that this reflects a misuse of the Committee's Views.

In conclusion, the State Party states that the authors' failure to pursue available judicial appeals for administrative decisions cannot be blamed on the State, and that their incorrect

use of the Committee's Views has led to the decision to impose interim measures suspending any actions favourable to the authors as regards their assets.

Submission by the authors: 12 August 2019

The authors claim that the State Party ignored the principle of State responsibility, relying on the Committee's omission to provide a detailed list of all elements of full reparation. According to the relevant institution, full reparation includes restitution – restoring the situation that existed before the wrongful act. If restitution is impossible, compensation should be provided. Since the Committee ordered full reparation, this means returning unlawfully seized property or providing compensation if restitution is not feasible.

The State Party's use of resolution No. 60/147 is incorrect, as it also confirms the necessity of full reparation, including property return.

Legislative Decree No. 13 prevents the authors from accessing due process. Thus, under article 2 (2) of the Covenant, the State Party must declare Legislative Decree No. 13 null and void so the authors can contest resolution No. AGD-UIO-GG-2008-12. Upholding Legislative Decree No. 13 prevents them from pursuing meaningful remedies, as they cannot contest the resolution justifying the unlawful seizure of their property.

Submissions by the State Party: 16 August and 10 October 2022

The State Party encloses the opinion of an ex-judge of the Constitutional Court of Ecuador, reiterating the previous arguments regarding effective remedies available and wrong interpretation of the Views.

The State Party presents the communication from the Prosecutor General, as well as its annex with the opinion of legal experts. It reiterates the arguments on full reparation and effective remedies.

Submission by the authors: 10 December 2022

The authors acknowledge the State's initial steps towards implementing reparations, while highlighting the delay in the actual restitution, and indicate that the State Party failed to publish and widely disseminate the Views. The authors reiterate their arguments that full reparation granted by the Committee includes restitution and the protection of their civil rights.

The authors outline the remedies they pursued: in 2016, they sought administrative remedies from the Central Bank for the restitution of seized assets. In 2018, they obtained constitutional interim measures for suspension of the seizure. Then they appealed the administrative decisions in court. On 13 May 2022, a first instance court granted partial reparation, including restitution of the seized assets, compensation, and guarantees of non-repetition. The Prosecutor General's Office appealed, but the appellate court upheld the decision. The Prosecutor General then filed an extraordinary protection action with the Constitutional Court, which had not issued a decision at the time of submission.

The authors reiterate that the State must comply with the Committee's Views, which indirectly protect property rights due to the violations of due process.

Submissions by the third party: 13 December 2021, 28 June 2022 and 14 September 2022

The Food First Information and Action Network, with the support of the Union Tierra y Vida organization, submits its concerns regarding the interpretation of the Committee's Views by the authors, and supports the State Party's position that effective remedy does not imply restitution of the seized assets.

On 12 September 2022, Guayas Provincial Court upheld a ruling ordering the restitution of assets. This raised concerns for the farming communities on the Las Mercedes estate. Implementation of such a decision would significantly undermine the peasant communities' rights.

Peasant families currently occupy the lands that were seized from the authors. These lands were transferred to the Ministry of Agriculture and then redistributed to peasants in the context of "Plan Tierras", a project aimed at distributing land to landless peasants. The title to these lands for peasants included in the project is currently being formalized and

implemented. Restitution of these lands would lead to violation of the rights to food, health, housing and education and of other rights, since the peasants depend on these lands for their livelihood, have farmed on these lands and have built the necessary infrastructure. The United Nations Declaration on the Rights of Indigenous Peoples should be applied as a criterion for interpretation of the Covenant, such that the State Party should give priority to peasants when allocating publicly owned land.

Investors and business representatives have approached the peasants occupying the land to pressure them to sell their lands before being evicted. Approximately 1,024 hectares of land have already been sold by peasant families. Those who have remained are facing an uncertain situation regarding their land tenure rights, as the Ministry of Agriculture has frozen the land distribution process.

Submission by the State Party: 12 April 2023

The State Party agrees with the submission by the Food First Information and Action Network.

Committee's assessment:

(a) Full reparation: B;

(b) Ensuring that due process is followed in the relevant suits at law: B.

Committee's decision: Close the case with a note of partially satisfactory implementation of the Committee's Views. In its Views, the Committee found a violation of article 14 (1) of the Covenant and the right to a fair hearing, since the legal framework in the State Party prohibited the filing of any applications for constitutional remedy or other special protection in respect of the decisions of the Deposit Guarantee Agency and did not allow judges to take cognizance of applications relating to such decisions. The Views therefore did not address directly the issue of the eventual return of assets to the authors, but only the possibility for them to contest the decisions of the Deposit Guarantee Agency before domestic courts, which they have now managed to do.

4. Finland

Communication No. 2950/2017, *Klemetti Käkkäläjärvi et al.*

Views adopted:	2 November 2018
Violation:	Article 25, read alone and in conjunction with article 27
Remedy:	Effective remedy, including making full reparation to individuals whose Covenant rights have been violated. Accordingly, the State Party is obligated, inter alia, to review section 3 of the Act on the Sami Parliament with a view to ensuring that the criteria for eligibility to vote in elections to the Sami Parliament are defined and applied in a manner that respects the right of the Sami people to exercise their internal self-determination in accordance with articles 25 and 27 of the Covenant. The State Party is also under an obligation to take all steps necessary to prevent similar violations from occurring in the future.
Subject matter:	Right to vote in elections to the Sami Parliament
Previous follow-up information:	None

Submission by the State Party: 31 July 2019[12]

The State Party has distributed the Views to relevant public authorities and has also issued a press release annexed to the Views, published on the Government's website. The Views have been translated into both Finnish and North Sami and have been widely distributed.

The State Party provides information on a meeting held on 11 June 2019 between the Ministry of Justice and Sami Parliament members representing the Inari Sami to discuss measures taken in response to the Committee's Views. The State Party also refers to a statement published by four members of the Sami Parliament's plenum indicating, inter alia, that "the view of the Human Rights Committee and the grounds presented in support of it are biased and based on deficient information".

On 3 April 2019, the Sami Parliament's Executive Board invoked section 63 of the Administrative Judicial Procedure Act, asking the Supreme Administrative Court to annul its decisions of 26 November 2011 and 30 September 2015 regarding 97 individuals on the electoral roll. The Supreme Administrative Court rejected that petition on 5 July 2019, concluding that the petition lacked grounds under section 63 of the Administrative Judicial Procedure Act for annulling the decisions.

On 1 July 2019, four days before the Supreme Administrative Court's decision, the Sami Parliament's Election Committee removed the 97 individuals from the electoral roll. Members of this group, including members of the Sami Parliament's plenum, have raised concerns about their legal protection and the fact that they were not heard in the proceedings before the Committee.

After the April 2019 parliamentary elections, a new Government was appointed. Due to the parliamentary schedule, there was insufficient time to pass the necessary legislative acts to postpone the Sami Parliament elections. The State Party commits to respecting and promoting the linguistic and cultural rights of all Sami people and groups according to relevant international treaties, and reports that it will explore ratifying the Indigenous and Tribal Peoples Convention, 1989 (No. 169). Efforts to reform the Sami Parliament Act and establish a truth and reconciliation commission will continue. The State Party states its intention to maintain dialogue with the Sami Parliament to advance these reforms and related projects.

Submission from the authors: 31 December 2020[13]

The authors observe that the State Party has neither revised the definition of a Sami nor prevented future violations. Specifically, by permitting Sami elections, the State Party has allowed more ethnic Finns to be included on the Sami electoral roll. Additionally, the Ministry of Justice has explicitly stated its unwillingness to discuss compensation remedies. The State Party has only fulfilled certain administrative duties.

The authors consider that the State Party's references to individual views of four members of the Sami Parliament constitute an unacceptable attempt to distort the truth in order to demonstrate that the Sami community is divided. The unlawful interpretation of section 3 of the Sami Parliament Act by the Supreme Administrative Court has affected the representation and policy within the Sami Parliament.

The authors find that the State Party's reference to the interpretation of the Supreme Administrative Court has no place in the follow-up process. In so doing, the State Party is wrongfully shifting the weight of the responsibility for implementing the Committee's Views onto the Supreme Administrative Court, which, in the authors' opinion, challenges the grounds, interpretation and authority of the Committee.

The authors emphasize that they have not participated in the process regarding the annulment of the Supreme Administrative Court's decisions of 2011 and 2015 and caution that this process could be misused by the State Party to delay implementation further. The Sami

[12] The submission was acknowledged to the State Party and transmitted to the authors for comments on 4 September 2019.

[13] The submission was acknowledged to the authors and transmitted to the State Party for information on 5 March 2021.

Parliament Act has not been changed yet, and the authors add that they have not received any information about the work to reform this Act or about any working groups set up to renew it.

Regarding ratification of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), the State Party has stated this intention on countless occasions since 1990 but without it having materialized.

Regarding the establishment of a Truth and Reconciliation Commission, the Commission will not work to renew the Sami Parliament Act because it is not aimed at improving the legal status of Sami. Reforming the Sami Parliament Act and the definition of a Sami should precede the Commission's establishment to avoid it becoming a politicized body entangled in definitional disputes and focused on non-Sami issues.

The authors no longer recognize the Sami Parliament as a representative organ of Sami people due to the decisions of the State Party's Government and the Supreme Administrative Court. The Sami Parliament currently functions as a regional representative organisation for both Sami and local Finnish individuals.

The authors submitted a detailed proposal to the State Party's authorities on implementing the Committee's Views, requesting several measures

The Ministry of Justice agreed to organize two meetings but there has been no communication from the Ministry since June 2019.

Most resources allocated for Sami institutions and services go to the Sami Parliament and education sector. Authors highlight the lack of funding for Sami livelihoods and argue that as long as non-Sami are included in the Sami electoral roll and the definition of a Sami remains unchanged, remedies cannot effectively be allocated or distributed via the Sami Parliament.

The authors assert that the optimal solution involves allowing Sami people to live according to their traditions, free from assimilation, oppression and discrimination, while preserving Sami identity, institutions, languages and livelihoods in their home region. Therefore, the authors argue for initiating discussions on the best representative model for the Sami that upholds their traditions and values.

To protect the Sami from assimilation, the authors emphasize the importance of creating cultural structures, supporting traditional administrative systems (*siida*), and fostering Sami communal life, traditions, livelihoods and education. Remedies should not be monetary compensation for individuals but resources for the community to rebuild Sami society and ensure a sustainable future for the Sami as an Indigenous people.

Committee's assessment:

(a) Revision of Section 3 of the Act on the Sami Parliament: C;

(b) Non-repetition: C.

Committee's decision: Follow-up dialogue ongoing.

5. Greece

Communication No. 3065/2017, *Petromelidis*

Views adopted:	2 July 2021
Violation:	Articles 9 (1), 12 (2), 14 (7) and 18 (1)
Remedy:	Effective remedy and full reparation, including: (a) expunging the author's criminal record; (b) reimbursing all sums paid as fines; (c) providing him with adequate compensation; (d) taking all steps necessary to prevent similar violations in the future; and (e) reviewing the legislation with a view to ensuring the effective guarantee of the right to conscientious objection

	(by providing, for instance, the possibility of undertaking alternative civilian service).
Subject matter:	Conscientious objection to compulsory military service; punitive alternative civilian service
Previous follow-up information:	-
Submission by the State Party:	11 October 2022

The State Party notes that when Mr. Petromelidis reached the age of 45 years, his prosecution from 2006 came to an end, on 1 January 2008, because he ceased to be subject to compulsory military service. Moreover, Mr. Petromelidis could enjoy the rights that had been suspended due to the administrative consequences, such as the right to be issued a certificate of military status, the right to vote and to stand as a candidate in national Parliament and European Parliament elections, the right to exercise a profession requiring a special permit from the competent authority, and the right to be recruited to posts in the public sector. Finally, the administrative consequences such as being prohibited from emigrating to a third country, from embarking on a ship with a destination abroad and from being issued a passport or an entry visa were also terminated, because Mr. Petromeldis had reached the age limit for military service. The State Party notes, however, that the measures and penalties imposed by court judgments are not automatically lifted.

The State Party further submits that although military service includes bearing arms and serving in the units and services of the Armed Forces, conscientious objectors may perform alternative service. Law No. 4609/2019 and ministerial decisions enforced changes to ensure equal treatment between conscientious objectors and those who bear arms, namely that the duration of military service is 12 months, whereas the duration of alternative service is increased by three months, which ensures implementation of the proportionality principle and equal treatment, since alternative service is performed under less burdensome conditions. Those who perform alternative service fulfil their duties in public services in places other than that of their residence. They can request to perform these duties near their place of residence after the first five months of alternative service, but only for specific reasons related to family, financial or social difficulties. Similar conditions exist for military service. The legal framework for declaring a conscientious objector insubordinate is the same as that which applies to those who perform military service.

According to Law No. 3421/20052, a person who fails to comply with the military enlistment obligations is declared insubordinate and is recognized as a conscientious objector. If a recognized contentious objector fails to comply with the obligation to present themselves before the Public Service Unit, that person is also recognized as an insubordinate. Although those who do not perform alternative civilian service do not acquire military status and do not fall under the jurisdiction of military courts, those who are declared insubordinate do fall under the jurisdiction of military courts. Even if the status of insubordinate is interrupted, after the interruption ends, the person is again subject to enlistment. The consequences of insubordination carry on until the statute of limitation is reached, even if the duty to be enlisted is no longer valid.

Conscientious objectors and those who perform military service are entitled to equal healthcare and administrative rights as other employees of the public sector. They are also entitled to food and shelter arrangements, and if the employer is not able to provide them, they are entitled to a monetary contribution.

As regards redeeming the remainder of the military or alternative service, the age limit has been reduced from 35 to 33, and the minimum length of alternative service has been reduced from 40 to 20 days, as in case of serving soldiers.

Regarding general measures, the Views were translated into Greek, with the translation forwarded to the Ministry of Justice, the Ministry of National Defence and all competent authorities.

The State Party concludes that those who have a well-founded conscientious objection to military service are given the possibility to perform alternative service, with respect for the

principles of proportionality and equal treatment. In light of the above, no further individual or general measures are required.

Submissions by the author: 17 April 2023, 19 March 2024 and 18 October 2024

The author submits that the State Party has shown no intention to give effect to the Views, either at the individual author's level or at the legislative non-repetition level.

As regards the individual measures, the persecution and administrative consequences lasted until at least 2014, not 2008 as alleged by the State Party. The author was coerced, due to an arrest in 2013 and an attempted arrest in 2014, to pay financial penalties instead of being imprisoned. With regard to his military status, he is no longer subject to compulsory military service, but can still be drafted in case of mobilization, war, or emergency in time of peace. The consequences imposed by the judgments have not been terminated, since he has been punished by decisions of military courts.

The State Party has failed to reimburse all sums paid as fines (including the payment of adequate interest), to provide adequate compensation for the violations found by the Committee (especially for the 87 days of detention) and to expunge his criminal records. There are two types of criminal records, for general use and for judicial use; although the former is automatically expunged after a certain period, the latter still contains the sentences, which can lead to discrimination. The author requests the Committee to ask for the copy for judicial use to verify the status of his criminal records.

With regard to the review of national legislation, although there are positive steps in Law No. 4609/2019 and subsequent ministerial decisions, some of the human rights violations remain unaddressed. Alternative civilian service remains punitive and discriminatory: conscientious objectors receive neither food nor housing, whereas those who perform military service receive both food and housing and a monthly salary that can be bigger than the salary for alternative civilian service. The salary for alternative civilian service does not allow conscientious objectors to have an adequate standard of living. Moreover, conscripts receive items for their use, reimbursement for travel costs and reduced fees for transportation, which conscientious objectors are denied fully or partially. Furthermore, conscientious objectors are discriminated against as regards the choice of location of service. Conscripts do not have explicit restrictions on the place of service, therefore they can perform military service in their region of residence, whereas conscientious objectors cannot. Although the State Party mentions that conscientious objectors can perform alternative service near the place of residence, this is misleading, since the distance can be shortened, but the place of service will not be located in the region of residence.

Moreover, although the length of service was shortened by the previous Government, it has since been reinstated to the previous level for all categories of alternative service. In 2021, full military service in the army was increased from 9 to 12 months, becoming equal to that in the navy and the air force. However, the length of alternative civilian service remains at 15 months, which contradicts European and international human rights standards. The categories for reduced length of service are not applied in the same manner for military service as for alternative civilian service.

Finally, the author underlines that although Law No. 4609/2019 provides the opportunity to serve a small part of one's service and pay the sum for the remaining months, the amount of money per month of military service should be equal to the amount of money per month of alternative civilian service. Due to the longer duration of alternative civilian service, the amount of money is larger for conscientious objectors.

The procedure for examining applications for conscientious objectors' status is inadequate and discriminatory. The Ministry of National Defence solely takes the decision on applications for recognition of conscientious objectors after a non-binding recommendation by a five-member special committee with military participation. Therefore, conscientious objectors are still not placed under civil authority. Moreover, the percentage of those who cite ideological (non-religious) grounds has decreased in recent years.

Certain categories of conscientious objectors face punishment as "insubordinate", including those whose applications have been unfairly rejected, who were granted conscientious

objector status but because of the punitive conditions could not perform alternative civilian service, those who commit a disciplinary offence during their alternative service, and most often those who refuse to perform punitive and discriminatory alternative civilian service. Being declared an "insubordinate" entails the risk of arrest at any moment, and the punishment for each period of insubordination includes an administrative fine, which increases as long as it remains unpaid, a prison sentence of up to two years, and further sanctions, entailing administrative consequences. Moreover, punishment does not exempt conscientious objectors from military duties, therefore they remain subject to military conscription and they are repeatedly punished for "insubordination".

Finally, the author states that his application for conscientious objection has been automatically rejected. He underlines that the legislative provision permitting revocation of conscientious objection status should be abolished.

The author provides a copy of his criminal records, which still contain information about the sentences imposed on him and which have a discriminatory effect.

Committee's assessment:

(a) Expunging criminal records: C;

(b) Reimbursement of sums paid as fines: C;

(c) Adequate compensation: C;

(d) Non-repetition: B;

(e) Reviewing the legislation: B.

Committee's decision: Follow-up dialogue ongoing.

6. New Zealand

Communication No. 3162/2018, *Thompson*

Views adopted:	2 July 2021
Violation:	Article 2 (3) read in conjunction with article 9 (1) and (5)
Remedy:	Effective remedy, including by: (a) providing the author with adequate compensation; and (b) taking all steps necessary to prevent similar violations from occurring in the future, including by reviewing its domestic legislation, regulations and/or practices to ensure that individuals who have been unlawfully arrested or detained as a result of judicial acts or omissions may apply to receive adequate compensation, in accordance with the obligation set forth in the Covenant.
Subject matter:	Compensation for wrongful arrest and detention
Previous follow-up information:	CCPR/C/136/3
Submission by the State Party:	18 May 2022[14]

The Minister of Justice has been requested to consider the payment of ex gratia compensation to the author in the light of the Committee's Views.

In accordance with domestic legislation of New Zealand, no entitlement to compensation exists for infringements of article 9 (1) resulting from judicial error, as has been determined by the country's Supreme Court. The prospect of ex gratia compensation thus reveals a profound internal conflict between the executive and the judiciary in upholding the principle of separation of powers. As the possibility of ex gratia compensation might be perceived as

[14] The submission was acknowledged to the State Party and transmitted to the authors for comments on 13 June 2022.

a threat to the independence of the judiciary, and thus, as a matter of significant constitutional importance, it will require a period of further consideration before a response can be adequately evaluated.

The State Party is considering the potential necessity of legislative amendments to prevent the recurrence of a violation of article 9 (5) of the Covenant in the future. While the circumstances of the violation of article 9 (1) in the author's case involved a case-specific judicial error, the violation of article 9 (5) found by the Committee results from a precedent set by the Supreme Court.

In addition, the State Party has requested, for the second time, additional time to engage in consultations with civil society, academics and practitioners on a range of options for modifying the separation of powers with a view to preventing future violations of article 9 (5) of the Covenant.

Submission from the author's counsel: 18 August 2022[15]

In regard to the matter of compensation, counsel argued that the ex gratia nature of the compensation did not comply with the legally enforceable obligation set forth in article 9 (5) and allowed the State Party to pay without any acknowledgement of obligation. Ex gratia payment would undermine the judicial nature of the compensation process.

Counsel drew attention to the lack of interest on the part of the Secretary for Justice – the administrative head of the Ministry of Justice – in providing appropriate compensation.

Regarding the legislative steps taken to prevent future breaches of article 9 (5) of the Covenant, the State Party has requested a period of six months for the purpose of obtaining legal counsel from civil society, academics and practitioners on this matter. However, the State Party has neither provided a timeline for the consultation process, nor identified the individuals or entities that will be consulted. Furthermore, there is currently no deadline for a subsequent report to be submitted to the Committee, which gives rise to concerns about the State Party complying with its obligations in good faith.

Counsel also pointed out that the absence of a right to obtain compensation was New Zealand judge-made law. In accordance with the constitutional order, Parliament has the power to override judicial decisions by means of legislation. It is within the purview of Parliament to give effect to such a right as an existing obligation in public international law.

The legislative agenda is subject to the control of the executive in accordance with the parliamentary system of government. Accordingly, the absence of legislative action demonstrates a lack of willingness on the part of the State Party to fulfil its obligations under the Covenant.

Committee's assessment:

(a) Providing adequate compensation: C;

(b) Non-repetition: C.

Committee's decision: Follow-up dialogue ongoing. The Committee will request a meeting with a representative of the State Party during one of its future sessions.

7. Sweden

Communication No. 2632/2015, *O, P, Q, R and S*

Views adopted:	15 March 2022
Violation:	Articles 7, 10 (1) and 18 (1)
Remedy:	Effective remedy, including by: (a) reviewing the authors' claims, taking into account the State Party's obligations under the Covenant and the Committee's Views; and (b) refraining from

[15] The submission was acknowledged to the State Party and transmitted to the authors for comments on 15 September 2022.

	expelling the authors to Albania while their requests for asylum are under reconsideration.
Subject matter:	Deportation to Albania
Previous follow-up information:	None
Submission from the State Party:	13 January 2023

The State Party submits that the Migration Agency has initiated proceedings in accordance with chapter 12, section 19, of the Aliens Act in the authors' case. The relevant provision, inter alia, regulates whether a new examination should be granted. At the time of writing, no decision has yet been delivered by the Migration Agency.

The State Party has distributed the Views to relevant public authorities, including the Migration Agency and the migration courts, and has also published the Views on the Government's website, alongside a summary in Swedish. In this way, the Views have been widely distributed.

In the light of the above, the State Party is of the opinion that it has complied with the Committee's Views and provided all the required information. Consequently, the State Party concludes that no further follow-up of the Committee's Views should be necessary.

Submission from the authors: 2 February 2023[16]

The authors submit that, on 27 January 2023, the Migration Agency reviewed their claims and rejected their requests for residence permits on the basis of chapter 12, sections 18 and 19, of the Aliens Act. The authors argue that the Migration Agency should instead have applied chapter 5, section 4, of the Aliens Act, which reads as follows: "If an international body that is competent to examine complaints from individuals has found that a refusal-of-entry or expulsion order in a particular case is contrary to a Swedish commitment under a convention, a residence permit shall be granted to the person covered by the order, unless there are exceptional grounds against granting a residence permit."

In this context, the authors submit that the Migration Agency did not have any legal obstacles to implementing the Views. Pursuant to the decision of the Migration Agency, the entire family should immediately leave Sweden, which puts them in a completely vulnerable and dangerous situation, in which they are unable to protect their rights recognized in the Covenant.

Committee's assessment:

(a) Reviewing the authors' claims, taking into account the State Party's obligations under the Covenant and the Committee's Views: A;

(b) Refraining from expelling the authors to Albania while their requests for asylum are under reconsideration: A.

Committee's decision: Close the follow-up dialogue, with a note of satisfactory implementation of the Committee's Views.

8. Türkiye

Communication No. 1853-1854/2008, *Atasoy and Sarkut*

Views adopted:	29 March 2012
Violation:	Article 18 (1)
Remedy:	Effective remedy, including by: (a) expunging their criminal records; (b) providing them with adequate compensation; and (c) avoiding similar violations of the Covenant in the future.

[16] The submission was acknowledged to the authors and transmitted to the State Party for information on 6 February 2023.

Subject matter: Conscientious objection to military service by Jehovah's Witnesses.

Previous follow-up information: A/68/40[17]

Submissions by the State Party: 25 October 2022[18]

The State Party recalls its last submission of observations in April 2013 and presents its updates. The State Party notes that the subject matter of conscientious objection to military service has been under examination by the Committee of Ministers of the Council of Europe as a part of the supervision of the execution of the European Court of Human Rights' group of judgments under *Ülke v. Türkiye* (application No. 39437/98).

The transfer of one author (Mr. Sarkut) to military service was postponed until 21 October 2012, and then until 31 December 2016. On 8 April 2016, he was allowed to forfeit his Turkish citizenship, which exempted him from compulsory military service. The other author (Mr. Atasoy) is an "absentee"; no administrative fine has been imposed on him.

The State Party further submits that it has made amendments regarding crimes related to compulsory military service. On 11 February 2017, military courts were abolished, and crimes related to military service are being investigated and tried by the civil prosecutor's offices and civil courts. In 2019, the State Party reduced the duration of compulsory military service from 12 to 6 months and introduced a system of payment for military service.

Submission by the authors: 20 March 2023[19]

The author's counsel submits that the State Party has not taken any steps to implement the Views of the Committee.

The author's counsel recalls that Mr. Atasoy and Mr. Sarkut are conscientious objectors to military service. They were indicted in relation to several military conscription periods and had to defend themselves in courts during military drafts. Mr. Sarkut lost his job due to an order sent by military officials. Mr. Atasoy and Mr. Sarkut were in a state of "civil death",[20] resulting from multiple criminal proceedings, with alternation between prosecution and imprisonment and with risks of further persecution. The author's counsel further recalls the measures imposed on the State Party in the Committee's Views.

The criminal records of the authors have not been expunged, they have not been provided with compensation and they are still subject to military conscription. The only reason that Mr. Sarkut is no longer subject to military drafts is because he was allowed to forfeit his Turkish citizenship.

After having been fired from the university where he worked, Mr. Sarkut was unable to find employment because the State Party continued to label him a "draft evader". Mr. Sarkut had to renounce his Turkish citizenship and move to a third country.

Mr. Atasoy's situation is similar. The State Party admits that he is an "absentee", which means that he is still subject to military conscription and risks being prosecuted or fined for his refusal to perform military duties. As at 1 February 2023, there were at least 47 other conscientious objectors who are Jehovah's Witnesses who faced a similar situation.

While the abolition of military courts is a welcome development, conscientious objection remains subject to criminal punishment. The reduction of the period of compulsory military service and the introduction of a new system of "military service by payment" are irrelevant. All male Turkish citizens must still perform one month of mandatory military service, and after that month they can obtain an "exemption" from military service by paying a certain

[17] The Committee decided to keep the follow-up dialogue ongoing, however it did not grade the measures taken by the State Party.

[18] The submission was acknowledged to the State Party and transmitted to the authors' counsel for comments on 31 January 2023.

[19] The submission was acknowledged to the authors' counsel and transmitted to the State Party for information on 19 April 2023.

[20] As worded by counsel with reference to the European Court's jurisprudence.

sum to the Ministry of Defence. These measures do not include the possibility of performing alternative civilian service for conscientious objectors.

The counsel reiterates the necessity of implementing the Committee's Views.

Committee's assessment:

(a) Expunging criminal records: C;

(b) Adequate compensation: C;

(c) Non-repetition: C.

Committee's decision: Follow-up dialogue ongoing.

9. Turkmenistan

Communication No. 3272/2018, *Begenchov*

Views adopted:	11 March 2022
Violation:	Articles 9 (1) and (3) and 18 (1)
Remedy:	Effective remedy, including by: (a) expunging the author's criminal record; (b) providing the author with adequate compensation, including by reimbursing any legal costs he has incurred; and (c) taking steps to prevent similar violations from occurring in the future, including by reviewing the legislation of the State Party with a view to ensuring the effective guarantee of the right to conscientious objection under article 18 (1) of the Covenant, for instance by providing for the possibility of alternative service of a civilian nature.
Subject matter:	Conscientious objection to compulsory military service
Previous follow-up information:	None
Submissions from the State Party:	5 July 2022[21] and 14 February 2023[22]

On 5 July 2022, the State Party submitted the information provided by the Ministry of Internal Affairs of Turkmenistan, the Supreme Court of Turkmenistan and the General Prosecutor's Office of Turkmenistan.

The Ministry of Internal Affairs indicated that the author had been released on 17 December 2018 after serving his prison sentence.

The Supreme Court repeated the facts already assessed by the Committee, and recalled that the author's cassation appeal had been rejected by Lebap Regional Court on 13 February 2018 and the sentence of the first instance court had been upheld. The Supreme Court emphasized that the author's arguments that he had to refuse to perform military service because of his religious conscience as a Jehovah's Witness had been rejected with reason by the court, since national legislation did not provide for such a ground for exemption from military service. Under article 58 of the Constitution of Turkmenistan, the defence of Turkmenistan is the sacred duty of every citizen, and all men are subject to military service. Therefore, the Supreme Court confirmed that the first instance court qualified the criminal offence committed by the author correctly and imposed a criminal sanction in accordance with the applicable legislation. The Supreme Court specified that the argument of the author

[21] The submission was acknowledged to the State Party and transmitted to the author's counsel for comments on 11 January 2023.

[22] The submission was acknowledged to the State Party and transmitted to the author's counsel for comments on 16 February 2023.

concerning alternative civilian service had correctly not been taken into consideration, since that type of service was not provided for by the applicable legislation.

The General Prosecutor's Office stated that all the procedural rights of the author had been ensured during the criminal investigation, that the participation of the counsel had been ensured, and that during the period of his sentence the author had enjoyed all the rights provided for under the Correctional-Labour Code of Turkmenistan.

On 14 February 2023, the State Party advised that after being released from prison, the author never appeared before the Conscription Committee, despite multiple conscription letters being sent to him by the Military Commissariat from 2019 to 2022.

Submission from the author's counsel:[23] 22 February 2023[24]

The author's counsel stated that neither he nor the author were aware of any steps taken by the State Party to implement the Committee's Views.

Committee's assessment:

(a) Expunging the author's criminal record: E;

(b) Providing the author with adequate compensation, including by reimbursing any legal costs he has incurred: E;

(c) Non-repetition, including by reviewing the legislation of the State Party with a view to ensuring the effective guarantee of the right to conscientious objection under article 18 (1) of the Covenant, for instance by providing for the possibility of alternative service of a civilian nature: E.

Committee's decision: Close the follow-up dialogue, with a note of unsatisfactory implementation of the Committee's recommendation.

10. Ukraine

Communication No. 3809/2020, *Aliev*

Views adopted:	26 July 2022
Violation:	Article 7
Remedy:	Effective remedy, including: (a) providing Mr. Aliev with a meaningful review of his sentence of life imprisonment on the basis of a clear and predictable procedure; (b) providing him with adequate compensation; and (c) taking all steps necessary to prevent similar violations in the future.
Subject matter:	Impossibility of having life sentence reviewed; fair trial; discrimination
Previous follow-up information:	-
Submissions by the author:	11 October 2022, [25] 15 December 2022 and 10 January 2023[26]

On 11 October 2022, the author submitted that the armed conflict in Ukraine was escalating and he was still imprisoned in a region damaged by missile strikes, while the State was not making any steps to re-examine his case and pay compensation.

[23] The author is represented by W. Glen How & Associates LLP.

[24] The submission was acknowledged to the author's counsel and transmitted to the State Party for information on 23 February 2023.

[25] The author's submission of 11 October 2022 was acknowledged and transmitted on 14 December 2022.

[26] The author's submissions of 15 December 2022 and 10 January 2023 were acknowledged and transmitted on 8 March 2023.

On 15 December 2022, the author's mother supported the submission of 11 October 2022, and then further submitted that on 16 November 2022 and on 28 November 2022 the author had addressed the Ministry of Foreign Affairs, requesting information about the measures for compensation and redress of violated rights. The Ministry notified the author that there was no national legal mechanism to implement the Committee's Views.

On 11 November 2022, the author filed a complaint with the Supreme Court, requesting the re-examination of his case. The author asked that his life imprisonment be replaced by a fixed-term imprisonment, which does not exceed 15 years of imprisonment. As he had already served 18 years of imprisonment, he could be eligible for parole. The Supreme Court of Ukraine rejected his claims, stating that the Views of the Committee were of a recommendatory nature, and could not be considered as grounds to re-examine the case.

On 2 December 2022, the Ministry of Justice provided information about new legislation – Law No. 4049 – which included provisions providing for the substitution of life imprisonment with subsequent release. The mother of the author claims that this measure to prevent violations in the future can be considered only as partial implementation of the Views, since life imprisonment can be replaced with a fixed-term sentence of 15 to 20 years only after 15 years have been served, therefore the total length of the imprisonment cannot be less than 30 years. Moreover, those who have served more than 15 years at the moment that the new legislation is adopted will find themselves in a position where they are discriminated against compared to those who have served less, as their final calculation of years of imprisonment will automatically be bigger. The mother of the author also argues that the mechanism violates the principle of *non bis in idem*, as the State Party de facto issues a new sentence for the same crime. Therefore, Law No. 4049 does not provide a mechanism for granting parole to those sentenced to life imprisonment.

Submission by the State Party: 2 March 2023[27]

The State Party submits that it has translated the Views of the Committee and made them public.[28]

The State Party further notes that according to the amended clauses in the Criminal Code, a person sentenced to life imprisonment can apply for parole after serving three quarters of the sentence. The life imprisonment can be replaced with a term of imprisonment of 15 to 20 years, if the person convicted has served 15 years of the sentence. According to amendments to the Criminal Executive Code, the institution executing the sentence is obliged to consider within a month, after the person has served 15 years, the possibility of presenting him or her for parole or replacing the punishment with another one. In accordance with an order of the Ministry of Justice, the assessment of the correction is carried out by the head of department of the social and psychological service to which the convict is assigned, and, as regards the substitution of life imprisonment with fixed-term imprisonment, also by the representative of the body that deals with probation issues. This draft conclusion includes an assessment of the risks of reoffending, according to the methodological recommendations of the Ministry of Justice and considering the individual programme of social and educational work. The Commission defined by instructions [29] discusses the draft conclusions and makes recommendations about possible changes to the sentence. The convicted person can file a request with the court to have his sentence replaced by applying to the administration of the executive institution, which is obliged to provide him with copies of relevant documents. If the court refuses to grant replacement of the sentence, the convict can apply again no earlier than one year from the issuance of the refusal.

In the author's case, the Commission assessed the characteristics of the author, which was approved by the head of the executive institution, and refused to submit the materials to the court. The Commission explained the appeal procedure to the author.

As far as compensation is concerned, the State Party indicates that according to the procedure on compensation for damage to citizens caused by a governmental body, there is a right to

[27] The State Party's submission was acknowledged and transmitted to the author on 8 March 2023.

[28] The link was provided in the submission.

[29] It is not clear from the State Party's submissions which instructions are being referred to.

compensation in the amount and in the manner prescribed by the law based on an exhaustive list of grounds. In addition to that, if persons believe that their rights have been violated, they can submit a complaint with a court to receive compensation for moral damage.

Submissions by the author: 18 March 2023,[30] 23 April 2023 and 29 March 2024[31]

On 18 March 2023, the author's mother stated that the State Party had not meaningfully reviewed the sentence of life imprisonment due to an absence of grounds for reopening the case on the basis of the Committee's Views. The author applied to the Supreme Court to request re-examination of his sentence, and the Supreme Court refused to reopen the case, stating that the Committee's Views were of a recommendatory nature. The author's mother claims that the State Party should amend the legislation and create a mechanism for implementing the Committee's Views.

The State Party has not provided the author with full compensation, due to the exhaustive nature of the grounds for granting a person compensation for acts or omissions of governmental bodies, the Views of the Committee not being one of them. The State Party's claim – that anyone can apply to a court for compensation – misinterprets the Committee's Views. The Committee did not ask the author to seek compensation but required the State Party to provide it.

The decision of the Commission to refuse to grant the author replacement of his life imprisonment with a fixed-term sentence was based on formal procedure. The State Party should grant the author a meaningful review of the sentence not through the Commission, but through the Supreme Court, after amending the legislation. The Commission's hearing was held without the author or his counsel, the author did not receive copies of the Commission's materials, he was familiarized with the Commission's assessment without counsel, and the Commission's decision is final, since the State Party cannot rebut it. The author's mother claims that the author has positive personal characteristics.

On 19 April 2024, the author's mother stated that the author had tried to apply to the court on 22 May 2023 with a request for his case to be re-examined, but the court had rejected the complaint. The author supported his arguments through all the instances, and the courts rejected the complaints based on the same reasoning. The author's mother asked the Committee to urge the State Party to amend the legislation.[32]

Committee's assessment:

(a) Full reparation: Providing Mr. Aliev with a meaningful review of his sentence of life imprisonment on the basis of a clear and predictable procedure: C;

(b) Compensation: Providing him with adequate compensation: C;

(c) Non-repetition: A.

Committee's decision: Follow-up dialogue ongoing.

[30] The author's comments of 8 March 2023 were acknowledged and transmitted on 4 April 2023.

[31] The author's submissions of 23 April 2023 and 29 March 2024 were acknowledged and transmitted on 11 October 2024.

[32] On 31 March 2024, the author's mother filed a separate complaint with the Committee, arguing that the State Party's refusal to fully implement the Committee's Views constituted a separate violation of the Covenant.