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Report of the Human Rights Committee

Volume I

105th session
(9–27 July 2012)

106th session
(15 October–2 November 2012)

107th session
(11–28 March 2013)

General Assembly

Official Records
Sixty-eighth session
Supplement No. 40 (A/68/40)

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Note

Symbols of United Nations documents are composed of letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

Summary

The present annual report covers the period from 30 March 2012 to 30 March 2013 and the 105th, 106th and 107th sessions of the Human Rights Committee. In total, there are 167 States parties to the Covenant, 114 to the Optional Protocol and 75 to the Second Optional Protocol.

During the period under review, the Committee considered fifteen States parties' reports submitted under article 40 and reviewed one State party in the absence of a report and adopted concluding observations on them (105th session: Armenia, Iceland, Kenya, Lithuania and Maldives; 106th session: Bosnia and Herzegovina, Germany, Philippines, Portugal, and Turkey; 107th session: Angola, Belize (absence of report), Hong Kong, China, Macao, China, Paraguay, Peru – see chapter IV for concluding observations).

Prior to the 105th session, the Committee postponed the adoption of list of issues in the absence of a report on Haiti following a commitment by the State party to produce its initial report by September 2012. The State party's report was received on 3 December 2012. Although the Committee scheduled the consideration of the situation of civil and political rights in the absence of a report in Cote d'Ivoire for the 106th session, the Committee postponed consideration following a commitment from the State party to provide its initial report by 20 March 2013. The State party's report was received on 19 March 2013.

Under the Optional Protocol procedure, the Committee adopted 48 Views on communications, and declared 2 communications admissible and 26 inadmissible. Consideration of 18 communications was discontinued (see chapter V for information on Optional Protocol decisions). So far, 2,239 communications have been registered since the entry into force of the Optional Protocol to the Covenant, including 95 since the writing of the previous report.

The Committee's procedure for following up on concluding observations, initiated in 2001, continued to develop during the reporting period. The Special Rapporteur for follow-up on concluding observations, Ms. Christine Chanet, presented progress reports during the Committee's 105th, 106th and 107th sessions. The Committee notes with satisfaction that the majority of States parties have continued to provide it with additional information pursuant to rule 71, paragraph 5, of its rules of procedure, and expresses its appreciation to those States parties that have provided timely follow-up information.

The Committee again deplores the fact that a large number of States parties do not comply with their reporting obligations under article 40 of the Covenant Forty States parties are currently at least five years overdue with either an initial or periodic report.

The Committee's workload under article 40 of the Covenant and the Optional Protocol to the Covenant continues to grow, as demonstrated by the large number of State party reports received and cases registered during the reporting period. Twenty-four initial or periodic reports were received between 30 March 2012 and 28 March 2013, and by the end of the 107th session, 36 initial or periodic reports submitted by States parties had not yet been considered by the Committee. At the end of the 107th session, 332 communications were pending (see chapter V).

The Committee again notes that many States parties have failed to implement the Views adopted under the Optional Protocol. The Committee has continued to seek to ensure implementation of its Views through its Special Rapporteurs for follow-up on Views, Mr. Krister Thelin and Mr. Yuji Iwasawa. Meetings were arranged with representatives of States parties that had not responded to the Committee's requests for information about measures taken to give effect to its Views, or that had given unsatisfactory replies (see chapter VI).

Throughout the reporting period, the Committee continued to discuss the improvement of its working methods. At its 106th session, on 25 October 2012, for the first time ever, the Committee had a half-day discussion in preparation for its next general comment on article 9 (right to liberty and security of the person and freedom from arbitrary arrest or detention) (see chapter I).

During the 106th session, the Chairperson absented herself for three days to attend the interactive dialogue with the General Assembly in New York on 23 October 2012.

During the 107th session, the Committee decided to reiterate a request made in its previous annual report for approval from the General Assembly for additional temporary resources (see chapter I, paragraph 31).

On 12 July 2012, during the 105th session, under working methods, the Committee adopted a preliminary position paper on the treaty body strengthening process, which was distributed to the President of the General Assembly and the co-facilitators of the intergovernmental process (see chapter II).

During the 106th session, the Committee adopted a paper on its collaboration with national institutions for the promotion and protection of human rights (see annex VIII to the present report).

Finally, recalling the obligation of the Secretary-General under article 36 of the International Covenant on Civil and Political Rights, the Committee reaffirms its grave concern over the lack of sufficient staff resources and translation services which hampers its activities, and once again stresses the importance of providing the Secretariat with the necessary resources to support its work effectively. The Committee expresses its regret at the High Commissioner's decision to move the March session previously held in New York to Geneva (see chapter I).

Contents

I. Jurisdiction and activities

A. States parties to the International Covenant on Civil and Political Rights and to the Optional Protocols

1. At the end of the 107th session of the Human Rights Committee, there were 167 States parties to the International Covenant on Civil and Political Rights and 114 States parties to the Optional Protocol to the Covenant. Both instruments have been in force since 23 March 1976.

2. Since the last report, there have been no new accessions to the Covenant or the first Optional Protocol. Benin has ratified the Second Optional Protocol.

3. As of 28 March 2013, 48 States had made the declaration provided for under article 41, paragraph 1, of the Covenant. In this connection, the Committee appeals to States parties to make the declaration under article 41 of the Covenant and to consider using this mechanism with a view to making implementation of the provisions of the Covenant more effective.

4. The Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty entered into force on 11 July 1991. As at 28 March 2013, there were 75 States parties to the Optional Protocol.

5. A list of States parties to the Covenant and to the two Optional Protocols, indicating those States that have made the declaration under article 41, paragraph 1, of the Covenant, is contained in annex I to the present report.

6. Reservations and other declarations made by a number of States parties in respect of the Covenant or the Optional Protocols are set out in the notifications deposited with the Secretary-General. The Committee once again urges States parties to consider withdrawing their reservations.

B. Sessions of the Committee

7. The Human Rights Committee has held three sessions since the adoption of its previous annual report. The 105th session was held from 9 to 27 July 2012, the 106th session from 15 October to 2 November 2012, and the 107th session from 11 to 28 March 2013. All sessions were held at the United Nations Office at Geneva.

C. Election of officers

8. On 11 March 2013, the Committee elected the following officers for a term of two years, in accordance with article 39, paragraph 1, of the Covenant:

Chairperson:	Sir Nigel Rodley
Vice-Chairpersons:	Mr. Yadh Ben Achour Ms. Iulia Antoanella Motoc Ms. Margo Waterval
Rapporteur:	Mr. Cornelis Flinterman

9. During its 105th, 106th and 107th sessions, the Bureau of the Committee held nine meetings (three per session). Pursuant to the decision taken at the seventy-first session, the

Bureau records its decisions in formal minutes, which are kept as a record of all decisions taken.

D. Special rapporteurs

10. The Special Rapporteurs on new communications and interim measures, Sir Nigel Rodley and Mr. Walter Kälin, registered 95communications during the reporting period and transmitted them to the States parties concerned, and issued 10 decisions calling for interim measures of protection pursuant to rule 92 of the Committee's rules of procedure.

11. The Special Rapporteurs for follow-up on Views, Mr. Krister Thelin and Mr. Yuji Iwasawa, and the Special Rapporteurs for follow-up on concluding observations, Ms. Christine Chanet, and Mr. Fabián Salvioli continued to carry out their functions during the reporting period. Interim reports were submitted to the Committee by Ms. Chanet and Mr. Thelin during the 105th and 106th sessions. During the 107th session Ms. Chanet submitted an interim report and, given the departure of Mr. Thelin, an interim report on follow-up to Views was submitted by the Secretariat. Details on follow-up on Views under the Optional Protocol appear in chapter VI and annex XI (Vol. II); details on concluding observations are found in chapter VII and annex V (Vol. I).

E. Working group and country report task forces

12. In accordance with rules 62 and 95 of its rules of procedure, the Committee established a working group which met before each of its two sessions. The working group was entrusted with the task of making recommendations on the communications received under the Optional Protocol. The former working group on article 40, entrusted with the preparation of lists of issues concerning the initial or periodic reports scheduled for consideration by the Committee, has been replaced since the seventy-fifth session (July 2002) by country report task forces.[1] Country report task forces met during the 105th, 106th and 107th sessions to consider and adopt lists of issues on the reports of Albania; Angola; Bolivia (Plurinational State of); Czech Republic; Djibouti; Finland; Germany; Hong Kong, China; Indonesia; Macao, China; Mauritania; Mozambique; Peru; Tajikistan; Ukraine; United States of America. Lists of issues prior to reporting were adopted for Afghanistan, Australia, Croatia, Israel and San Marino. The Committee also adopted a list of issues on the situation in one non-reporting State: Belize (106th session). Prior to the 105th session, the Committee postponed the adoption of list of issues in the absence of a report on Haiti following a commitment by the State party to produce its initial report by September 2012.[2]

13. The Committee benefits increasingly from information made available to it by the Office of the United Nations High Commissioner for Human Rights (OHCHR). United Nations bodies (such as the Office of the United Nations High Commissioner for Refugees and UNICEF) and specialized agencies (such as the International Labour Organization) provided advance information on several of the countries whose reports were to be considered by the Committee. Country report task forces also considered material submitted by representatives of a number of national human rights institutions (NHRIs), as well as international and national human rights non-governmental organizations (NGOs).

[1] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 40*, vol. I (A/57/40 (vol. I)), para. 56, and annex III, sect. B.

[2] The State party subsequently requested an extension for submission of its report and then submitted it on 3 December 2012.

The Committee welcomed the interest shown by and the participation of those agencies and organizations and thanked them for the information provided.

14. At the 105th session, the Working Group on Communications was composed of Mr. Bouzid, Ms. Chanet, Mr. Flinterman, Ms. Motoc, Mr. O'Flaherty, Mr. Rivas Posada, Sir Nigel Rodley, Mr. Salvioli and Ms. Waterval. Ms. Chanet was designated Chairperson-Rapporteur. The Working Group met from 2 to 6 July 2012.

15. At the 106th session, the Working Group on Communications was composed of Mr. Bouzid, Mr. Flinterman, Ms. Motoc, Mr. Neuman, Mr. O'Flaherty, Mr. Rivas Posada, Mr. Sarsembayev and Ms. Waterval. Mr. Neuman was designated Chairperson-Rapporteur. The Working Group met from 8 to 12 October 2012. Given the limited number of draft communications to be prepared for the working group for the 107th session, exceptionally and with regret, the Committee decided that, the working group of the 107th session would be reduced from five to four days. This should not, however, be viewed as a policy decision by the Committee.

16. At its 107th session, the Working Group on Communications was composed of Mr. Yadh Ben Achour, Mr. Lazhari Bouzid, Mr. Cornelis Flinterman, Ms. Zonke Zanele Majodina, Ms. Iulia Antoanella Motoc, Mr. Nigel Rodley, Mr. Fabián Omar Salvioli and Ms. Margo Waterval. Ms. Waterval was designated Chairperson-Rapporteur. The Working Group met from 5 to 8 March 2013.

F. Related United Nations human rights activities

17. At each session, the Committee was informed about the activities of United Nations bodies dealing with human rights issues. Recent developments in the General Assembly and relating to the Human Rights Council were also discussed.

G. Derogations pursuant to article 4 of the Covenant

18. Article 4, paragraph 1, of the Covenant stipulates that, in time of public emergency which threatens the life of the nation, States parties may take measures derogating from certain of their obligations under the Covenant. Pursuant to paragraph 2, no derogation is allowed from articles 6, 7, 8 (paras. 1 and 2), 11, 15, 16 and 18. Pursuant to paragraph 3, any derogation must be immediately notified to the other States parties through the intermediary of the Secretary-General. A further notification is required upon the termination of the derogation.[3] All such notifications are available on the website of the United Nations Office of Legal Affairs.

19. On 17 July 2012, 7 August 2012, 3 October 2012, 27 December 2012, 13 January 2013, 9 December 2013, and 12 March 1013, the Government of Peru notified the other States parties, through the intermediary of the Secretary-General, that the states of emergency which had been declared in several provinces had been extended for 60 days. During the state of emergency, the rights covered by articles 9, 12, 17 and 21 of the Covenant would be suspended.[4]

20. On 13 June 2012, the Government of Guatemala notified the other States parties, through the intermediary of the Secretary-General, that it had declared a state of emergency in different provinces or parts of the country. In these notifications, the Government

[3] Ibid., *Sixtieth Session, Supplement No. 40*, vol. I (A/60/40 (vol. I)), chap. I, para. 28.

[4] For more information, see http://treaties.un.org/pages/CNs.aspx.

specified that, during the state of emergency, the rights covered by articles 9, 12, and 21 of the Covenant would be suspended. The Government also notified the other States parties that the state of emergency in one of its departments had been lifted on 18 May 2012. On 23 November 2012, the Government of Guatemala notified the other States parties, through the intermediary of the Secretary-General, that it had extended a state of emergency declared on 7 November 2012 to another province for 15 days. The right to liberty of movement under article 12 would be suspended during this period. On 15 January and 27 February 2013, the Government of Guatemala notified the other States parties, through the intermediary of the Secretary-General, that it had extended this state of emergency for a further period of 30 days.[5]

H. General comments under article 40, paragraph 4, of the Covenant

21. At its 105th session, the Committee decided that it should hold a half day of general discussion in preparations for its next general comment on article 9 (right to liberty and security of the person and freedom from arbitrary arrest or detention) during the 106th session. Mr. Gerald Neuman had been nominated rapporteur of this new general comment at the 104th session.

22. At its 106th session, on 25 October 2012, for the first time ever, the Committee had a half-day discussion in preparation for its next general comment on article 9 (right to liberty and security of the person and freedom from arbitrary arrest or detention). The event was focused on the views of NGOs, academia and NHRIs.

23. Many issues were brought up during the discussion, including the relationship between article 9 and the other treaties, in particular the Committee on Enforced Disappearances, the Committee on the Rights of Persons with Disabilities and the Committee on the Rights of the Child. Various themes were explored including; private detention during and outside armed conflict situations; preventative detention; security of persons outside detention; the meaning of "promptness" under article 9, paragraph 3, and "arbitrariness" under 9, paragraph 1, in particular in the light of the Working Group on Arbitrary Detention's definition; and "atypical" detention such as house arrest, hospital detention of insolvent patients and drug-based detention. Several interventions were also made by civil society, including the International Committee of the Red Cross, which solicited caution in considering the effect of article 9 during international conflicts, in particular with respect to security detention, given the application of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention). Written interventions provided and oral statements made by civil society for this half day of discussion may be accessed from the webpage: http://www2.ohchr.org/english/bodies/hrc/discussion2012.htm. Given the success of this event, the Committee decided that it should develop a practice of holding a similar event prior to drafting each new general comment.

24. At its 107th session, the Committee commenced consideration of its first draft of its general comment on article 9. It reviewed the first eight paragraphs of the draft and will continue the first reading at the next session. The first draft was posted on the Committee's webpage for information only. It was indicated that all stakeholders would be given an opportunity to provide formal inputs into the process on the basis of the draft as it stood once the first reading had been completed, which would be posted on the webpage. Stakeholders will be alerted to this opportunity once the first reading has been completed.

[5] Ibid.

I. Staff resources and translation of official documents

25. In accordance with article 36 of the Covenant, the Secretary-General is obliged to provide the Committee members with the necessary staff and facilities for the effective performance of their functions. The Committee reaffirms its concern regarding the shortage of staff resources and stresses once again the importance of allocating adequate staff resources to service its sessions in Geneva and New York and to promote greater awareness, understanding and implementation of its recommendations at the national level. Furthermore, the Committee expresses grave concern that general rules within the United Nations concerning staff mobility in the Secretariat may hamper the work of the Committee, in particular for staff working in the Petitions Unit who need to remain in their position for a sufficiently long period so as to acquire experience and knowledge regarding the jurisprudence of the Committee.

26. The Committee also reaffirms its deep concern at the lack of availability of its official documents in the three working languages of the Committee. At its ninety-eighth session, held in March 2010, the Committee met in a public plenary session with Mr. Franz Baumann, Assistant Secretary-General for General Assembly Affairs and Conference Management, and Ms. Linda Wong, Chief, Service II, Programme Planning and Budget Division, in order to discuss ways in which the Committee could assist in overcoming difficulties with regard to the processing and translation in its three working languages of official Committee documents, in particular States parties' written replies to lists of issues, presently not considered to be "mandated".

27. During its 103rd session (17 October to 4 November 2011), the Committee was briefed by Kyle Ward, the Chief of Programme Support and Management Services, on the financing of the Human Rights Committee's sessions; at that time it requested further information on resources allocated to the treaty bodies. Following this meeting, the Committee decided to address the member States of the General Assembly, who are also States parties to the Covenant, in the form of a letter to the permanent missions in New York, in which the Committee expresses its concerns at the current resource deficit to the treaty bodies generally and in particular to the Committee. It requested the States parties to take such concerns up with the Third and Fifth Committees, including those raised in the report of the Secretary-General on measures to improve further the effectiveness, harmonization and reform of the treaty body system (A/66/344).

28. During the period under review, the Committee highlighted its concerns as above-mentioned; it once again reaffirms these same concerns and recalls that there remains a particular problem with having States parties' replies to lists of issues translated into its three working languages and requests that this problem be addressed as a matter of urgency. The Committee makes every effort to continue to improve its working methods to ensure increased productivity without affecting the quality of its work.

29. During the 105th session, the Committee expressed its regret at information received from the Secretariat of the possibility that, its March session would be moved from New York to Geneva, due to financial constraints. In a letter dated 29 July 2012, on behalf of the Committee, the Chairperson highlighted the benefit of meeting in New York and expressed a wish to ensure that, when financial decisions that impact on the work of the Committee are considered, the latter has an opportunity to consider the actual and possible immediate and long-term implications. On 6 August 2012, the High Commissioner responded to this letter. While taking the Committee's concerns on board, she stressed that the move to Geneva would enable the Committee to remain within the allocated regular budget and at the same time improve the servicing of the session.

30. During its 107th session, the Committee expressed its regret that the General Assembly did not approve its request made in its last annual report (A/67/40) for additional

temporary resources to deal with communications under the Optional Protocol to the International Covenant on Civil and Political Rights. Such resources would have allowed the Secretariat to do preparatory work in 2013 and 2014 regarding the backlog of individual communications that are currently ready for a decision by the Committee.

31. During the same session, on 25 March 2013, the Committee reiterated its decision adopted on 30 March 2012[6] and by necessity decided to make additional requests. The Committee requests approval from the General Assembly for additional temporary resources to deal with communications under the Optional Protocol to the International Covenant on Civil and Political Rights and reports under article 40 of the Covenant (see annex VI to the present report).

32. The additional resources would allow the Secretariat to do preparatory work regarding 160 individual communications in 2014 and 2015, currently ready for a decision by the Committee, and to provide the Committee with the necessary assistance to review an additional four State party reports.

33. To ensure that the Committee will have sufficient time to deal with the increase in the number of communications and reports, it requests additional meeting time of two weeks during the period 2014 and 2015. This would mean that one of the Committee's three week plenary sessions would be increased by one week in 2014 and one week in 2015.

34. Pursuant to rule 27 of the Committee's rules of procedure an estimate of the cost involved in the proposal arising from the Committee's decision, as provided by the Secretary-General through the Secretariat, was circulated among the members of the Committee in March 2013. Therefore, the Committee requests the General Assembly, at its sixty-eighth session, to approve the present request and provide appropriate financial support for the Committee's resolution of its current backlog of communications and reports (see annex VII to the present report).

35. The reiterated request is limited to the preparatory work on the current backlog of communications during the period 2014–2015 and is without prejudice to further requests for additional resources that the Committee might address to the General Assembly in the future to deal with long-term structural problems.

J. Publicity for the work of the Committee

36. At its ninetieth session, the Committee discussed the need to develop a media strategy. It continued the discussion during the ninety-first, ninety-second and ninety-third sessions on the basis of a working paper prepared by Mr. Ivan Shearer, which was adopted by the Committee and made public at its ninety-fourth session (see CCPR/C/94/3).

37. During the 105th, 106th and 107th sessions, the Centre for Civil and Political Rights continued to webcast the examination of all States parties' reports as well as other public meetings of interest. The webcast may be accessed at the following link: www.treatybodywebcast.org.

38. During the 105th session, a Human Rights Adviser was present at the session to address the Committee. OHCHR Senior Human Rights Adviser, from the Office of the Resident and Humanitarian Coordinator, in Nairobi, attended the session and briefed the Committee on the situation in Kenya. The national human rights institution and a

[6] *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 40*, vol. I (A/67/40 (vol. I)), annex VI.

significant number of national NGOs attended the session, and the webcasting of the meetings was streamed live on Kenyan national television.

39. During the 105th session, the journalists at the press conference showed good interest in the concluding observations adopted, a number of interviews and articles were published thereon and, for each of the posts on Facebook by the communications section of the Office on the countries examined, there were around 6,000 views.

40. During the press conference held at the end of the 106th session, a number of journalists expressed a particular interest in the Committee's concluding observations on Germany and Turkey. The number of users on Facebook connecting to the Committee's concluding observations reached a total of 25,926 and the tweets posted throughout the session reached a total of 446,784 users and received a lot of retweets and positive replies.

41. During the 107th session, relevant United Nations field offices and the communications unit of OHCHR were instrumental in creating awareness of the examination of reports and the adoption of concluding observations. Concluding observations on Belize; China; Hong Kong, China; Macao, China; Paraguay; and Peru generated a lot of media attention and a number of interviews were held with Committee members. A number of journalists attended the Committee's press conference. Information posted on Facebook about the dialogues reached a total of 41,805 users, from whom were received many positive comments. The tweets posted throughout the session reached a total of 59,040 users and received a lot of retweets (53) and positive replies.

K. Publications relating to the work of the Committee

42. The Committee reiterates its appreciation that volumes 5, 6, 7, 8 and 9 of the *Selected Decisions of the Human Rights Committee under the Optional Protocol* have been published, bringing its jurisprudence up to date to the October 2007 session. Such publications will make the Committee's jurisprudence more accessible to the general public and to the legal profession in particular. However, these volumes of the *Selected Decisions* must still be made available in all official languages of the United Nations.

43. The Committee also notes with satisfaction that its decisions adopted under the Optional Protocol continue to be published in the databases of various institutions.[7] It appreciates the growing interest shown in its work by universities and other institutions of higher learning in this respect. It also reiterates its previous recommendation that the treaty body database of the OHCHR website (http://tb.ohchr.org/default.aspx) be equipped with adequate search functions.

L. Future meetings of the Committee

44. The following is the schedule of meetings remaining for 2013: the 108th session will be held from 8 to 26 July, and the 109th session, from 14 October to 1 November. In 2014, the 110th meeting will be held from 10 to 28 March. All meetings will be held in Geneva.

M. Submission of the Committee's annual report to the General Assembly

45. During the 106th session, the Chairperson absented herself for three days to attend the interactive dialogue with the General Assembly in New York on 23 October 2012. This

[7] Ibid., *Fifty-ninth Session, Supplement No. 40*, vol. I (A/59/40 (vol. I)), annex VII.

was the first time a Chairperson of the Committee had addressed the General Assembly pursuant to the General Assembly resolution 66/148 on the two Covenants amended during its sixty-sixth session.

N. Adoption of the report

46. At its 2972nd meeting, on 25 March 2013, the Committee considered the draft of its thirty-seventh annual report, covering its activities at its 105th, 106th and 107th sessions, held in 2012 and 2013. The report, as amended in the course of the discussion, was adopted unanimously. By virtue of its decision 1985/105 of 8 February 1985, the Economic and Social Council authorized the Secretary-General to transmit the Committee's annual report directly to the General Assembly.

II. Methods of work of the Committee under article 40 of the Covenant and cooperation with other United Nations bodies

47. The present chapter summarizes and explains the modifications introduced by the Committee to its working methods under article 40 of the Covenant in recent years, as well as recent decisions adopted by the Committee on follow-up to its concluding observations on State party reports.

A. Recent developments and decisions on procedures

1. Revised reporting guidelines

48. At its ninetieth session, the Committee decided to revise its reporting guidelines and requested Mr. O'Flaherty to review the existing guidelines and to prepare a working paper identifying in particular any difficulties that might arise with the implementation of harmonized guidelines. The Committee began a discussion on the basis of Mr. O'Flaherty's document at its ninety-second and ninety-third sessions and decided to begin work on the preparation of new guidelines. At its ninety-fifth session, the Committee designated Ms. Keller as rapporteur for the preparation of new guidelines.

49. At its ninety-seventh session, held in October 2009, the Committee started discussing its draft revised reporting guidelines and continued this discussion at its ninety-eighth session. The revised reporting guidelines were adopted at the ninety-ninth session.

2. Focused reports based on lists of issues prior to reporting

50. In October 2009, the Committee also decided to adopt a new reporting procedure whereby it would send States parties a list of issues (referred to as a list of issues prior to reporting) and consider their written replies in lieu of a periodic report (referred to as a focused report based on replies to a list of issues). Under the new procedure, the State party's answer would constitute the report for purposes of article 40 of the Covenant. The Committee designated Ms. Keller as rapporteur for the modalities of the new procedure. Following a discussion of two papers submitted by Ms. Keller at the ninety-eighth and ninety-ninth sessions, the modalities of implementation of the new optional procedure were decided upon by the Committee during its ninety-ninth session (see for further details CCPR/C/99/4). During the 101st session, pursuant to the timelines set out in the CCPR/C/99/4 document, the Committee announced the names of the first five countries for which the Committee would adopt lists of issues prior to reporting during its 103rd session in October 2011 (Cameroon, Denmark, Monaco, the Republic of Moldova and Uruguay). These lists of issues were subsequently adopted by the Committee as planned during the 103rd session and transmitted to the State parties. During the 105th session, lists of issues prior to reporting were adopted for Afghanistan, Croatia, Israel and San Marino. The adoption of list of issues on New Zealand, which had been scheduled for consideration at the 105th session was postponed until the 110th session in March 2014. During the 106th session, a list of issues prior to reporting was adopted for Australia. During the same session, the Committee decided that list of issues prior to reporting should be adopted one year prior to the due date for the next periodic report and that a period of one year should be given to States parties to respond to the list of issues prior to reporting.

3. Position paper on the treaty body strengthening process

51. On 12 July 2012, the Committee adopted the following public preliminary position paper on the strengthening of the United Nations treaty bodies, which was distributed to the President of the General Assembly and the co-facilitators of the intergovernmental process:

> "1. On 22 June 2012, the High Commissioner for Human Rights published her report, 'Strengthening the United Nations human rights treaty body system'. The Human Rights Committee welcomes the report and the acknowledgement by the Secretary-General at the Foreword to the report that the treaty body system, 'is one of the greatest achievements in the history of the global struggle for human rights'. The Committee agrees that the system is in need of strengthening, including through the receipt of sufficient and sustained resources without which many of the proposals in the report cannot be realised. It considers that the report provides a good basis for progress by all stakeholders in the strengthening of the treaty body system.
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> 2. The Human Rights Committee takes this opportunity to issue a Preliminary Statement on the High Commissioner's report. The Committee recalls that the inter-governmental process must respect the integrity of the respective treaties, the powers of the treaty bodies to decide on their own working methods and rules of procedures, and guarantee their independence. The more detailed views of the Committee will be made available in due course.
>
> 3. The Committee finds that the proposal for the Comprehensive Reporting Calendar addresses a main problem of the treaty body system. The Committee recognises its merits while also acknowledging its challenging consequences, including the fundamental change to practice and procedure that would be required for all the relevant actors (States parties, treaty bodies, civil society, NHRIs and the Secretariat). It highlights that the success of the proposal depends on the availability of adequate additional resources and of the capacity of treaty body members to assume the extra work involved, as well as on States parties to meet their reporting obligations. The Committee will further consider the proposal in light of article 40, para. 1 (b) of the International Covenant on Civil and Political Rights.
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> 4. The Committee is of the view that many of the proposals in the report several of which come from the practice of the Human Rights Committee can be considered for implementation regardless of whether or when the Comprehensive Reporting Calendar will be adopted. A large number of the recommendations to be found at paragraphs 4.2.1 to 4.2.7 are worthy of serious consideration (adoption by other treaty bodies of the LOIPR procedure – now re-named in the report as the 'Simplified Reporting Procedure', submission of Common Core Documents and regular updates, strict adherence to page limits, aligned methodologies for dialogue with States, reduction in translation of summary records, more focussed Concluding Observations, enhanced engagement with United Nations partners), whereas others appear to raise certain difficulties.
>
> 5. The Committee considers that the recommendation at paragraph 4.2.8 regarding an aligned model of interaction of treaty bodies with civil society and NHRIs should be discussed with these actors prior to their implementation. Dialogue with them should take account of the distinct nature and functions of non-governmental organisations and NHRIs.
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> 6. The Committee supports the recommendations at paragraph 4.2.8 regarding reprisals.

7. The Committee welcomes the acknowledgement in the report that the individual communications procedure can be strengthened. It highlights that the success of the proposals depend on the availability of adequate additional resources. It supports the recommendations for the adoption of common guidelines subject to the respective treaty provisions and the establishment of a jurisprudence data-base.

8. The Committee expresses its unease related to the recommendation on the establishment of a joint treaty body working group on communications. Any such initiative must take account of the need for a juridical approach to the consideration of communications that is clearly based on the substantive and procedural provisions of the respective treaties and their respective memberships.

9. The Committee finds the recommendation regarding friendly settlements of individual cases to be of interest. It considers that this needs further reflection that takes account of such specificities of the individual communication procedures as their non-binding nature and the inequality of arms between the State and the author of a communication, as well as what the proper role of treaty bodies would be with regard to friendly settlements.

10. The Committee does not consider that it should present a view regarding matters of the competence and election of treaty body members.

11. The Committee welcomes the recommendation at paragraph 4.4.3 that a membership handbook be developed.

12. The Committee welcomes the attention paid by the report to matters of follow-up. It considers the various recommendations to be of interest. It considers that the subject of follow up of both the reporting and the individual communications procedures is worthy of more attention than it receives in the report and it recalls the central role to be played in it by the treaty bodies themselves.

13. The Committee welcomes the recommendation at paragraph 4.5.2 regarding the standardisation of procedures for the adoption of General Comments.

14. The Committee welcomes the recommendation at paragraph 4.5.3 regarding capacity building for reporting. It recalls that OHCHR is not the only actor in a position to provide such support and it encourages civil society and NHRIs also to intensify efforts in this regard that benefit all stakeholders.

15. The Committee welcomes the recommendations at paragraph 4.6 for the enhancing of the visibility and accessibility of the treaty bodies.

16. The Committee considers that a number of additional proposals, not mentioned in the report that were identified in the informal consultations as well as in other contexts, may also have merit. It will draw attention to such matters in its more detailed future commentary on the High Commissioner's report."

4. Intergovernmental process/Treaty body strengthening

52. From 2 to 3 April 2012, after its 104th session in New York, the following Committee members remained after the session to attend the consultations for States parties: Ms. Chanet, Mr. O'Flaherty and Sir Nigel Rodley.

53. During the 107th session, Mr Neuman debriefed the Committee on his experience at the intergovernmental conference on treaty body strengthening held on 19 February 2013 in New York.

54. After the 107th session, in April 2013, Mr. Fathalla and Mr. Neuman attended further State party consultations in New York.

5. Cooperation with national human rights institutions and non-governmental organizations

55. During its 102nd session, at its 2803rd meeting, the Committee held a meeting with NGOs and national human rights institutions (NHRIs) to consider ways to improve their cooperation with the Committee. Mr. Flinterman and Ms. Motoc were assigned the task of preparing a paper for the following session, upon which the Committee would base its consideration of how best to continue its collaboration with NHRIs and NGOs.

56. During its 103rd session, the Committee decided for the first time to provide NHRIs and NGOs with formal meeting time in closed plenary session of one half hour per State party, prior to the examination of the State party in question. Informal briefings with the members were also organized as a supplementary informal meeting. Given the success of this new engagement with NHRIs and NGOs, the Committee decided that it should continue with this practice.

57. During its 104th session, the Committee adopted a paper on its collaboration with NGOs. The purpose of the paper is to clarify and strengthen the Committee's relationship with NGOs and to enhance the contribution of NGOs in the implementation of the Covenant at the domestic level.

58. Also during the 104th session, the Committee nominated Mr. O'Flaherty to develop a paper on its relationship with NHRIs, to be presented to the Committee at its 105th session in July 2012.

59. During the 106th session, the Committee adopted a paper on its collaboration with NHRIs (see annex VIII to the present report).

6. Creation of the position of Special Rapporteur on case management

60. During the 104th session, the Committee established the position of Special Rapporteur on Case Management. This Special Rapporteur will be responsible for proposing a system of case management and for establishing criteria for the selection/prioritization of individual cases. The Committee nominated Mr. Iwasawa for this newly created position.60. During the 107th session, the Committee commenced consideration of a report presented by the Special Rapporteur on case management. The Committee will continue its review of this report during the Committee retreat from 24–26 April 2013 (see below). The new Special Rapporteur on new communications and interim measures, Mr. Kälin, will be consulted on the possible merger of the two mandates.

7. Human Rights Committee retreat

61. During the 105th session, Mr. Flinterman indicated that he had obtained funding through the The Hague Institute for Global Justice for a Committee retreat in The Hague. The retreat will be held from 24 to 26 April 2013. The provisional agenda includes the following issues: draft guidelines on follow-up to concluding observations; discussion on follow-up to Views; role of the Meeting of States Parties and the role of the General Assembly; consideration of the High Commissioner's report on strengthening the treaty bodies – general discussion; mandate of the Special Rapporteurs on new communications and interim measures and on case management in dealing with individual communications; a template for a new format for individual communications; a paper on remedies; using other treaty bodies' interpretations to construe the Covenant; and a meeting with members of the Working Group on Arbitrary Detention. Recommendations from the retreat will be presented to the Committee's plenary for consideration.

B. Follow-up to concluding observations

62. Since its forty-fourth session in March 1992,[8] the Committee has adopted concluding observations. It takes the concluding observations as a starting point in the preparation of the list of issues for the consideration of the subsequent State party report. In some cases, the Committee has received, in accordance with rule 71, paragraph 5, of its revised rules of procedure, comments on its concluding observations and replies to the concerns identified by it from the States parties concerned, which are issued in document form.

63. At its seventy-fourth session, the Committee adopted decisions spelling out the modalities for following up on concluding observations.[9] At its seventy-fifth session, the Committee appointed Mr. Maxwell Yalden as its Special Rapporteur for follow-up on concluding observations. At the eighty-third session, Mr. Rivas Posada succeeded Mr. Yalden. At the ninetieth session, Sir Nigel Rodley was appointed Special Rapporteur for follow-up on concluding observations. At the ninety-sixth session, Mr. Abdelfattah Amor succeeded Sir Nigel Rodley. At the 101st session, Ms. Chanet succeeded Mr. Amor.

64. At its ninety-fourth session, the Committee requested the Special Rapporteur for follow-up on concluding observations, Sir Nigel Rodley, to present proposals to the Committee on ways to strengthen its follow-up procedure. On the basis of a paper submitted by the Special Rapporteur (CCPR/C/95/5), the Committee discussed and adopted several proposals to strengthen its follow-up procedure at its ninety-fifth session.[10]

65. Since the implementation of the follow-up procedure, the Committee has adopted three follow-up reports per year, analysing the replies received between sessions from States parties. Taking into account the short time between the sessions of March, July and October, but also the difficulties resulting from the short deadlines for translation services, the Special Rapporteur for follow-up to concluding observations decided to present two complete reports per year at the March and October sessions.

66. To allow for urgent issues, either procedural or due to the gravity of the situation in a State party, the Special Rapporteur may present an interim report during the July session. Such a report was presented at the 105th session, in which the follow-up reports of Israel and Togo were considered.

67. The procedural situation of all other States parties under the follow-up procedure since the ninety-sixth session are continuously kept under review and the necessary measures are taken after each session to ensure that the reminders or other relevant information on the follow-up procedure are duly communicated to the State party.

68. During the period under review, follow-up comments were received from 19 States parties (Azerbaijan, Belgium, Bulgaria, Cameroon, Colombia, Hungary, Israel, Jamaica, Kazakhstan, Kuwait (twice), Mexico, Mongolia, Norway, Poland, Slovakia, Togo (twice), Turkmenistan, United Republic of Tanzania, Uzbekistan (twice)) and from United Nations Interim Administration Mission in Kosovo (UNMIK) (twice). Follow-up information was also received from NGOs. This information on follow-up has been published and can be consulted on the OHCHR website (http://www2.ohchr.org/english/bodies/hrc/sessions.htm). Chapter VII of the present report summarizes activities relating to follow-up to concluding observations and States parties' replies.

[8] *Official Records of the General Assembly, Forty-seventh Session, Supplement No. 40* (A/47/40), chap. I, sect. E, para. 18.

[9] Ibid., *Fifty-seventh Session, Supplement No. 40* (A/57/40), vol. I, annex III, sect. A.

[10] Ibid., *Sixty-fourth Session, Supplement No. 40* (A/64/40), vol. I, annex VI.

C. Links to other human rights treaties and treaty bodies

69. The Committee views the annual meeting of chairpersons of the human rights treaty bodies as a forum for exchanging ideas and information on procedures and logistical problems, streamlining working methods, improving cooperation among treaty bodies, and stressing the need to obtain adequate secretariat services to enable all treaty bodies to fulfil their mandates effectively. In its opinion on the idea of creating a single human rights treaty body,[11] the Committee proposed that the meeting of chairpersons of treaty bodies and the Inter-Committee Meeting should be replaced by a single coordinating body composed of representatives of the various treaty bodies, which would be responsible for the effective oversight of all questions relating to the harmonization of working methods.

70. The twenty-fourth annual meeting of chairpersons of the human rights treaty bodies was held in Addis Ababa from 25 to 29 June 2012. The Chairperson of the Committee attended on the Committee's behalf. One of the outcomes of this meeting was the endorsement by the Chairpersons of the Guidelines on the independence and impartiality of members of the human rights treaty bodies (Addis Ababa guidelines). These guidelines have yet to be considered by the Committee.

71. The twenty-fifth annual meeting of chairpersons of the human rights treaty bodies will be held from 20 to 24 May 2013 in New York. The Chairperson of the Committee will attend on the Committee's behalf.

72. During its 106th session, the Committee held its second formal meeting with the Committee on the Elimination of Discrimination against Women, whose session overlapped with that of the Human Rights Committee. The Committees exchanged information on treaty body strengthening, the individual communications procedure and the relocation of both committees' New York sessions to Geneva.

73. During the same session, the Committee had an informal meeting with the Committee against Torture during which they shared views on common issues of concern, including the optional reporting procedure of list of issues prior to reporting.

74. During the 107th session, in his closing comments the Chairperson highlighted the Committee's clarified position on its interpretation of article 25 of the Covenant with respect to the right to vote for persons with mental, intellectual or psychosocial disabilities. He stated that, during the session, the Committee had adopted concluding observations which stated that legislation relating to article 25 on the right to vote, should not "discriminate against persons with mental, intellectual or psychosocial disabilities by denying them the right to vote on bases that are disproportionate or that have no reasonable and objective relation to their ability to vote". He indicated that, while the Committee's general comment No. 25 (1996) on the right to participate in public affairs, voting rights and the right of equal access to public service,[12] may be interpreted differently, it is the Committee's view that it is unnecessary and contrary to its practice to amend its general comment. The practice has been that any reviewed interpretations of the Covenant will be reflected in subsequent updated general comments. He also indicated that this clarification on article 25 will be highlighted to the Committee on the Rights of Persons with Disabilities and other interested parties and that all are encouraged to publicize the Committee's position.

[11] Ibid., *Sixty-second Session, Supplement No. 40* (A/62/40), vol. I, annex V.

[12] *Official Records of the General Assembly, Fifty-first Session, Supplement No. 40*, vol. I (A/51/40 (vol. I)), annex V.

D. Cooperation with other United Nations bodies

75. At its ninety-seventh session, Mr. Sanchez-Cerro took over from Mr. Mohammed Ayat as the Rapporteur mandated to liaise with the Office of the Special Adviser to the Secretary-General for the Prevention of Genocide and Mass Atrocities. Since Mr. Sanchez-Cerro's departure from the Committee in 31 December 2010 this mandate had been left open. During the 107th session, Mr. Ahmad Amin Fathalla, was nominated as focal point on this mandate.

76. On 29 June 2012, prior to the beginning of the pre-sessional working group on communications of the 105th session, the members of the working group met with a number of judges of the European Court of Human Rights, during which they exchanged views on the following topics: interim measures (scope, weight of domestic findings, recent challenges); prohibition of discrimination as an independent right in recent case-law; recent case-law on freedom of expression; and disappearances and investigative obligations.

77. During the 105th session, Ms. Jannie Lasimbang, a member of the Expert Mechanism on the Rights of Indigenous Peoples, briefed and had an exchange of views with the Committee on the work of this body.

III. Submission of reports by States parties under article 40 of the Covenant

78. Under article 2, paragraph 1, of the International Covenant on Civil and Political Rights, each State party undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant. In connection with this provision, article 40, paragraph 1, of the Covenant requires States parties to submit reports on the measures adopted and the progress achieved in the enjoyment of the various rights and on any factors and difficulties that may affect the implementation of the Covenant. States parties undertake to submit reports within one year of the entry into force of the Covenant for the State party concerned and, thereafter, whenever the Committee so requests. Under the Committee's guidelines, adopted at its sixty-sixth session and amended at the seventieth session (CCPR/C/GUI/66/Rev.2), the five-year periodicity in reporting, which the Committee itself had established at its thirteenth session in July 1981 (CCPR/C/19/Rev.1), was replaced by a flexible system whereby the date for the subsequent periodic report by a State party is set on a case-by-case basis at the end of the Committee's concluding observations on any report, in accordance with article 40 of the Covenant and in the light of the guidelines for reporting and the working methods of the Committee. The Committee confirmed this approach in its current guidelines adopted at the ninety-ninth session (CCPR/C/2009/1).

79. During the 104th session, the Committee decided to increase the periodicity granted to State parties for their reports to up to a period of six years.

A. Reports submitted to the Secretary-General from April 2012 to March 2013

80. During the period covered by the present report, 24 reports were submitted to the Secretary-General by the following States parties: Burundi (initial report), Cambodia (second periodic report), Chad (second periodic report), Chile (sixth periodic report), Cote d'Ivoire (initial report), Cyprus (fourth periodic report), France (fifth periodic report), Georgia (fourth periodic report), Haiti (initial report), Ireland (fourth periodic report), Japan (sixth periodic report), Kyrgyzstan (second periodic report), Latvia (third periodic report), Malawi (initial report), Malta (second periodic report), Montenegro (initial report), Russian Federation (seventh periodic report), Sierra Leone (initial report), Spain (sixth periodic report), Sri Lanka (fifth periodic report), Sudan (fourth periodic report), Venezuela (Bolivarian Republic of) (fourth periodic report), Uruguay (fifth periodic report),[13] and United Kingdom of Great Britain and Northern Ireland (seventh periodic report).

B. Overdue reports and non-compliance by States parties with their obligations under article 40

81. The Committee wishes to reiterate that States parties to the Covenant must submit the reports referred to in article 40 of the Covenant on time so that the Committee can duly perform its functions under that article. Those reports are the basis for the discussion

[13] The State party submitted its response to a list of issues prior to reporting adopted by the Committee under the new optional procedure. This response is considered its fifth periodic report.

between the Committee and States parties on the human rights situation in States parties. Regrettably, serious delays have been noted since the establishment of the Committee.

82. The Committee notes with concern that the failure of States parties to submit reports hinders the performance of its monitoring functions under article 40 of the Covenant. The list below identifies the States parties that have a report more than five years overdue, and those that have not submitted reports requested by a special decision of the Committee. The Committee reiterates that these States are in default of their obligations under article 40 of the Covenant.

States parties that have reports more than five years overdue (as at 28 March 2013) or that have not submitted a report requested by a special decision of the Committee

State party	*Type of report*	*Date due*	*Years overdue*
Gambia	Second	21 June 1985	27
Equatorial Guinea	Initial	24 December 1988	24
Somalia	Initial	23 April 1991	21
Saint Vincent and the Grenadines	Second	31 October 1991	21
Grenada	Initial	5 December 1992	21
Seychelles	Initial	4 August 1993	19
Niger	Second	31 March 1994	19
Afghanistan[a]	Third	23 April 1994	18
Dominica	Initial	16 September 1994	18
Guinea	Third	30 September 1994	18
Cape Verde	Initial	5 November 1994	18
Malta	Second	12 December 1996	16
Belize	Initial	9 September 1997	15
Romania	Fifth	28 April 1999	13
Nigeria	Second	28 October 1999	13
Lebanon	Third	31 December 1999	13
South Africa	Initial	9 March 2000	13
Burkina Faso	Initial	3 April 2000	12
Iraq	Fifth	4 April 2000	12
Senegal	Fifth	4 April 2000	12
Ghana	Initial	8 February 2001	12
Belarus	Fifth	7 November 2001	11
Bangladesh	Initial	6 December 2001	11
India	Fourth	31 December 2001	11

State party	*Type of report*	*Date due*	*Years overdue*
Lesotho	Second	30 April 2002	10
Zimbabwe	Second	1 June 2002	10
Guyana	Third	31 March 2003	10
Congo	Third	21 March 2003	10
Eritrea	Initial	22 April 2003	9
Gabon	Third	31 October 2003	9
Trinidad and Tobago	Fifth	31 October 2003	9
Democratic People's Republic of Korea	Third	1 January 2004	9
Viet Nam	Third	1 August 2004	8
Egypt	Fourth	1 November 2004	8
Timor-Leste	Initial	19 December 2004	8
Mali	Third	1 April 2005	7
Swaziland[b]	Initial	27 June 2005	7
Liberia	Initial	22 December 2005	7
Andorra	Initial	22 December 2007	5
Bahrain	Initial	20 December 2007	5

[a] On 12 May 2011, Afghanistan accepted the new optional procedure on focused reports based on replies to the list of issues prior to reporting. It is thus waiting for the Committee to adopt a list of issues prior to reporting. During the 105th session, the Committee adopted a list of issues prior to reporting on Afghanistan with a deadline of 31 October 2013 for its response, which will be considered its second periodic report.

[b] During the 104th session, the Committee agreed to a request to extend the deadline for the initial report of Swaziland until the end of December 2012.

83. The Committee once again draws particular attention to the fact that 24 initial reports are overdue (including the 17 initial reports overdue by at least five years listed above). The result is frustration of a crucial objective of the Covenant, namely, to enable the Committee to monitor compliance by States parties with their obligations under the Covenant on the basis of periodic reports. The Committee addresses reminders at regular intervals to all those States parties whose reports are significantly overdue.

84. Owing to the concern of the Committee about the number of overdue reports and non-compliance by States parties with their obligations under article 40 of the Covenant,[14] two working groups of the Committee proposed amendments to the rules of procedure in order to help States parties fulfil their reporting obligations and to simplify the procedure. These amendments were formally adopted during the seventy-first session, in March 2001,

[14] *Official Records of the General Assembly, Fifty-first Session, Supplement No. 40*, vol. I (A/51/40 (vol. I)), chap. III, sect. B, and ibid., *Fifty-seventh Session, Supplement No. 40* (A/57/40), chap. III, sect. B.

and the revised rules of procedure were issued (CCPR/C/3/Rev.6 and Corr.1).[15] All States parties were informed of the amendments to the rules of procedure, and the Committee has applied the revised rules since the end of the seventy-first session (April 2001). The Committee recalls that general comment No. 30, adopted at the seventy-fifth session, spells out the States parties' obligations under article 40 of the Covenant.[16]

85. The amendments introduced a procedure to be followed when a State party has failed to honour its reporting obligations for a long time, or requests a postponement of its scheduled appearance before the Committee at short notice. In both situations, the Committee may henceforth serve notice on the State concerned that it intends to consider, from material available to it, the measures adopted by that State party to give effect to the provisions of the Covenant, even in the absence of a report. The amended rules of procedure further introduced a follow-up procedure to the concluding observations of the Committee. The Committee invites the State party to report back to it within a specified period regarding its follow-up to the Committee's recommendations, indicating what steps, if any, it has taken. The responses received are thereafter examined by the Committee's Special Rapporteur for follow-up on concluding observations. Since the seventy-sixth session, the Committee has, as a rule, examined the progress reports submitted by the Special Rapporteur on a sessional basis.[17]

86. During its 103rd session the Committee amended its rules of procedure (rules 68 and 70) relating to the examination of country situations in the absence of a report (review procedure).[18] From 2012, the examination of such country situations will take place in public rather than closed session and the resulting concluding observations will also be issued as public documents. (See the amended rules of procedure, (CCPR/C/3/Rev.10)).

87. The Committee first applied the review procedure to a non-reporting State at its seventy-fifth session. In July 2002, it considered the measures taken by the Gambia to give effect to the rights set out in the Covenant, in the absence of a report and a delegation from the State party. It adopted provisional concluding observations on the situation of civil and political rights in the Gambia, which were transmitted to the State party. At its seventy-eighth session, the Committee discussed the status of the provisional concluding observations on the Gambia and requested the State party to submit by 1 July 2004 a periodic report that should specifically address the concerns identified in the Committee's provisional concluding observations. If the State party failed to meet the deadline, the provisional concluding observations would become final and the Committee would make them public. On 8 August 2003, the Committee amended rule 69A of its rules of procedure[19] to provide for the possibility of making provisional concluding observations final and public. At the end of its eighty-first session, the Committee decided to make the provisional concluding observations on the Gambia final and public, since the State party had failed to submit its second periodic report. At its ninety-fourth session (October 2008), the Committee also decided to declare the State party in non-compliance with its obligations under article 40 of the Covenant.

88. At its seventy-sixth session (October 2002), the Committee considered the situation of civil and political rights in Suriname, in the absence of a report but in the presence of a

[15] Ibid., *Fifty-sixth Session, Supplement No. 40* (A/56/40), vol. I, annex III, sect. B. The revised rules were confirmed in the amended rules of procedure adopted at the 103rd session (CCPR/C/3/Rev.10).

[16] Ibid., *Fifty-seventh Session, Supplement No. 40* (A/57/40), vol. I, annex VI.

[17] Except for the eighty-third session, when a new Special Rapporteur was appointed.

[18] *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 40*, vol. I (A/67/40 (vol. I)), chap. II, para. 64.

[19] Rule 70 of the rules of procedure.

delegation. On 31 October 2002, it adopted provisional concluding observations, which were transmitted to the State party. In its provisional concluding observations, the Committee invited the State party to submit its second periodic report within six months. The State party submitted its report by the deadline. The Committee considered the report at its eightieth session (March 2004) and adopted concluding observations.

89. At its seventy-ninth and eighty-first sessions (October 2003 and July 2004), the Committee considered the situation of civil and political rights in Equatorial Guinea and the Central African Republic, respectively, in the absence both of a report and a delegation in the first case, and in the absence of a report but in the presence of a delegation in the second case. Provisional concluding observations were transmitted to the States parties concerned. At the end of the eighty-first session, the Committee decided to make the provisional concluding observations on the situation in Equatorial Guinea final and public, the State party having failed to submit its initial report. At its ninety-fourth session (October 2008), the Committee also decided to declare the State party in non-compliance with its obligations under article 40 of the Covenant. On 11 April 2005, in conformity with the assurances it had made to the Committee at the eighty-first session, the Central African Republic submitted its second periodic report. The Committee considered the report at its eighty-seventh session (July 2006) and adopted concluding observations.

90. At its eightieth session (March 2004), the Committee decided to consider the situation of civil and political rights in Kenya at its eighty-second session (October 2004), as Kenya had not submitted its second periodic report, due on 11 April 1986. On 27 September 2004, Kenya submitted its second periodic report. The Committee considered the second periodic report of Kenya at its eighty-third session (March 2005) and adopted concluding observations.

91. At its eighty-third session, the Committee considered the situation of civil and political rights in Barbados, in the absence of a report but in the presence of a delegation, which pledged to submit a full report. Provisional concluding observations were transmitted to the State party. On 18 July 2006, Barbados submitted its third periodic report. The Committee considered the report at its eighty-ninth session (March 2007) and adopted concluding observations. As Nicaragua had not submitted its third periodic report, due on 11 June 1997, the Committee decided, at its eighty-third session, to consider the situation of civil and political rights in Nicaragua at its eighty-fifth session (October 2005). On 9 June 2005, Nicaragua gave assurances that it would submit its report by 31 December 2005 at the latest. Then, on 17 October 2005, Nicaragua informed the Committee that it would submit its report by 30 September 2006. At its eighty-fifth session (October 2005), the Committee requested Nicaragua to submit its report by 30 June 2006. Following a reminder from the Committee, dated 31 January 2007, Nicaragua again undertook, on 7 March 2007, to submit its report by 9 June 2007. Nicaragua submitted its third periodic report on 20 June 2007.

92. At its eighty-sixth session (March 2006), the Committee considered the situation of civil and political rights in Saint Vincent and the Grenadines, in the absence of a report but in the presence of a delegation. Provisional concluding observations were transmitted to the State party. In accordance with the provisional concluding observations, the Committee invited the State party to submit its second periodic report by 1 April 2007 at the latest. On 12 April 2007, the Committee sent a reminder to the authorities of Saint Vincent and the Grenadines. In a letter dated 5 July 2007 Saint Vincent and the Grenadines pledged to submit its report within a month. The State party having failed to submit its second periodic report, the Committee decided to make the provisional concluding observations on the situation in Saint Vincent and the Grenadines final and public at the end of its ninety-second session (March 2008).

93. As San Marino had not submitted its second periodic report, due on 17 January 1992, the Committee decided, at its eighty-sixth session, to consider the situation of civil and political rights in San Marino at its eighty-eighth session (October 2006). On 25 May 2006, San Marino gave assurances to the Committee that it would submit its report by 30 September 2006. San Marino submitted its second periodic report in conformity with that commitment, and the Committee considered it at its ninety-third session.

94. As Rwanda had not submitted its third periodic report or a special report, due respectively on 10 April 1992 and 31 January 1995, the Committee decided, at its eighty-seventh session, to consider the situation of civil and political rights in Rwanda at its eighty-ninth session (March 2007). On 23 February 2007, Rwanda undertook, in writing, to submit its third periodic report by the end of April 2007, thereby superseding the planned consideration of the situation of civil and political rights in the absence of a report. Rwanda submitted its periodic report on 23 July 2007 and the Committee considered it at its ninety-fifth session.

95. At its eighty-eighth session (October 2006), the Committee decided to consider the situation of civil and political rights in Grenada at its ninetieth session (July 2007), as the State party had not submitted its initial report, due on 5 December 1992. At its ninetieth session (July 2007), the Committee undertook this review in the absence of a report or a delegation but on the basis of written replies from Grenada. Provisional concluding observations were sent to the State party, which was requested to submit its initial report by 31 December 2008. At the end of its ninety-sixth session (July 2009), the Committee decided to convert the provisional concluding observations into final and public observations.

96. At its ninety-eighth session (March 2010), the Committee decided to consider the situation of civil and political rights in Seychelles at its 101st session (March 2011) in the absence of a report, as the State party had not submitted its initial report, due on 4 August 1993. At the 101st session, the Committee undertook this review in the absence of a report and a delegation and absent replies to the list of issues. Provisional concluding observations were sent to the State party, with a request to submit its initial report by 1 April 2012 and to comment on the concluding observations within one month from the date of their transmission. On 26 April 2011, the State party requested an extension until the end of May 2011 to respond to the concluding observations. On 27 April 2011, the Committee granted the State party this request. On 13 May 2011, the State party submitted comments on the provisional concluding observations and indicated that it would submit a report by April 2012. In July 2011, during the 102nd session (July 2011), the Committee decided to await the State party's report before taking matters any further.

97. At its ninety-ninth session (July 2010), the Committee decided to consider the situation of civil and political rights in Dominica at its 102nd session (July 2011) in the absence of a report, as the State party had not submitted its initial report, due on 16 September 1994. The Committee scheduled Dominica for examination during its 102nd session in July 2011. Prior to the session, the State party requested a postponement indicating that it was in the process of drafting its report and would do so by 30 January 2012. The Committee agreed to a postponement and decided to await the report before taking matters any further.

98. At its 102nd session (July 2011), the Committee decided to consider the situation of civil and political rights in Malawi at its 103rd session (October 2011) in the absence of a report, as the State party had not submitted its initial report, due on 21 March 1995. At its 103rd session, the Committee undertook this review in the absence of a report, but on the basis of written replies and in the presence of a delegation from the State party. Provisional concluding observations were sent to the State party, which was requested to submit its

initial report by 31 March 2012. The State party's initial report was received on 3 April 2012.

99. At its 103rd session (October 2011), the Committee decided to consider the situation of civil and political rights in Mozambique and in Cape Verde at its 104th session (March 2012) in the absence of a report, as the State parties had not submitted their initial reports, due on 20 October 1994 and 5 November 1994, respectively. Prior to its 104th session, the Committee accepted a request for postponement from Mozambique on the basis of a commitment by the State party to submit its report by February 2012. This report was subsequently provided on 14 February 2012.

100. During the 104th session, the Committee examined the situation in Cape Verde in the absence of a report and in the presence of the State's Ambassador to the United Nations in New York. This was the first time since the Committee amended its rules of procedure (rule 70) that such an examination was held in public rather than closed session and that the concluding observations were made public immediately upon adoption.

101. During the 106th session, the Committee scheduled consideration of the situation in Cote d'Ivoire in the absence of a report. However, following a request by the State party for a postponement and a commitment to produce its report within six months (20 March 2013), the Committee agreed to postpone consideration. The State party submitted its report on 19 March 2013.

102. During the 107th session, the Committee considered Belize in the absence of a report and in the absence of a delegation, but with replies to the list of issues. In accordance with the amended rules of procedure (rule 70), it examined the report in public session and adopted concluding observations, which were made public immediately upon adoption.

103. The procedure under rule 70 of the rules of procedure, to examine States parties in the absence of a report, has been initiated in 16 cases to date.

C. Periodicity with respect to State parties' reports examined during the period under review

104. As indicated in paragraph 78 above, during the 104th session, the Committee decided to increase the periodicity granted to State parties for their reports to up to a period of six years, Thus, the Committee may now ask States parties to submit subsequent periodic reports within three, four, five or six years.

105. The periodicity of the State parties' reports examined during the period under review is indicated in the table below.

State party	*Date of examination*	*Due date for next report*
Iceland	July 2012	July 2018
Germany	October 2012	October 2018
Portugal	October 2012	October 2018
Hong Kong, China	March 2013	March 2018
Lithuania	July 2012	July 2017
Macao, China	March 2013	March 2018
Peru	March 2013	March 2018

State party	*Date of examination*	*Due date for next report*
Angola	March 2013	March 2017
Armenia	July 2012	July 2016
Bosnia and Herzegovina	October 2012	October 2016
Paraguay	March 2013	March 2017
Philippines	October 2012	October 2016
Turkey	October 2012	October 2016
Kenya	July 2012	July 2015
Maldives	July 2012	July 2015

IV. Consideration of reports submitted by States parties under article 40 of the Covenant and examinations of the situation in States parties in the absence of reports under rule 70 of the rules of procedure

106. The text below, arranged on a country-by-country basis in the sequence followed by the Committee in its consideration of the reports, contains the concluding observations adopted by the Committee with respect to the States parties' reports considered at its 105th, 106th and 107th sessions. The Committee urges those States parties to adopt corrective measures, where indicated, consistent with their obligations under the Covenant and to implement these recommendations.

107. **Armenia**

(1) The Human Rights Committee considered the second periodic report of Armenia (CCPR/C/ARM/2) at its 2903rd and 2904th meetings (CCPR/C/SR.2903 and 2904), held on 16 and 17 July 2012. At its 2917th meeting (CCPR/C/SR.2917), held on 25 July 2012, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the second periodic report of Armenia, albeit somewhat overdue, and the information contained therein. It expresses its appreciation for the opportunity to renew its constructive dialogue with the delegation on the measures adopted by the State party during the reporting period to apply the provisions of the Covenant. The Committee thanks the State party for its written replies (CCPR/C/ARM/Q/2/Add.1) to the list of issues (CCPR/C/ARM/Q/2), which were supplemented by the oral replies provided by the delegation and additional information provided in writing.

B. Positive aspects

(3) The Committee welcomes the ratification of:

(a) The Convention on the Rights of Persons with Disabilities, in September 2010;

(b) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT), in September 2006;

(c) The International Convention for the Protection of All Persons from Enforced Disappearance, in January 2011;

(d) The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, in September 2006;

(e) The Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict, in September 2005 and on the sale of children, child prostitution and child pornography, in June 2005.

C. Principal matters of concern and recommendations

(4) The Committee is concerned at the limited level of awareness of the Covenant and the Optional Protocol among the population, legal officials and lawyers, resulting in a restricted number of cases in which the provisions of the Covenant have been invoked, and in the absence of any individual complaint against the State party since the ratification of the Optional Protocol in 1993 (art. 2).

The State party should raise awareness among judges, lawyers and legal officials of the rights set out in the Covenant, of their applicability under domestic law, and of the available procedure under the Optional Protocol.

(5) The Committee is concerned about information questioning the vigilance of the national human rights institution in monitoring, promoting and protecting human rights in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) (art. 2).

The State party should create the conditions necessary to ensure that the Ombudsman's Office, which serves as the National Human Rights Institution, fully and independently perform its mandate, in line with the Paris Principles.

(6) The Committee is concerned about the lack of comprehensive legislation on discrimination. It is also concerned about violence against racial and religious minorities, including by civil servants and high-level representatives of the executive power, and about the failure on the part of the police and judicial authorities to investigate, prosecute and punish hate crimes (arts. 2, 18, 20 and 26).

The State party should ensure that its definition of discrimination covers all forms of discrimination as set out in the Covenant (race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status). Further, the State party should combat violence and incitement to racial and religious hatred, provide proper protection to minorities, and ensure adequate investigation and prosecution of such cases. Moreover, the Committee encourages the State party to strengthen its efforts to ensure the effective implementation of the laws adopted to combat racial discrimination and to ensure the achievement of their objectives.

(7) The Committee remains concerned about the high level of discrimination suffered by women, their reduced participation in public and political life, and the low level of their representation in decision-making posts in the public and private sectors. The Committee regrets that gender stereotypes still prevail on the role and responsibilities of women and men in the family and in society (arts. 2, 3, 25 and 26).

The State party should adopt specific legislation on the equality of men and women, thus recognizing officially the special nature of discrimination against women. A review should be undertaken of the effectiveness of the quota system for candidates standing for election. The State party should also enhance its efforts to eliminate gender stereotypes on the role and responsibilities of men and women in the family and in society.

(8) The Committee is concerned about the persistence of high levels of violence against women, in particular domestic violence, and regrets that domestic violence still does not constitute an act specifically punishable under criminal law. The Committee is also concerned about the insufficient number of shelters for victims of domestic violence (arts. 2, 3 and 7).

The State party should adopt legislation criminalizing all forms of domestic violence. It should carry out focused awareness-raising campaigns to sensitize the population to these problems throughout the country. Local authorities, law-enforcement and police officials, as well as social workers and medical personnel should be trained on how to detect and adequately advise victims of domestic violence. The State party should also ensure that a sufficient number of fully operational shelters for victims of domestic violence are available in all parts of the State party.

(9) The Committee is concerned about the rising practice of sex-selective abortions reflecting a culture of gender inequality (arts. 2, 3, and 26).

The State party should adopt legislation to prohibit sex selection and tackle the root causes of prenatal sex selection through the collection of reliable data on the phenomenon, the introduction of mandatory gender-sensitivity training for family planning officials, and the development of awareness-raising campaigns among the public.

(10) The Committee is concerned at the discrimination and violence suffered by lesbian, gay, bisexual and transgender (LGBT) persons and rejects all violations of their human rights on the basis of their sexual orientation or gender identity (arts. 3, 6, 7 and 26).

The State party should state clearly and officially that it does not tolerate any form of social stigmatization of homosexuality, bisexuality or transexuality, or harassment of, or discrimination or violence against persons because of their sexual orientation or gender identity. The State party should prohibit discrimination based on sexual orientation and gender identity and provide effective protection to LGBT persons.

(11) The Committee is concerned that the conditions under which the State of Emergency was declared in March 2008 were not clear The Committee is concerned that the existing regulations on states of emergency do not guarantee the full respect for the rights protected in article 4 of the Covenant (art. 4).

The State party should ensure that its legislation and regulations concerning states of emergency fully comply with article 4 of the Covenant.

(12) The Committee is concerned about the ongoing impunity for excessive use of force by the police during the events of 1 March 2008, despite efforts to investigate the fatalities (arts. 6, 7 and 14).

The State party should establish effective investigative procedures to ensure that law enforcement officers found responsible for excessive use of force during the 1 March 2008 events, including those with command responsibility, are held accountable and appropriately sanctioned. The State party should also guarantee that victims of these acts receive adequate compensation, and that they have access to adequate medical and psychological rehabilitation.

(13) The Committee is concerned about the lack of accountability of law enforcement officers in case of excessive use of force, and the lack of an independent mechanism for investigating police abuse, despite the adoption of the 2010–2011 police reform programme (arts. 6 and 7).

The State party should implement effective selection, training, internal monitoring and independent accountability mechanisms for police forces to secure the full respect for human rights. It should ensure the conformity of its legislation and regulations with the exigencies of the right to life, in particular as reflected in the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Further, the State party should guarantee the investigation and punishment of all abuses committed by members of law enforcement agencies.

(14) The Committee is concerned about the absence of a genuinely independent complaints mechanism to deal with cases of alleged torture or ill-treatment in places of deprivation of liberty, as well as the low number of prosecutions of such cases (arts. 7 and 14).

The State party should establish an independent system for receiving and processing complaints regarding torture or ill-treatment in all places of deprivation of liberty, and should ensure that any act of torture or cruel, inhuman or degrading treatment is prosecuted and punished in a manner commensurate with its gravity.

(15) The Committee is concerned about suspicious deaths in the Armenian Armed Forces under non-combat conditions and about the alleged practice of hazing and the existence of other mistreatment of conscripts by officers and fellow soldiers (arts. 6 and 7).

The State party should guarantee the elimination of hazing and other such mistreatment in the armed forces. The State party should ensure thorough investigation of all allegations of hazing and non-combat deaths in the military, the prosecution and punishment of the perpetrators, and the access of victims to compensation and rehabilitation, including through appropriate medical and psychological assistance.

(16) The Committee is concerned that no statistical information and data on trafficking of persons are available to evaluate the scope of the phenomenon and to assess the efficiency of the programmes and strategies that are presently carried out (art. 8).

The State party should set up an official database on the number of cases of trafficking in persons, their characteristics, their treatment by judicial authorities, and the remedies and reparations made to the victims. The State party should also establish a monitoring procedure to assess the result of the measures and strategies adopted to prevent and punish human trafficking.

(17) The Committee is concerned about the situation of asylum seekers who are prosecuted and sentenced under article 329 of the Criminal Code solely due to their illegal entry, despite having identified themselves as persons seeking asylum (arts. 9 and 13).

The State party should ensure that no asylum seekers are penalized solely due to their illegal entry or stay without taking into account their need for international protection.

(18) The Committee is concerned about the unresolved situation of the refugees and their families who fled to Armenia from Azerbaijan between 1988 and 1992 owing to the conflict in Nagorno-Karabakh as well as people internally displaced during this period, who now live in collective centres under extremely difficult conditions, with adverse effects on their physical and mental health (arts. 12 and 17).

The State party should carry out campaigns of information on the rights and entitlements of Armenian refugees from Azerbaijan including with regard to the existing simplified naturalization scheme, and enhance its efforts to improve living conditions of refugees and internally displaced persons, particularly with respect to housing and living conditions.

(19) The Committee is concerned about the frequent use of pretrial detention, and that detainees are not fully informed of their fundamental rights from the outset of their deprivation of liberty. The Committee also regrets that detainees are frequently deprived of timely access to a lawyer and a medical doctor, of their right to notify a person of their choice, and that they are not brought promptly before a judge (art. 9).

In compliance with the 2002 Law on the Custody of Arrestees and Remand Prisoners, the State party should ensure that all persons deprived of liberty are informed of their fundamental rights from the outset of their deprivation of liberty, both orally and in writing, that they have immediate access to a lawyer and a medical doctor, and that they can notify a person of their choice. The State party should also guarantee that all persons deprived of liberty are brought promptly before a judge, in accordance with the provisions of the Covenant.

(20) The Committee is concerned about the overcrowding and understaffing of prisons. The Committee also regrets the reduced application of alternative measures to detention by the courts (arts. 10).

The State party should pursue its efforts to improve conditions in places of detention and to reduce prison overcrowding, including through the application of alternative measures to imprisonment.

(21) The Committee is concerned about the lack of independence of the judiciary. In particular, the Committee is concerned about the appointment mechanism for judges that exposes them to political pressure and about the lack of an independent disciplinary mechanism (art. 14).

The State party should amend its domestic legal provisions in order to ensure the independence of the judiciary from the executive and legislative branch and consider establishing, in addition to the collegiate corpus of judges, an independent body responsible for the appointment and promotion of judges, as well as for the application of disciplinary regulations.

(22) The Committee is concerned at allegations of persistent corruption among all branches of State institutions, especially the police and the judiciary that undermines the rule of law. In addition, the Committee is concerned at the lack of convincing results in the fight against high-level corruption and the resulting lack of public trust in the administration of justice (art. 14).

The State party should increase efforts to combat corruption in all branches of government, by investigating promptly and thoroughly all incidents of alleged corruption and punish those responsible.

(23) The Committee is concerned at the limitations of the juvenile justice system, in particular the limited number of specialized judges, and the absence of information about special laws, procedures and court rooms. The Committee is also concerned at the absence of facilities for the physical and psychological recovery and social reintegration of juvenile offenders (arts. 14 and 24).

The State party should pursue its efforts to guarantee that the juvenile criminal justice system is provided with the necessary material and human resources. In this perspective, the State party should ensure that all professionals involved in the juvenile justice system are trained in relevant international standards, including the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (Economic and Social Council res. 2005/20). The State party should also create specialized structures for the physical and psychological recovery and social reintegration of juvenile offenders.

(24) The Committee is concerned about the limitations and restrictions on freedom of religion and belief, including the criminalization of proselytism (art. 18).

The State party should amend its legislation in line with the requirements of article 18 of the Covenant, including through the decriminalization of proselytism.

(25) The Committee is concerned that the Alternative Military Service Act as amended in 2004 and 2006 still does not guarantee conscientious objectors a genuine alternative service of a clearly civilian nature. The Committee is also concerned that conscientious objectors, overwhelmingly Jehovah's Witnesses, are still imprisoned when they refuse to perform the military service and the existing alternative military service (arts. 18 and 26).

The State party should put in place a real alternative to military service, which is genuinely non-military, accessible to all conscientious objectors and neither punitive nor discriminatory in nature, cost or duration. The State party should also release all conscientious objectors imprisoned for refusing to perform the military service or the existing alternative to military service.

(26) The Committee is concerned about information received on threats and attacks on journalists and human rights defenders (art. 19).

The State party should ensure the protection of journalists and human rights defenders from threats and attacks, the immediate and thorough investigation of all allegations of such acts, the prosecution and sanction of perpetrators, as well as the access to reparation for the victims.

(27) The State party should widely disseminate the Covenant, the text of the second periodic report, the written replies it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations in order to raise the awareness of the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as of the general public. The Committee suggests that the report and the concluding observations be translated into the official languages of the State party. The Committee also requests the State party, when preparing its fourth periodic report, to consult extensively with civil society and non-governmental organizations.

(28) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations contained in paragraphs 12, 14 and 21 of the present concluding observations.

(29) The Committee requests the State party to provide in its next periodic report, due by 27 July 2016, specific, up-to-date information on all the recommendations and on its compliance with the Covenant as a whole.

108. **Iceland**

(1) The Committee considered the fifth periodic report submitted by Iceland (CCPR/C/ISL/5) at its 2894th and 2895th meetings (CCPR/C/SR.2894 and 2895), held on 9 and 10 July 2012. At its 2916th meeting (CCPR/C/SR.2916), held on 24 July 2012, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the submission of the fifth periodic report of Iceland (CCPR/C/ISL/5), and the information presented therein, as well as the written replies to the Committee's list of issues (CCPR/C/ISL/Q/5/Add.1). It expresses appreciation for the constructive dialogue with the State party's delegation on the measures that the State party has taken during the reporting period to implement the provisions of the Covenant.

B. Positive aspects

(3) The Committee commends the State party for its generally positive record in the implementation of Covenant provisions. In particular, it welcomes:

(a) The adoption of Law No.85/2011 on Exclusion Orders;

(b) The adoption on 17 March 2009 of the National Plan against Trafficking in Human Beings;

(c) The entry into force on 1 January 2009 of a new Code of Criminal Procedure, No.88/2008, in particular improving the legal position of accused persons;

(d) The passing of Act No.149/2009, amending the General Penal Code, in order to ratify the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children;

(e) The entry into force on 18 March 2008 of a new Gender Equality Act, No. 10/2008.

C. Principal matters of concern and recommendations

(4) While taking note of the State party's aim to incorporate all human rights instruments to which it is a party into domestic law, the Committee regrets that the Covenant has not yet been incorporated into the domestic legal order. The Committee is also concerned that the State party has still not withdrawn all reservations to the Covenant (art. 2).

The State party should consider incorporating the Covenant into the domestic legal order. The State party is invited to reassess the reasons for having entered reservations to articles 10, paragraphs 2 (b) and 3, 14, paragraph 7, and 20, paragraph 1, of the Covenant with a view to withdrawing them.

(5) The Committee notes that the State party has not yet established a consolidated national institution with competence in the field of human rights, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) (art. 2).

The State party should take steps to establish a national human rights institution with a broad human rights mandate and provide it with adequate financial and human resources, in line with the Paris Principles.

(6) The Committee is concerned that the State party has not yet adopted comprehensive anti-discrimination legislation. It is also concerned that the Media Act No.38/2011 only prescribes sanctions against media service providers on incitement to criminal behaviour and not on hate speech (arts. 2, 20, and 26).

The State party should take steps to adopt comprehensive anti-discrimination legislation, addressing all spheres of life and providing effective remedies in judicial and administrative proceedings. The State party should also adopt the pending Bill amending the Media Act so as to ensure that the sanctions prescribed also apply to hate speech, and ensure that its enforcement also extends to social media.

(7) While welcoming the adoption of the Gender Equality Act and the establishment of the Centre for Gender Equality, the Committee is concerned that there is a significant, and an again increasing, wage gap between women and men. It is also concerned that women continue to be underrepresented in decision-making positions, in particular in the Foreign Service, the judiciary and academia (arts. 2 and 3).

The State party should continue to take steps, in particular through the Centre for Gender Equality and a speedy adoption of equal salary standards, to continue to address the persistent and significant wage gap between women and men, guaranteeing equal pay for work of equal value. It should also introduce measures to increase the representation of women in decision-making positions, in particular in the Foreign Service, the judiciary, and academia.

(8) The Committee is concerned that torture is not included as a specific crime in domestic penal legislation, and that the coverage of acts of torture by various other crimes with overlapping definitions does not ensure adequate punishment or reparation for victims (art. 7).

The State party should introduce torture as a specific crime in its Penal Code, employing a definition in line with article 7 of the Covenant, and carrying sanctions appropriate to the gravity of the crime.

(9) The Committee, while welcoming the efforts made by the State party to combat and eliminate domestic violence, is concerned that victims as well as professionals do not have full access to information on the problem, as well as on victims' rights and remedies available (art. 7).

The State party should take steps to intensify measures to raise awareness on domestic violence, including through training for judges, prosecutors, police and health officers, as well as awareness-raising campaigns targeted at Icelandic and immigrant women on their rights and available remedies.

(10) The Committee notes that only a very limited percentage of asylum seekers receive refugee status. It is concerned that article 45 of the Act on Foreigners contemplates exceptions to the right to non-refoulement in cases where return would violate articles 6 or 7 of the Covenant. The Committee is also concerned that permits granted on humanitarian grounds do not specify the period of stay (arts. 2, 7 and 13).

The State party should review its legislation on refugees to ensure that it fully complies with the Covenant and international standards on refugees and asylum seekers. It should also more precisely define the length of stay in the State party of persons who have been granted a permit on humanitarian grounds.

(11) The Committee is concerned that the principle of separation of juvenile detainees from adults in detention facilities is not guaranteed, as witnessed by the State party's reservation to article 10, paragraph 2(b), of the Covenant. The Committee is also concerned that the State party does not have an independent mechanism mandated to monitor detention conditions (arts. 9 and 10).

The State party should ensure that the principle of separation of juvenile detainees from adults in detention facilities is guaranteed, including through reassessing its reservation to article 10, paragraph 2(b), of the Covenant. The State party should also take steps to establish a system of regular and independent monitoring of places of detention, including psychiatric facilities.

(12) The Committee is concerned that article 198 of the Code of Criminal Procedure restricts the right of appeal for persons convicted of a minor criminal offence, except in certain circumstances and with the authorization of the Supreme Court (art. 14).

The State party should revise article 198 of its Code of Criminal Procedure to allow all persons convicted of a minor criminal offence to appeal to a higher court without exception, and without the need for prior authorization of the Supreme Court, as required by article 14, paragraph 5, of the Covenant.

(13) The Committee is concerned that the State party levies a church tax from citizens, regardless of whether they are members of a religious organization. It is also concerned that unlike the Evangelical Lutheran Church other religious and non-religious life stance organizations cannot receive State funding (art. 18).

The State party should take steps to ensure that the church tax is not levied indiscriminately. It should also amend the Act on religious organizations to ensure that all religious and non-religious life stance organizations have access to State funding.

(14) While appreciating that the criteria for the receipt of residence permits based on marriage have been amended, the Committee notes that the 2008 amendment of the Act on Foreigners provides for an investigation of all married couples in which one of the individuals is under 24 years of age, potentially adversely affecting the enjoyment of the right to family life, marriage and the choice of spouse (arts. 2, 23 and 26).

The Committee urges the State party to assess the impact of the new criteria for such permits on the enjoyment of the right to family life, marriage and choice of spouse. Such a study should assess whether criteria should be amended to better respect the right to family life.

(15) The Committee is concerned that very few cases of sexual abuse of children that are reported to child protection services lead to prosecution, and even fewer to conviction of the perpetrator (arts. 2 and 24).

The State party should take urgent steps to ensure that all cases of sexual abuse of children are effectively and promptly investigated, and that perpetrators are brought to justice. It should take steps to establish Government-coordinated measures aimed at prevention of sexual abuse of children. The State party should also ensure that education about child sexual abuse and prevention become a formal part of the curriculum in faculties training teachers and other professionals working with children, as well as for faculties training health professionals, lawyers and police officers.

(16) The State party should widely disseminate the Covenant, the Optional Protocols to the Covenant, the text of the fifth periodic report and the present concluding observations so as to increase awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public. The Committee requests the State party, when preparing its next periodic report, to broadly consult with civil society and non-governmental organizations.

(17) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 7 and 15 above.

(18) The Committee requests the State party, in its next periodic report, due to be submitted by 27 July 2018, to provide, specific, up-to-date information on all its recommendations and on the Covenant as a whole.

109. **Kenya**

(1) The Committee considered the third periodic report submitted by Kenya (CCPR/C/KEN/3) at its 2906th and 2907th meetings (CCPR/C/SR.2906 and 2907), held on 17 and July 2012. At its 2917th and 2918th meetings (CCPR/C/SR.2917 and 2918), held on 25 July 2012, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the submission of the third periodic report of Kenya and the information presented therein. It expresses appreciation for the opportunity to renew its open and constructive dialogue with the State party's high level delegation on the measures that the State party has taken during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies (CCPR/KEN/Q/3/Add.1) to the list of issues which were supplemented by the oral responses provided by the delegation.

B. Positive aspects

(3) The Committee welcomes the following legislative and institutional steps taken by the State party:

(a) The adoption of the new Constitution, in 2010;

(b) The enactment of the Witness Protection (Amendment) Act, 2010 and the establishment of the Witness Protection Agency, in 2011;

(c) The enactment of the Prohibition of Female Genital Mutilation Act, 2011;

(d) The enactment of the Kenyan Citizenship and Immigration Act No. 2 of 2011;

(e) The progress made in conducting judicial reforms including the establishment of the Supreme Court of Kenya in 2010;

(f) The enactment of the Vetting of Judges and Magistrates Act, 2011 and the establishment of the Magistrates and Judges Vetting Board in 2011;

(g) The establishment of the National Gender and Equality Commission in 2011; and

(h) The establishment of the Independent Police Oversight Authority in 2012.

(4) The Committee welcomes the ratification by the State party of the Convention on the Rights of Persons with Disabilities of 2006 in 2008.

C. Principal matters of concern and recommendations

(5) While taking note of the State party's explanations concerning article 2(6) of the new Constitution which provides that any treaty ratified by the State party shall form part of the law under the Constitution, the Committee is concerned at the present lack of clarity in the jurisprudence of the courts on the status of the Covenant in the domestic legal order (art. 2).

The State party should take all necessary measures to ensure legal clarity on the status and applicability of the Covenant in the legal system of the State party. In this regard, the Committee urges the State party to ensure that the draft bill on Ratification of Treaties clarifies the status of the Covenant and other human rights treaties in domestic law.

(6) While welcoming the establishment of the National Gender and Equality Commission and the inclusion of the principle in article 27(8) of the Constitution that requires that "no more than two-thirds of members of elective and appointive bodies shall be of the same gender", the Committee notes with concern that women remain underrepresented in the public sector and other elected and appointed bodies. The Committee is also concerned at the lack of data on the representation of women in the private sector (arts. 2, 3 and 26).

The State party should strengthen its efforts to increase the participation of women in the public and private sectors, and where necessary, through appropriate temporary special measures to give effect to the provisions of the Covenant. In this regard, the Committee recommends that the State party ensure that the two-thirds rule enunciated by the new Constitution is implemented as a matter of priority. Furthermore, the Committee urges the State party to include in its next periodic report, disaggregated statistical data on the representation of women in the private sector.

(7) The Committee recalls its previous concluding observations (CCPR/CO/83/KEN, para. 10) and regrets that the draft Marriage bill endorses polygamous marriages. The Committee also regrets that the Law of Succession Act discriminates between the property interests of widows and widowers. The Committee also regrets that the State party has not passed the Matrimonial Property bill (arts. 2, 3, 23 and 26).

The Committee reiterates its recommendation in its previous concluding observations (CCPR/CO/83/KEN, para. 10) that polygamous marriages undermine the non-discrimination provisions and are incompatible with the Covenant. The State party should, therefore, take concrete measures to prohibit polygamous marriages.

Furthermore, the State party should revise the Law on Succession Act to guarantee equality between men and women in the devolution and succession of property after the death of a spouse. The State party should also enact legislation reforming its matrimonial property law.

(8) The Committee recalls its previous concluding observations (CCPR/CO/83/KEN, para. 27) and regrets that the Penal Code continues to criminalize sexual relations between consenting adults of the same sex. The Committee also regrets reports of acts of violence, harassment and abuse against lesbian, gay, bisexual, transgender and intersex (LGBTI) persons based solely on their sexual orientation or gender identity (arts. 2, 17 and 26).

The Committee reiterates its previous concluding observations (CCPR/CO/83/KEN, para. 27) and recommends that the State party decriminalize sexual relations between consenting adults of the same sex in order to bring its legislation in line with the Covenant. The State party should also take necessary steps to put an end to the social stigmatization of homosexuality and send a clear message that it does not tolerate any form of harassment, discrimination or violence against persons based on their sexual orientation or gender identity.

(9) The Committee recalls its previous concluding observations (CCPR/CO/83/KEN, para. 15) and welcomes the enactment of the HIV and AIDS Prevention and Control Act, 2006 and the adoption of the National HIV and AIDS Strategic Plan of 2009/10–2012/13. The Committee, however, regrets the continued reports of high rates of deaths resulting from AIDS and the unequal access to appropriate treatment for those infected with HIV. The Committee also regrets reports of HIV/AIDS prevalence among homosexuals which is partly attributable to the laws that criminalize consensual same-sex relationships and the societal stigmatization of this group that hampers access to treatment and medical care by this group (arts. 2, 6 and 26).

The Committee reiterates its previous concluding observations (CCPR/CO/83/KEN, para. 15) and recommends that the State party take concrete measures to raise awareness on HIV/AIDS with a view to combating prejudices and negative stereotypes against people living with HIV/AIDS, including homosexuals. The State party should also ensure that persons living with HIV/AIDS, including homosexuals, have equal access to medical care and treatment.

(10) While noting the de facto moratorium on the death penalty since 1987 and the commutation of sentences of 4,000 convicts from death to life imprisonment by the President on 3 August 2009, the Committee regrets that a total of 1,582 convicts still face the death penalty. The Committee also regrets that the death penalty remains on the statute books of the State party and that it applies to crimes such as robbery with violence that do not qualify as "most serious crimes" within the meaning of article 6, paragraph 2 of the Covenant (arts. 6 and 7).

The Committee reiterates its recommendation in its previous concluding observations (CCPR/CO/83/KEN, para. 13) that the State party consider abolishing the death penalty and acceding to the Second Optional Protocol to the Covenant. In this context, the State party should intensify awareness campaigns with a view to changing the mindset of the public regarding the retention of the death penalty on the statute books of the State party.

(11) The Committee is concerned at the slow pace of investigations and prosecutions into allegations of torture, extrajudicial killings by the police and by vigilante groups. The Committee is particularly concerned that the State party has not conducted conclusive investigations of alleged excessive use of force by the police during operation Okoa Maisha in Mt. Elgon and operation Chunga Mpaka in the Mandera district as well as Operation Mathare. The Committee is also concerned at the lack of conclusive investigations and

prosecutions into the killing of Oscar Kamau King'ara and John Paul Oulu who cooperated with the Special Rapporteur on extrajudicial, arbitrary and summary executions during his visit to the State party in 2009. The Committee is further concerned at regular reports of serious and unlawful use of force by State security forces and as to whether adequate training and planning procedures are in place to prevent excessive use of force in security operations (arts. 2, 6 and 7).

The State party should strengthen its efforts to ensure that police officers suspected of committing extrajudicial killings and other offences are thoroughly investigated and perpetrators brought to justice, and that the victims are adequately compensated. The State party should also conclude investigations into the killing of Oscar Kamau King'ara and John Paul Oulu and ensure that the alleged perpetrators are prosecuted, and if convicted, punished with appropriate sanctions. The State party should initiate training programmes for State security officers and law enforcement officials which emphasize alternatives to the use of force, including the peaceful settlement of disputes, the understanding of crowd behaviour, and the method of persuasion, negotiation and mediation with a view to limiting the use of force.

(12) While appreciating the efforts made by the State party to receive asylum seekers and refugees, and to protect their rights, the Committee is concerned at the insecurity around refugee camps, particularly at Dadaab refugee camp. The Committee is also concerned at acts of physical and sexual violence by the police towards refugees following bomb explosions that claimed the lives of some police officers at Dadaab camp (arts. 2, 6 and 7).

The State party should take concrete measures to provide adequate security at refugee camps, particularly at Dadaab camp. The State party should conduct thorough investigations into all incidents of violence including allegations of violence by law enforcement personnel and bring those responsible to justice. The State party should also ensure that the victims of the violence are adequately compensated.

(13) While noting the efforts by the State party to cooperate with the International Criminal Court in prosecuting those who bear the greatest responsibility for the post 2007 election violence and the continuing work of the Truth, Justice and Reconciliation Commission (TJRC), the Committee regrets the lack of investigations and prosecutions of the other categories of perpetrators which exacerbates the climate of impunity that prevails in the State party (arts. 2, 6 and 7).

The State party should, as a matter of urgency, pursue all cases of post 2007 election violence to ensure that all allegations of human rights violations are thoroughly investigated and that the perpetrators are brought to justice, and that victims are adequately compensated. In this regard, the State party should ensure that the recommendations of the Commission of Inquiry into the Post-Election Violence (Waki Inquiry) are duly implemented.

(14) While noting the rising incidents of terrorist attacks in the State party and the establishment of an Anti-Terrorism Unit in the police service, the Committee is concerned at the lack of a legal framework that clearly sets out the human rights that must be respected in the fight against terrorism. The Committee is also concerned at allegations of the State party's involvement in extraordinary renditions and the refoulement of individuals suspected of being involved in terrorist acts to countries where they are likely to be tortured or face serious human rights violations (arts. 2 and 7).

The State party should enact legislation on counter-terrorism and ensure that it (a) define terrorist crimes both in terms of their purpose and their nature with sufficient precision, and (b) not impose undue restrictions on the exercise of rights under the Covenant. The State party should desist from any acts of extraordinary rendition and should ensure that the proposed Refugee bill 2011 complies with the absolute

prohibition of refoulement under article 7 of the Covenant which also applies to cases of persons deemed a threat to national security.

(15) While welcoming the enactment of the Prohibition of Female Genital Mutilation Act, 2011 and the adoption of a National Policy for the abandonment of female genital mutilation (FGM), the Committee is still concerned at the prevalence of female genital mutilation and other harmful traditional practices such as "wife inheritance" and "ritual cleansing" in various parts of the State party. The Committee is also concerned at continuing reports of gender-based violence throughout the State party (arts. 3 and 7).

The State party should adopt a comprehensive approach to preventing and addressing FGM, and gender-based violence in all its forms and manifestations. In this regard, the State party should improve its research and data collection methods in order to establish the extent of the problem, its causes and consequences on women. The State party should vigorously implement the Sexual Offences Act of 2006 and finalize the draft Prosecution Guidelines on Sexual Offences and Gender Based Violence, and enact legislation on the protection against domestic violence. The State party should ensure that cases of FGM and domestic violence are thoroughly investigated and that the perpetrators are brought to justice, and the victims adequately compensated.

(16) The Committee is concerned at continued reports of overcrowding, torture and ill-treatment in prisons and places of detention by law enforcement personnel. The Committee is also concerned that the Prevention of Torture bill has not yet been enacted into law (arts. 7 and 10).

The State party should take urgent measures to address overcrowding in detention centres and prisons, including through increased resort to alternative forms of punishment such as parole and community service. The State party should also ensure that allegations of torture and ill-treatment are effectively investigated and that alleged perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that the victims are adequately compensated. In this connection, the State party should ensure that law enforcement personnel continue to receive training on torture and ill-treatment by integrating the 1999 Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) in all training programmes for law enforcement officials. The State party should ensure that the Prevention of Torture bill includes a definition of torture that is in line with article 1 of the Convention against torture and other cruel, inhuman or degrading treatment or punishment.

(17) While welcoming the adoption of the Counter Trafficking in Persons Act of 2010, the Committee is concerned at continuing reports of trafficking in persons for labour, sexual exploitation and for body parts, particularly of people with albinism (arts. 6, 7 and 8).

The State party should continue to strengthen its efforts to eradicate trafficking in persons by raising awareness among the public and relevant stakeholders, particularly in the hospitality industry, regarding the problem of trafficking in persons. Furthermore, the State party should vigorously pursue efforts aimed at ensuring that alleged perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that the victims are adequately compensated.

(18) While welcoming the State party's efforts to reform the police service through the enactment of the National Police Act of 2011, the National Police Service Commission of 2010 and the establishment of the Police Reforms Implementation Task Force in 2008, the Committee is concerned at the limited impact of these reforms. In particular, it is concerned at the continuing reports of widespread unlawful or arbitrary arrests by the police, including for the purposes of extorting bribes. The Committee is also concerned that not all arrested

persons are brought before a judge within 24 hours as prescribed by the Constitution (art. 9).

The Committee recommends to the State party:

(a) To step up efforts to reform the police and to allocate the necessary resources for this purpose;

(b) To implement without delay the envisaged devolution of courts to the local level in order to enhance access to justice also in the rural areas;

(c) To ensure, by providing clear instructions to the police, that the 24 hour rule in the Constitution is respected in all cases.

(19) While welcoming the introduction of a pilot National Legal Aid (And Awareness) Programme and the establishment of a National Legal Aid (And Awareness) Steering Committee in 2007, the Committee regrets that access to legal aid and courts is unduly constrained by lack of funding for a legal aid scheme and physical accessibility factors. The Committee is also concerned that the Legal Aid bill has not been passed into law. The Committee is also concerned that the right of arrested persons to contact counsel is often not respected (arts. 2, 9 and 14).

The State party should give full effect to the rights of accused persons to contact counsel before and during interrogation, and when they are brought before courts. Furthermore the State party should take appropriate measures to ensure access to courts and to provide adequate funding to the legal aid scheme. The State should also, as a matter of urgency, enact a comprehensive legal aid law.

(20) The Committee while appreciating efforts to provide humanitarian assistance to those displaced by the post-election violence in 2007, is also concerned at the slow pace of finding durable solutions for all internally displaced persons (art. 12).

The State party should expedite durable solutions for all internally displaced persons who were displaced by the 2007 post-election violence by resolving existing problems that delay resettlement and those constraining the recognition of self-help groups. The State party should also, as a matter of priority, adopt an IDP policy and enact legislation on internally displaced persons.

(21) The Committee recalls its previous concluding observations (CCPR/CO/83/KEN, para. 22) and regrets reports of continuing forcible evictions of inhabitants from informal settlements without prior consultation and notification of the concerned populations (art. 17).

The Committee reiterates its previous recommendation (CCPR/CO/83/KEN, para. 22) that the State party develop transparent laws, policies and procedures for conducting evictions to ensure that they are only undertaken when the affected populations have been consulted and appropriate resettlement arrangements have been made. To this end, the State party should ensure that its agencies desist from carrying out any evictions until proper procedures and guidelines have been put in place.

(22) The Committee recalls its previous concluding observations (CCPR/CO/83/KEN, para. 24) and regrets that the age of criminal responsibility in the State party remains at 8 years. The Committee is also concerned that the juvenile justice system in the State party is underdeveloped and in many instances juveniles are held in detention facilities and prisons with adults (arts. 2, 10 and 24).

The Committee reiterates its previous recommendation (CCPR/CO/83/KEN, para. 24) that the State party raise the minimum age of criminal responsibility in line with international standards. The State party should also, as a matter of priority, develop

its juvenile justice system so that it extends to rural areas. Furthermore, the State party should ensure that juveniles are segregated from adults in all places of detention and prisons.

(23) While welcoming the recent legislative developments with regard to citizenship under the new Constitution and the Kenya Citizenship and Immigration Act of 2011, the Committee is concerned at the slow registration of children's births in the State party. The Committee is also concerned that the State party has not yet resolved the problem involving the rights of children of Nubian descent to citizenship and national identification cards, and notes that the decision of the African Committee of Experts on the Rights and Welfare of the Child in the case *IHRDA and Open Society Justice Initiative (OSJI) (on behalf of children of Nubian descent in Kenya) v. Kenya* has not been implemented (arts. 2 and 24).

The State party should adopt necessary programmes and budgetary measures to ensure universal birth registration at an early stage in the life of all children born in the territory of the State party. The State party should also ensure that the rights and entitlements of all children of Nubian descent, and other children in a similar situation, to citizenship and national identity cards are fully respected.

(24) The Committee is concerned at reports of forced evictions, interference and dispossession of ancestral land by the Government from minority communities such as the Ogiek and Endorois communities who depend on it for economic livelihood and to practice their cultures. The Committee is further concerned at reports that the Ogiek community is subjected to continued eviction orders from the Mau forests complex. The Committee notes that the State party has not implemented the decision of the African Commission on Human and Peoples' Rights in the case *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v. Kenya* (arts. 12, 17, 26 and 27).

The Committee recommends that, in planning its development and natural resource conservation projects, the State party respect the rights of minority and indigenous groups to their ancestral land and ensure that their traditional livelihood that is inextricably linked to their land is fully respected. In this regard, the State party should ensure that the inventory being undertaken by the Interim Coordinating agency with a view to obtaining a clear assessment of the status and land rights of the Ogiek community be participatory and that decisions be based on free and informed consent by this community.

(25) The State party should widely disseminate the Covenant, the text of the third periodic report, the written responses it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations so as to increase awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public. The Committee suggests that the report and the concluding observations be translated into the written official languages of the State party. The Committee also requests the State party, when preparing its fourth periodic report, to broadly consult with civil society and non-governmental organizations.

(26) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 6, 13, and 16 above.

(27) The Committee requests the State party, in its next periodic report, due to be submitted by 27 July 2015 to provide, specific, up-to-date information on all its recommendations and on the Covenant as a whole.

110. **Lithuania**

(1) The Committee considered the third periodic report submitted by Lithuania (CCPR/C/LTU/3) at its 2896th and 2897th meetings (CCPR/C/SR.2896 and CCPR/C/SR.2897), held on 10 and 11 July 2012. At its 2916th meeting (CCPR/C/SR.2916.), held on 24 July 2012, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the submission of the third periodic report of t Lithuania and the information presented therein. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's high-level delegation on the measures that the State party has taken during the reporting period to implement the provisions of the Covenant. The Committee also appreciates the written replies (CCPR/C/LTU/Q/3/Add.1) to the list of issues which were supplemented by the oral responses provided by the delegation and for the supplementary information provided to it in writing.

B. Positive aspects

(3) The Committee welcomes the following legislative and institutional steps taken by the State party:

(a) The adoption of the Law on Equal Opportunities which came into force on 1 January 2005 and which prohibits any direct or indirect discrimination based on age, sexual orientation, disability, racial or ethnic origin, religion, or beliefs;

(b) The amendment of the Law on Equal Opportunities (2008) providing victims of discrimination with more procedural guarantees by shifting the burden of proof in discrimination cases over to the respondent, except in criminal cases;

(c) The amendments of the Criminal Code (2009) which, inter alia, criminalize certain infringements formerly considered of administrative nature, and expressly consider xenophobic, racial and discriminatory motivation or aim behind a crime as an aggravating circumstance; and the adoption of the new legislation on probation which entered into force on 1 July 2012.

(4) The Committee welcomes the ratification by the State party of the following international instruments:

(a) The International Convention on the Rights of Persons with Disabilities and its Protocol, on 27 May 2010;

(b) The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, on 5 August 2004;

(c) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 5 August 2004.

C. Principal matters of concern and recommendations

(5) The Committee notes that the State party has not yet established a consolidated national institution with broad competence in the field of human rights in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) (art. 2).

The State party should establish a national human rights institution with a broad human rights mandate, and provide it with adequate financial and human resources, in line with the Paris Principles.

(6) While noting the recent enactment of the Law on Protection against Domestic Violence, the Committee remains concerned at the high prevalence of violence, in particular domestic violence, against women, and the absence of effective measures to protect victims thereof (art. 2).

The State party should allocate sufficient resources to ensure the effective implementation of the Law on Protection against Domestic Violence and the National Strategy for Combating Violence against Women, and should guarantee the availability of a sufficient number of safe and adequately funded shelters as well as legal aid to the victims of such violence.

(7) While noting the continuation of the National Programme for the Integration of the Roma into Lithuanian Society (2012–2014), the Committee is concerned that Roma continue to suffer from discrimination, poverty, low educational attainment, large-scale unemployment, and inadequate standards of living, in particular as regards housing (arts. 2 and 26).

The State party should evaluate the implementation of existing policies and programmes in order to assess the extent to which they have effectively contributed to improving the social and economic conditions of Roma.

(8) The Committee is concerned that certain legal instruments such as the Law on the Protection of Minors against the Detrimental Effect of Public Information (art. 7) may be applied in a manner unduly restrictive of the freedom of expression guaranteed under the Covenant and may have the effect of justifying discrimination against lesbian, gay, bisexual and transgender (LGBT) individuals. The Committee is furthermore concerned at various legislative proposals, including amendments to the Code of Administrative Offences, the Constitution, and the Civil Code which, were they to be adopted, would impact negatively on the enjoyment of fundamental rights by LGBT individuals. The Committee is also concerned at the increasing negative attitudes against, and stigmatization of, such persons in society, which has manifested itself in instances of violence and discrimination, and at reports of reluctance on the part of police officers and prosecutors to pursue allegations of human rights violations against persons on the basis of their sexual orientation or gender identity (arts. 2, 19 and 26).

The State party should take all necessary measures to ensure that its legislation is not interpreted and applied in a discriminatory manner against persons on the basis of their sexual orientation or gender identity. The State party should implement broad awareness-raising campaigns, as well as trainings for law enforcement officials, to counter negative sentiments against LGBT individuals. It should consider adopting a targeted national action plan on the issue. The Committee, finally, recalls the obligation of the State party to guarantee all human rights of such individuals, including the right to freedom of expression and the right to freedom of assembly.

(9) The Committee, while noting the information contained in the State party's parliamentary inquiry into alleged incidents of rendition and secret detention of terrorism suspects, and further noting that the pretrial investigation was terminated by the Office of the Prosecutor-General, remains concerned that not all information and evidence has been collected and assessed in the course of the investigations.

The State party should ensure an effective investigation into allegations of its complicity in human rights violations as a result of counter-terrorism measures. The Committee urges the State party to continue the investigations on the matter and to bring perpetrators to justice.

(10) While noting the recently adopted Law on the Protection Against Domestic Violence and further noting the intention of the State party to enact the necessary legislation to

address this issue in other settings, the Committee is nevertheless concerned that corporal punishment is currently not explicitly prohibited by law in schools, penal institutions, and in alternative care settings (art. 7).

The State party should take practical measures to put an end to corporal punishment in all institutional settings.

(11) While noting the various programmes implemented by the State party to combat trafficking in human beings, including through international cooperation, and to support victims of trafficking, the Committee is concerned at the continued existence of this problem in the State party, and in particular by information that children under 18 years of age, in particular adolescent girls living in boarding schools, special child-education and care homes, governmental and non-governmental child-care homes, and those in risk families, very often become victims of trafficking (art. 8).

The State party should continue its efforts to combat trafficking of human beings and balance its criminal response with protection measures for victims. It should pay particular attention to preventing sexual exploitation of children in this regard. The State party should, furthermore, expand its cooperation with other States in eliminating trafficking across national borders. Lastly, it should evaluate the impact of its programmes with a view to addressing the root causes of the problem.

(12) The Committee is concerned about the length of and routine use of administrative detention and detention on remand at the pretrial phase of criminal proceedings. While noting the Law on Probation, which recently came into force, the Committee also regrets the insufficient use of alternatives to imprisonment in the State party (art. 9).

The Committee reiterates its earlier recommendation (CCPR/CO/80/LTU, para 13) that the State party eliminate the institution of detention for administrative offences from its system of law enforcement. The State party should also take appropriate measures to implement alternatives to imprisonment as sentence, including probation, mediation, community service and suspended sentences.

(13) The Committee is concerned at the proposed and pending amendment to the Law on the Legal Status of Aliens, which may allow for the removal of foreigners who are regarded as constituting a threat in terms of national security or public policy, before an appeal has been heard, even if they may be exposed to a violation of their rights under article 7 of the Covenant in the country of return. In this context, the Committee is also concerned at proposals aimed at generally lowering the threshold for establishing the threat to national security or public policy (arts. 9 and 13).

The State party should ensure that it recognizes, in law and in practice, absolute protection for all individuals, without exception, against refoulement to countries where they risk violation of their rights under article 7.

(14) The Committee is concerned at the system of legal representation of persons deprived of their legal capacity. In particular, the Committee is concerned at the absence of legal representation of a person in procedures where his or her legal capacity may be deprived, and is also concerned at the absence of the right of individuals declared legally incapacitated to independently initiate a court procedure requesting the review of their legal capacity. Finally, the Committee is concerned at the potential negative consequences of the courts' authority to authorize procedures such as abortion and sterilization to be performed on disabled women deprived of their legal capacity (arts. 14 and 17).

The State party should ensure free and effective legal representation to individuals in all proceedings regarding their legal capacity, including actions to have their legal capacity reviewed. It also should take appropriate measures to facilitate legal support

to persons with disabilities in all matters impacting on their physical and mental health.

(15) The Committee is concerned that, despite a number of legislative and institutional measures taken by the State party, xenophobic and in particular anti-Semitic incidents continue to occur. The Committee is also concerned that manifestations of hatred and intolerance towards members of national or ethnic minorities as well as LGBT individuals remain widespread particularly on the Internet (arts. 2, 19, 20, 21, 22 and 27).

The State party should, in line with the Committee's general comment No. 34 (2011) on article 19 (freedoms of opinion and expression), strengthen its efforts to prevent crimes committed with racial, discriminatory or xenophobic motives, to bring perpetrators of such crimes to justice and to make effective remedies available to victims. It should reinforce its awareness-raising campaigns to sensitize the public and reduce the prevalence of hatred and intolerance in the media, including the Internet. It should also continue its training programmes in this context, especially targeting law enforcement agencies.

(16) The State party should widely disseminate the Covenant, the two Optional Protocols to the Covenant, the text of the third periodic report, the written responses it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations, so as to increase awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public. The Committee suggests that the report and the concluding observations be translated into the official language of the State party. The Committee also requests the State party, when preparing its fourth periodic report, to broadly consult with civil society and non-governmental organizations.

(17) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 8, 9, and 12 above.

(18) The Committee requests the State party, in its next periodic report, due to be submitted by 27 July 2017, to provide, specific, up-to-date information on all its recommendations and on the Covenant as a whole.

111. Maldives

(1) The Committee considered the initial periodic report submitted by the Maldives (CCPR/C/MDV/1) at its 2900th and 2901st and 2902nd meetings (CCPR/C/SR.2900, 2901 and 2902), held on 12 and 13 July 2012. At its meeting (CCPR/C/SR.2918), held on 25 July 2012, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the submission of the initial report of the Maldives (CCPR/C/MDV/1) (together with its core document (HRI/CORE/MDV/2010), and the information presented therein, as well as the written replies to the Committee's list of issues (CCPR/C/MDV/Q/1/Add.1) and the oral replies provided by the delegation to questions put forward by Committee members. The Committee regrets that the initial periodic report of the State party was not written according to the reporting guidelines of the Committee and the harmonized guidelines on reporting under international human rights treaties, and encourages the State party to do so for the submission of its future periodic reports. It expresses its appreciation for the constructive dialogue with the State party's delegation on the measures that the State party has taken to implement the provisions of the Covenant since its ratification.

B. Positive aspects

(3) The Committee welcomes the following legislative and institutional measures taken by the State:

(a) The adoption, in 2008, of a Constitution which contains a Bill of Rights;

(b) The removal by the Parliament, in 2008, of the gender bar on running for presidency;

(c) The enactment of the Anti-Domestic Violence Act, in April 2012.

(4) The Committee welcomes the ratification by the State party of the following international instruments:

(a) The International Covenant on Economic, Social and Cultural Rights, on 19 September 2006;

(b) The Optional protocol to the International Covenant on Civil and Political Rights, on 19 September 2006;

(c) The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, on 13 March 2006;

(d) The Convention against Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment, on 20 April 2004;

(e) The Optional Protocol to the Convention against Torture, on 15 February 2006;

(f) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 10 May 2002;

(g) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 29 December 2004;

(h) The Convention on the Rights of Persons with Disabilities, on 5 April 2010.

C. Principal matters of concern and recommendations

(5) The Committee considers the State party's reservation to article 18 of the Covenant to be incompatible with the object and purpose of the Covenant (general comments No. 22 (1993) on the right to freedom of thought, conscience and religion, and No. 24 (1994) on issues relating to reservations made upon ratification or accession to the Covenant or the Optional Protocols thereto, or in relation to declarations under article 41 of the Covenant) because: (a) it applies unrestrictedly to all the provisions of article 18 of the Covenant, including the right to have or adopt a religion, which right may not be subject to restriction; (b) moreover, the reservation is not specific, and does not make clear what obligations of human rights compliance the State party has or has not undertaken (general comment No. 24 (1994), para. 19).

The State party should withdraw its reservation to article 18 of the Covenant.

(6) While noting that the State party, in 2008, adopted a Constitution which includes a Human Rights Chapter, the Committee is concerned that the provisions of article 16 (b) of the Constitution provides that "the limitation of a right or a freedom specified in this Chapter by a law enacted by the People's Majlis as provided in the Constitution, and in order to protect and maintain the tenets of Islam, shall not be contrary to article (a)" impedes the application of the Covenant in the domestic legal order of the State party. It is also concerned that very few cases are known where the provisions of the Covenant have been directly invoked before the courts (art. 2).

The State party should take all measures to give full and unimpeded effect to the provisions of the Covenant in its domestic legal order and ensure that the provisions of article 16 (b) of the Constitution are not invoked to justify the failure by the State party to fulfil its obligations under the Covenant. The State party should also undertake efforts aimed at, inter alia, training its judges, magistrates, prosecutors and lawyers on the provisions of the Covenant and by conducting awareness-raising campaigns for the population on the rights protected by the Covenant.

(7) The Committee is concerned at legislation which provides that all members of the national human rights institution, the Human Rights Commission of the Maldives, must be Muslim. The Committee is also concerned at the narrow mandate of the Commission which prevents it from promoting all fundamental human rights and freedoms (art. 2).

The State party should remove the legal requirement which prevents non-Muslims from being appointed as members of the Human Rights Commission of the Maldives and consider expanding its mandate to promote all human rights and freedoms, in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

(8) The Committee is concerned that the State party is not fully respecting the rights of non-discrimination and privacy. In particular, it is concerned about discrimination against people on the basis of their sexual orientation as well as the social stigmatization and social exclusion of these groups. While the Committee observes the diversity of morality and cultures internationally, it recalls that they must always be subject to the principles of universality of human rights and non-discrimination (general comment No. 34 (2011) on article 19 (freedoms of opinion and expression), para. 32). Accordingly, the State party has the duty to protect the individual's liberty and privacy, including in the context of same sex sexual activities among consenting adults (arts. 2, 17 and 26).

The State party should decriminalize sexual relations between consenting adults of the same sex. It should also combat the stigmatization and marginalization of homosexuals in society. The State party should accelerate the enactment of the Anti-Discrimination legislation which is currently under consideration by the Parliament, and ensure it includes a prohibition of discrimination on the basis on sexual orientation.

(9) The Committee is concerned at article 9 (d) of the Constitution according to which a non-Muslim may not become a citizen of the Maldives (arts. 2, 18 and 26).

The State party should revise its Constitution to ensure that religion is not a basis for citizenship.

(10) The Committee, while welcoming the efforts made by the State party to facilitate the participation of women in public and political life, including in the Judiciary, is concerned at the continuing de facto gender-discrimination which results, inter alia, in the underrepresentation of women in political and public affairs and prevents women from fully enjoying these rights (arts. 2, 3 and 25).

The State party should strengthen its efforts to facilitate the participation of women in political and public affairs, including by taking temporary special measures and conducting awareness-campaigns to further increase the participation of women in public and political affairs. The State party should adopt strategies to combat stereotypes on the role of women, including by sensitizing its population on the need to ensure the enjoyment by women of their rights.

(11) The Committee, while noting the adoption of the Domestic Violence Act in April 2012, is concerned at the persistence of domestic violence, in particular violence against women and girls, in the State party. The Committee is also concerned at the low rate of

complaints lodged for domestic violence, and at the lack of effective mechanisms of protection and rehabilitation for victims (art. 2, 3 and 7).

The State party should take the necessary measures to implement fully the Domestic Violence Act. It should facilitate complaints from victims without fear of reprisals, intimidation or exclusion by the community; investigate, prosecute and punish those responsible with appropriate penalties; and provide compensation to victims. The State party should further establish a proper mechanism of protection, including by setting up shelters and by providing psychological rehabilitation and conduct awareness-raising campaigns on the negative impacts of domestic violence.

(12) The Committee is concerned that women in the Maldives continue to be discriminated against in the State party with regard to inheritance (arts. 2, 3, 23 and 26).

The State party should guarantee equality between men and women in matters relating to family law, in particular by ensuring, de jure and de facto, the right of women to inherit property on an equal footing with men.

(13) The Committee, while noting that the State party has adopted a moratorium on the death penalty, observes that the State party has not yet abolished the death penalty. The Committee is concerned about a draft amendment to Section 21 of the Clemency and Pardoning Act under consideration before the Parliament, aimed at obliging the Supreme Court to uphold sentences of death for certain crimes and which would prevent the President from granting clemency, as provided in article 115 of the Constitution (art. 6).

The State party should consider abolishing the death penalty and ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights. It should remove mandatory death penalties from its statutes.

(14) The Committee is concerned at reported cases of torture in some police stations in the State party. It is also concerned at reported cases of torture and ill-treatment by Police and National Defence Forces that occurred in the State party prior to 2008 which have not all been investigated. The Committee is further concerned at information according to which human rights violations, including torture, were committed by the Police during the arrest and detention of protestors in the course of the demonstrations of 8 February 2012, in Male' and Addu cities (art. 7).

The State party should take steps to combat torture and ill-treatment in its all forms and prohibit it in its legislation. The State party should consider setting up an independent commission of inquiry to investigate all human rights violations, including torture that took place in the State party prior to 2008 and provide compensation to the victims. The Committee should further investigate all allegations of torture that took place at the time of the demonstrations of 8 February 2012, in Malé and Addu, prosecute those responsible, and provide compensation and rehabilitation to the victims. The State party should implement the findings of the Commission of Inquiry set up to investigate events that took place during the political transition period.

(15) The Committee is concerned at the composition of the Police Integrity Commission, which hampers its independence. The Committee is also concerned at the low number of cases relating to torture and ill-treatment received by the Commission as well as at the low number of police officers sanctioned (arts. 7 and 14).

The State party should review the composition of the Police Integrity Commission to ensure that its independence is guaranteed. The State party should also ensure that complaints lodged by alleged victims of torture or ill-treatment are thoroughly and impartially investigated and that those responsible are prosecuted and punished with appropriate penalties.

(16) The Committee is concerned at reported cases of corporal punishment of children in schools. The Committee is also concerned that flogging can be administered to persons for certain offences prescribed by the Sharia law (art. 7).

The State should abolish flogging. It should also explicitly prohibit corporal punishment in all institutional settings.

(17) The Committee is concerned at reports relating to trafficking in migrants from neighbouring countries for labour and sexual exploitation purposes. While noting that trafficking is prohibited by article 25 (a) of the Constitution, the Committee is concerned that no legislation has yet been enacted by the State party to prevent and protect against trafficking in persons. The Committee is further concerned at the lack of statistical data on the number of trafficked persons, the investigations conducted, the number of prosecutions and convictions, and the protective measures put in place, as well as the absence of a strategy to combat trafficking (art. 8).

The State party should:

(a) Conduct a study on the root causes of trafficking and provide statistical data on those trafficked;

(b) Speed up the adoption of the Bill prohibiting and punishing all forms of trafficking in persons and implement it;

(c) Investigate incidences of trafficking and prosecute those responsible;

(d) Provide protective measures, in particular shelters, as well as rehabilitation and compensation to victims;

(e) Adopt a National Plan of Action on Trafficking in persons.

(18) The Committee is concerned that suspects may be detained by the Police or National Defence Forces for a period exceeding 48 hours without appearing before a judge and without charge. The Committee is also concerned at reports that suspects do not always benefit from legal assistance (art. 9).

The State party should provide legal guarantees to suspects detained by the Police, or National Defence Forces, whereby that they are brought before a judge who should decide on the lawfulness of their detention and/or its extension, within 48 hours. In adopting its Legal Aid Act, the State party should also ensure that free legal assistance is provided in any cases where the interest of justice so requires.

(19) The Committee is concerned at poor conditions of detention, as well as the high rate of overcrowding in some prisons. The Committee is further concerned at the lack of a complaint mechanism for inmates regarding their conditions of detention or ill-treatment (art. 10).

The State party should strengthen its efforts to improve prison conditions, including by adopting a national strategy. In particular, the State party should reduce the high rate of overcrowding in its prisons, including by shortening the period of pretrial detention and by using alternative measures to the deprivation of liberty. The State party should establish a complaint mechanism for inmates with regard to their conditions of detention.

(20) The Committee is concerned at the fact that the composition and the functioning of the Judicial Service Commission (JSC) seriously compromise the realization of measures to ensure the independence of the Judiciary as well as its impartiality and integrity. The Committee is also concerned that such a situation undermines the judicial protection of human rights and fundamental freedoms in the State party (arts. 2, para. 3, and 14).

The State party should take effective measures to reform the composition and the functioning of the Judicial Service Commission (JSC). It should also guarantee its independence and facilitate the impartiality and integrity of the Judiciary, so as to effectively protect human rights through the judicial process.

(21) The Committee is concerned at the lack of effective protection against non-refoulement (arts. 7 and 13).

The State party should adopt legislation to ensure respect for the principle of non-refoulement especially when persons risk being subjected to torture or other cruel, inhuman and degrading treatment or punishment or other serious human rights violations in their country of return.

(22) The Committee is concerned at alleged frequent attempts at interference and obstruction of the media in the State party. In particular, the Committee is concerned at reports that journalists are subjected to intimidation and harassment, and that some journalists have been detained, beaten and subjected to other forms of violence, including during protests which occurred in the State party in 2012 (art. 19).

In light of its general comment No. 34 (2011), the State party should fully guarantee the right to freedom of expression in all its forms. The State party should also avoid any kind of illegal interference in the media, including by refraining from the use of force against journalists. It should further protect journalists and media against any form of violence and censorship. Moreover, the State party should investigate incidents of attacks on journalists and media, and bring those responsible to justice.

(23) The Committee, while noting that article 32 of the Constitution guarantees the right of peaceful assembly for everyone and without prior permission, is concerned that the "Regulation concerning Assembly", requires at least three persons representing the organizers of public assemblies to submit a written form fourteen days in advance. It is particularly concerned at reported cases of excessive use of force by the Police and the National Defence Forces during demonstrations, including during those which took place from 16 January to 6 February 2012 (art. 21).

The State party should fully guarantee the right to freedom of assembly in compliance with the Covenant and revise its legislation accordingly. It should adopt procedures and regulations in compliance with human rights standards for the police in controlling large crowds of protestors. It should investigate incidents which occurred in the State party, in particular during the 2012 demonstrations, and prosecute and bring Police and Defence Forces officers responsible to justice.

(24) The Committee is concerned at the fact that non-Muslims can only practise their religion in private and do not have public places of worship. It is also concerned that it is prohibited for Maldivian citizens to adopt a religion other than Islam (arts. 2 and 18).

The State party should revise its legislation to authorize non-Muslims to practice and manifest their religion, including in places of public worship. The State party should abolish the crime of apostasy in its legislation and allow Maldivians to fully enjoy their freedom of religion.

(25) The Committee notes the legal and political circumstances which resulted in the resignation of the former President of the Maldives, on 7 February 2012, and the transfer of power to the new President (arts. 2, para. 1, and 25).

The State party should:

(a) Ensure that the rights contained in article 25 of the Covenant, which lies at the core of democratic government based on the consent of the people (general

comment No. 25 (1996) on the right to participate in public affairs, voting rights and the right of equal access to public service), are fully protected;

(b) Take steps to ensure that the Commission of Inquiry set up to investigating the circumstances surrounding the transfer of power, in February 2012, can carry out its functions in conditions guaranteeing its complete independence and impartiality.

(26) The Committee is concerned at information before the Committee that some individuals who have provided information to the Committee for the consideration of the State party's initial report have been subject to threats and intimidation as a result of submitting such reports.

The State party, as a matter of urgency, should take all necessary steps to protect individuals who have provided information to the Committee. The State party should inform the Committee on measures taken in this regard.

(27) The State party should widely disseminate the Covenant, the Optional Protocol to the Covenant, the text of the initial report and the present concluding observations so as to increase awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public. The Committee requests the State party, when preparing its periodic report, to broadly consult with civil society and non-governmental organizations.

(28) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 5, 20, 25 and 26 above.

(29) The Committee requests the State party, in its periodic report, due to be submitted by 27 July 2015, to provide, specific, up-to-date information on all its recommendations and on the Covenant as a whole.

112. **Bosnia and Herzegovina**

(1) The Committee considered the second periodic report submitted by Bosnia and Herzegovina (CCPR/C/BIH/2) at its 2934th and 2935th meetings (CCPR/C/SR.2934 and CCPR/C/SR.2935), held on 22 and 23 October 2012. At its 2945th meeting (CCPR/C/SR.2945), held on 31 October 2012, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the submission of the second periodic report of Bosnia and Herzegovina and the information presented therein. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's high-level delegation on the measures that the State party has taken during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies to the list of issues (CCPR/BIH/Q/2/Add.1) which were supplemented by the oral responses provided by the delegation.

B. Positive aspects

(3) The Committee welcomes the following legislative and other steps taken by the State party:

(a) The enactment of the Law on Prohibition of Discrimination in 2009;

(b) The adoption by the Parliamentary Assembly of a resolution on the fight against domestic violence (Official Gazette of Bosnia and Herzegovina, No. 15/08) in 2008;

(c) The adoption of the National War Crimes Prosecution Strategy in 2008;

(d) The adoption of a revised strategy for the implementation of annex 7 (the Framework Programme for the Return of Refugees and Internally Displaced Persons) in 2010.

(4) The Committee welcomes the ratification by the State party of the following international instruments:

(a) The International Convention for the Protection of All Persons from Enforced Disappearance on 30 March 2012;

(b) The Convention on the Rights of Persons with Disabilities and its Optional Protocol on 12 March 2010;

(c) The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights on 18 January 2012; and

(d) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 24 October 2008.

C. Principal matters of concern and recommendations

(5) While noting that the Office of the Ombudsperson has been accredited with "A" status by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights and that the State party intends to designate it as a national mechanism to prevent torture under the Optional Protocol to the Convention against Torture, the Committee is concerned at the Office's lack of financial autonomy and the recent budget cuts that threaten the full implementation of its mandate in the promotion and protection of human rights in the State party (art. 2).

The State party should strengthen its efforts to ensure that the Office of the Ombudsperson enjoys financial autonomy and is provided with adequate financial and human resources commensurate with the additional activities conferred upon it.

(6) The Committee recalls its previous recommendation (CCPR/C/BIH/CO/1, para. 8) and expresses its regret that the Constitution and Election Law of the State party continues to exclude persons who do not belong to one of the State party's "constituent peoples", namely Bosniaks, Croats and Serbs, from being elected to the House of Peoples and to the tripartite Presidency of Bosnia and Herzegovina. The Committee particularly regrets that, notwithstanding its previous recommendations and the judgment of the European Court of Human Rights in the case of Dervo Sejdić and Jakob Finci, application Nos. 27996/06 and 34836/06, handed down on 22 December 2009, efforts to amend the Constitution have stalled such that the law continues to exclude citizens from certain groups from participating in elections that were held in October 2010 (arts. 2, 25 and 26).

The Committee reiterates its previous concluding observations (CCPR/C/BIH/CO/1, para. 8) that the State party should adopt an electoral system that guarantees equal enjoyment of the rights of all citizens under article 25 of the Covenant, irrespective of ethnicity. In this regard, the Committee recommends that the State party, as a matter of urgency, amend its Constitution and Election Law to remove provisions that discriminate against citizens from certain ethnic groups by preventing them from participating in elections.

(7) While appreciating efforts to deal with war crime cases such as the implementation of the National War Crimes Processing Strategy, the Committee remains concerned at the slow pace of prosecutions, particularly those relating to sexual violence, and the lack of support to victims of such crimes. The Committee is also concerned at the lack of efforts to harmonize jurisprudence on war crimes among entities and that entity-level courts use the

archaic Criminal Code of the former Socialist Federal Republic of Yugoslavia that does not, inter alia, define crimes against humanity, command responsibility, sexual slavery and forced pregnancy. The Committee is concerned that this might affect consistency in sentencing among entities (arts. 2 and 14).

The State party should expedite the prosecution of war crime cases. The State party should also continue to provide adequate psychological support to victims of sexual violence, particularly during the conduct of trials. Furthermore, the State party should ensure that the judiciary in all entities strongly pursues efforts aimed at harmonizing jurisprudence on war crimes and that charges for war crimes are not brought under the archaic Criminal Code of the former Socialist Federal Republic of Yugoslavia, which does not recognize certain offences as crimes against humanity.

(8) The Committee is concerned that the Strategy on Transitional Justice that aims at ensuring access to justice and reparation for all civilian victims of war including survivors of sexual violence has not been adopted. The Committee is also concerned that a draft law on the rights of victims of torture and civilian victims of war that aims at ensuring that all civilian victims of war in the State party have equal access to social benefits has not been adopted. The Committee further recalls its previous recommendation (CCPR/C/BIH/CO/1, para. 15) and remains concerned that personal disability benefits received by civilian victims of war are significantly lower than those received by war veterans in entities and respective cantons (arts 2, 7 and 26).

The State party should take practical measures to ensure that survivors of sexual violence and torture have access to justice and reparations. Furthermore, the Committee reiterates its previous recommendation (CCPR/C/BIH/CO/1, para. 15) and urges the State party to harmonize disability benefits among entities and cantons so that personal disability benefits received by civilian victims are adjusted to ensure they are in line with the personal disability benefits received by war veterans.

(9) The Committee recalls its previous recommendations (CCPR/C/BIH/CO/1, para. 14) and regrets the slow progress that has been made to find persons who went missing during the armed conflict between 1992 and 1995. The Committee is also concerned at the budget cuts for the Missing Persons Institute that adversely affect the implementation of its mandate (arts. 2, 6 and 7).

The Committee reiterates its previous concluding observations (CCPR/C/BIH/CO/1, para. 14) and recommends that the State party should expedite the investigation of all unresolved cases involving missing persons. Furthermore, the State party should take all necessary measures to ensure that the Missing Persons Institute is adequately funded and able to fully implement its mandate with a view to completing the resolution of these cases as soon as possible. The State party should also continue to provide adequate psychological support to families of missing persons during the conduct of exhumations.

(10) The Committee recalls its previous recommendations (CCPR/C/BIH/CO/1, para. 11) and regrets that despite the introduction of quotas in the Election Law that require political parties to nominate at least 30 per cent of women candidates and incentives for parliamentary funding for political parties with women representatives in the Parliamentary Assembly, women remain under-represented in legislative and executive bodies at all levels of Government (arts. 2, 3 and 26).

The Committee reiterates its previous concluding observations (CCPR/C/BIH/CO/1, para. 11) to strengthen its efforts to increase the participation of women in the public sector through appropriate temporary special measures to give effect to the provisions of the Covenant.

(11) While noting the State party's efforts to reconstruct and refurbish places of deprivation of liberty in order to improve conditions, the Committee is concerned that overcrowding in detention centres and prisons continues to be a problem in the State party The Committee is also concerned at reports of cases of inter-prisoner violence in prisons (arts. 6 and 10).

The State party should take urgent measures to address overcrowding in detention centres and prisons, including through increased resort to alternative forms of punishment, such as electronic monitoring, parole and community service. The State party should take practical measures to prevent inter-prisoner violence. In this regard, the State party should continue to ensure that all cases of inter-prisoner violence, especially those leading to deaths, are thoroughly investigated and that the perpetrators are prosecuted and punished with appropriate sanctions.

(12) The Committee is concerned that article 21 of the Law on the Rights of Defenders and Members of their Families, applicable in the Federation of Bosnia and Herzegovina, provides that, in order for the family members of missing persons to accede to or maintain a monthly pension, they have to commence proceedings to declare the missing person deceased within two years of the law coming into force. Furthermore, the Committee is concerned that in the Republic Srpska, municipal courts require the production by family members of evidence in the form of a death certificate that their relative has been subjected to enforced disappearance when assessing a request for a disability pension under article 25 of the Law on the Protection of Civilian Victims of War and article 190 of the Law on Administrative Procedure. The Committee is concerned that this practice raises issues under articles 2, 6 and 7 of the Covenant, as missing persons and those subjected to enforced disappearance are presumed dead when efforts are being made to find them (arts. 2, 6 and 7).

The State party should abolish the obligation in cases of disappearance which makes the right to compensation dependent on the family's willingness to have the family member declared dead. The State party should ensure that any compensation or other form of redress adequately reflects the gravity of the violation and the harm suffered.

(13) While taking note of efforts to provide protection for witnesses of war crimes in the State party, such as the establishment of the Witness Prosecution Unit in the Office of the Prosecutor, the Committee is concerned at the prevailing deficiencies in the implementation of the witness support programme in entities where war crime cases have been transferred, such as the lack of adequate psychological support and that witnesses have been made to confront accused persons in and outside courts. The Committee is concerned that this affects the willingness of witnesses to provide testimony during trials (arts. 6 and 14).

The State party should take practical measures to increase the effectiveness of the witness protection programme to ensure the full protection of witnesses. The State party should also ensure that witnesses continue to receive adequate psychological support in entities where war crimes have been transferred. The State party should further ensure that authorities fully investigate cases of suspected intimidation of witnesses to put an end to the climate of fear that stifles efforts to prosecute war crimes at the entity level in the State party.

(14) While appreciating the efforts made by the State party to protect the right of persons against refoulement, the Committee is concerned that persons subject to removal on national security grounds are subjected to indefinite detention based solely on the discretionary decisions by the security organs of the State. The Committee is also concerned that the appeals submitted to courts by asylum seekers that are ordered by administrative authorities have no suspensive effect and that information on countries of

origin provided by relevant international organizations and agencies is not always sufficiently taken into account (arts. 7, 9 and 10).

The State party should revise the law that provides for the detention of persons who are subject to removal from the State party on grounds of national security to ensure that full legal security is guaranteed and that such persons are not held indefinitely. In this regard, the State party should also consider introducing other methods of surveillance in place of indefinite detention. The State party should also ensure that, in all cases involving refoulement, all appeals to courts have suspensive effect and all relevant information on the situation in the country of origin is duly taken into account by competent administrative and judicial organs.

(15) The Committee recalls its previous recommendation (CCPR/C/BIH/CO/1, para. 18) and remains concerned that article 132 (d) of the Code of Criminal Procedure, which provides that persons suspected of criminal offences can be placed in pretrial detention if the alleged offence is punishable by a prison sentence exceeding 10 years, solely on the ground that the judge finds that reasons of public security or security of property warrant such detention, remains on the statute book (art. 9).

The Committee reiterates its previous concluding observation (CCPR/C/BIH/CO/1, para. 18) and recommends that the State party should consider removing from the Code of Criminal Procedure of the State party the ill-defined concept of public security or security of property as a ground for ordering pretrial detention of individuals that are considered a threat to public security or property.

(16) The Committee recalls its previous observations (CCPR/C/BIH/CO/1, paras. 20 and 21) and remains concerned that a considerable number of refugees, returnees and internally displaced persons have still not been resettled and continue to reside in collective centres (art. 12).

The Committee reiterates its previous recommendations (CCPR/C/BIH/CO/1, paras. 20 and 21) and recommends that the State party should expedite efforts for the resettlement and return of refugees, returnees and internally displaced persons in order to complete the phasing-out of collective centres. In this regard, the State party should continue to take practical measures aimed at providing adequate alternative housing to the residents of collective centres and the creation of the necessary conditions for sustainable returns and resettlement.

(17) The Committee recalls its previous observations (CCPR/C/BIH/CO/1, para. 22) and notes with concern the challenges in the registration of births and the provision of birth certificates, particularly for the Roma, which affect their access to health insurance, social security, education and other basic rights (arts. 16 and 24).

The Committee reiterates its previous concluding observations (CCPR/C/BIH/CO/1, para. 22) and recommends that the State party should increase its efforts to improve birth registration and the provision of birth certificates, particularly among the Roma, through appropriate interventions such as awareness-raising programmes aimed at changing mindsets regarding the need to register births or obtain birth certificates.

(18) The Committee regrets reports and the admission by the State party that the Communications Regulatory Authority, which is, inter alia, mandated to investigate improper conduct in the media and hate speech cases, is not independent, as it is subjected to economic and political pressure (art. 19).

The Committee recalls its general comment No. 34 (2011) on freedoms of opinion and expression and urges the State party to ensure that the Communications Regulatory Authority's independence is fully respected. The State party should, therefore, desist

from any acts of influence over the conduct of affairs by the Communication Regulatory Authority to ensure that it undertakes its mandate independent of any external influence from any person or body.

(19) The Committee is concerned at reports of restrictions on freedoms of expression and assembly in Prijedor town, where the Mayor on 9 May 2012 prohibited public commemorations for the twentieth anniversary of mass atrocities which had been organized by local non-governmental organizations. The Committee is concerned at reports that public announcements were made that any failure to comply with the prohibition and the use of the term "genocide" when referring to the crimes committee in Omarska would be prosecuted (arts. 19 and 21).

The State party should ensure that restrictions on freedoms of expression and assembly comply with the strict requirements of articles 19 and 21 of the Covenant respectively. In this regard, the State party should conduct investigations regarding the legality of prohibitions to conduct commemorations in the town of Prijedor in May 2012.

(20) While welcoming the State party's efforts to prosecute acts of hate speech and the perpetration of racist attacks, particularly against the Roma, the Committee is concerned at continued reports of racist attacks. The Committee is also concerned at the lack of a specific law that prohibits the establishment of associations that instigate hatred and racist propaganda (arts. 2, 19, 20, 22 and 27).

The State party should strengthen its efforts to combat hate speech and racist attacks, particularly against the Roma, by, inter alia, instituting awareness-raising campaigns aimed at promoting respect for human rights and tolerance for diversity. The State party should also strengthen its efforts to ensure that alleged perpetrators of racist attacks are thoroughly investigated and prosecuted and, if convicted, punished with appropriate sanctions, and that the victims are adequately compensated. Furthermore, the State party should enact a law that prohibits the formation of associations that are founded on the promotion and dissemination of, inter alia, hate speech and racist propaganda.

(21) The Committee recalls its previous recommendations (CCPR/C/BIH/CO/1, para. 24) and reiterates its concern regarding the de facto discrimination of the Roma. The Committee is particularly concerned that Roma children continue to be subjected to the segregated system of mono-ethnic schools, and that they lack opportunities to receive instruction in their languages. The Committee is also concerned at the poor indicators of the Roma in areas of, inter alia, access to housing, health care, employment and participation in the conduct of public affairs (arts. 26 and 27).

The Committee reiterates its previous concluding observations (CCPR/C/BIH/CO/1, para. 24) that the State party should take necessary measures to give effect to the linguistic and education rights of the Roma as protected under the Law on the Protection of Rights of Persons Belonging to National Minorities. The State party should strengthen efforts to ensure that Roma children can receive education instruction in their mother tongue. The State party should also take practical measures to improve the rights of the Roma with regard to access to housing, health care, employment and their participation in the conduct of public affairs.

(22) The State party should widely disseminate the Covenant, the two Optional Protocols to the Covenant, the text of the second periodic report, the written responses that it has provided in response to the list of issues drawn up by the Committee and the present concluding observations so as to increase awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public. The Committee also suggests that the report and

the concluding observations be translated into the other official language of the State party. The Committee also requests the State party, when preparing its third periodic report, broadly consult with civil society and non-governmental organizations.

(23) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 6, 7 and 12 above.

(24) The Committee requests the State party, in its next periodic report, due to be submitted on 31 October 2016, to provide, specific, up-to-date information on all its recommendations and on the Covenant as a whole.

113. **Germany**

(1) The Committee considered the sixth periodic report submitted by Germany (CCPR/C/DEU/6) at its 2930th and 2931st meetings (CCPR/C/SR.2930 and 2931, held on 18 and 19 October 2012. At its 2944th and 2945th meetings (CCPR/C/SR 2944 and 2945), held on 30 and 31 October 2012, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the submission of the sixth periodic report of Germany which was drafted in line with the new reporting guidelines. It expresses appreciation for the constructive dialogue with the State party's delegation on the measures that the State party has taken during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies to the list of issues (CCPR/DEU/Q/6/Add.1) which were supplemented by the oral responses provided by the delegation and for the supplementary information provided to it in writing.

B. Positive aspects

(3) The Committee welcomes the following legislative and other steps taken by the State party:

(a) The adoption of the General Equal Treatment Act, on 18 August 2006;

(b) The many legal and practical measures taken to address problems in nursing homes;

(c) The measures taken in 2009 to include information on criminal offenses committed by police officers into the criminal statistics.

(4) The Committee welcomes the ratification by the State party of the following international instruments:

(a) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 13 December 2004;

(b) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, on 4 December 2008;

(c) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 15 July 2009;

(d) The Convention on the Rights of Persons with Disabilities, on 24 February 2009;

(e) The Optional Protocol to the Convention on the Rights of Persons with Disabilities, on 24 February 2009;

(f) The International Convention for the Protection of All Persons from Enforced Disappearance, on 24 September 2009.

C. Principal matters of concern and recommendations

(5) The Committee regrets that the State party, despite its indicated willingness to consider withdrawing its reservation to article 15, paragraph 1 of the Covenant, as set out in paragraph 114 of its sixth periodic report (CCPR/C/DEU/6), has not yet taken the necessary steps to do so. The Committee is concerned about the State party's reservation to article 5, paragraph 2 (a) of the Optional Protocol to the Covenant which restricts the Committee's competence with regard to article 26 of the Covenant and which the State party has ratified without any reservation (art. 2).

The State party should give further consideration to withdrawing its reservations, in particular those to article 15, paragraph 1, and to article 5, paragraph 2(a) of the Optional Protocol to the Covenant.

(6) While welcoming the adoption of the General Equal Treatment Act in 2006, the Committee is concerned at the fact that the mandate of the Federal Anti-Discrimination Agency established by the Act is limited to public relations, research activities, advice and assistance to alleged victims of discrimination but does not encompass the possibility to deal with complaints, which limits its efficiency (arts. 2 and 26).

The State party should extend the mandate of the Federal Anti-Discrimination Agency including the power to investigate complaints brought to its attention and to bring proceedings before the courts, so as to enable it to increase its efficiency.

(7) While noting the explanations provided by the State party on the aim of the provision on housing enshrined in Section 19, subsection 3, of the General Equal Treatment Act of 2006, which is to facilitate the integration of migrants by avoiding wherever possible the formation of closed and ethnically homogeneous residential areas, the Committee is concerned that the wording of its Section 19, subsection 3, may be interpreted as allowing discrimination against people with immigrant backgrounds in housing by private landlords (arts. 2 and 26).

The State party should take the necessary steps to clarify the wording of Section 19, subsection 3, of the General Equal Treatment Act of 2006 and ensure that it is not used abusively by landlords to discriminate against people with immigrant backgrounds on the basis of their ethnic origin when renting housing.

(8) While noting progress made by the State party to promote equality between women and men, such as in Parliament and the Judiciary, the Committee is concerned that the representation of women in leading positions in the private sector remains low. It is also concerned at the persistent wage gap between women and men in the State party (arts. 2, 3, and 26).

The State party should firmly strengthen its efforts aimed at promoting women in leading positions in the private sector including by closely monitoring the implementation by companies of the German Corporate Governance Code of 2010. The State party should also take concrete measures to reduce the wage gap which persists between women and men and address all causes which widen such a gap. The State party should further promote the enhancement of women's careers including by strictly applying the Federal Act on Gender Equality and the General Equal Treatment Act.

(9) While welcoming the State party's various efforts to combat violence against women and girls at legislative and policy levels, such as initiatives and projects carried out under the Second Plan to Combat Violence against Women of 2007, the Committee is concerned about the persistent violence against women in the State party. The Committee is concerned about the high level of violence faced by women with immigration backgrounds,

in particular those of Turkish and Russian origin, despite various measures taken by the State party to prevent and combat such violence (arts. 3 and 7).

The State party should continue to strengthen its efforts to combat violence against women and girls and, in particular, increase measures to protect women of Turkish and Russian origin. It should continue to facilitate access to existing counselling and support services for particularly vulnerable and marginalized women victims of violence, and to investigate allegations of cases of such violence, prosecute and, if convicted, punish those responsible. Moreover, the State party should improve the coordination between the Federation and the *Länder* on this issue and regularly evaluate the impact of its initiatives.

(10) The Committee is concerned about allegations of ill-treatment by police and prison officers of the State party. The Committee is also concerned that most complaints on ill-treatment are dismissed and that the State party has not yet set up independent complaint bodies to deal with complaints on police misconduct. The Committee is further concerned about the existing disparities between *Länder* with regard to measures to ensure that police officers can be identified (arts. 7 and 10).

The State party should ensure that (a) all allegations of ill-treatment by police and prison officers are assessed, promptly, thoroughly and impartially investigated, (b) those responsible are punished accordingly, and (c) victims are provided with compensation; The State party should also ensure that victims of ill-treatment by police and prison officers are aware of their rights and can lodge complaints without fear of reprisals. The State party should further set up independent complaint bodies to deal with police allegations of ill-treatment, as previously recommended by the Committee. In addition, the State party should encourage its *Länder* to take measures to facilitate the identification of police officers when they are carrying out their function in order to hold them responsible for misconduct when implicated in ill-treatment.

(11) While noting that the transfers of asylum seekers under the Dublin II Regulation have been suspended to Greece until January 2013 due to difficult reception conditions, the Committee is concerned that despite rulings by the German Constitutional Court, the European Court of Human Rights and the European Court of Justice, Section 34a, subsection 2, of the Asylum Procedure Act, excluding provisional legal protection in the case of transfers to safe third States and to Member States of the European Union and other European States bound by the Dublin II Regulation, remains in force and continues to be applied by certain domestic courts (arts. 7 and 13).

The State party should revise its Asylum Procedure Act to allow suspensive orders in case of transfers of asylum seekers to any State bound by the Dublin II Regulation. The State party should also inform the Committee whether it will extend the suspension of transfers of asylum seekers to Greece beyond January 2013.

(12) While noting information provided by the State party, the Committee is also concerned that the practice by the State party to request diplomatic assurances in cases of extradition may expose affected persons to the risk of torture, cruel and degrading treatment and punishment in the requesting State (art. 7).

The State party should ensure that no individuals, including those suspected of terrorism, are exposed to the danger of torture or cruel, inhuman or degrading treatment or punishment when extradited or deported. It should further recognize that the more systematic the practice of torture, the less likely it will be that a real risk of such treatment can be avoided by diplomatic assurances, however stringent any agreed follow-up procedure may be. Moreover, the State party should exercise the utmost care in the use of such assurances and adopt clear and transparent procedures

allowing review by adequate judicial mechanisms before individuals are deported or extradited, as well as effective means to monitor the fate of affected individuals.

(13) While noting the various measures taken by the State party to combat trafficking in persons, in particular for sexual exploitation and forced labour purposes, the Committee is concerned about the persistence of such a phenomenon in the State party (art. 8).

The State party should systematically and vigorously investigate allegations of trafficking in persons, prosecute and, if convicted, punish those responsible and provide compensation. The State party should also strengthen its support and protection measures at the Federal and *Länder* levels to victims and witnesses, including rehabilitation. It should further facilitate access to justice for victims of trafficking without fear of retaliation and regularly evaluate the impact of all initiatives and measures taken to counter trafficking in persons.

(14) While welcoming the steps taken by the State party to revise its legislation and practice on post-conviction preventive detention in accordance with human rights standards and noting information that a draft bill addressing the issue is currently before parliament, the Committee is concerned about the number of persons who are still detained in such detention in the State party. It is also concerned about the duration of such a detention in some cases as well as the fact that conditions of detention have not been in line with human rights requirements in the past (arts. 9 and 10).

The State party should take necessary measures to use the post-conviction preventive detention as a measure of last resort and create detention conditions for detainees, which are distinct from the treatment of convicted prisoners serving their sentence and only aimed at their rehabilitation and reintegration into society. The State party should include in the Bill under consideration, all legal guarantees to preserve the rights of those detained, including periodic psychological assessment of their situation which can result in their release or the shortening of the period of their detention.

(15) The Committee is concerned about the reported incidences of physical restraints applied, in particular, to dementia sufferers in residential homes, including being tied to a bed or kept behind closed doors, are applied in contravention of applicable legal provisions limiting the use of such measures (arts. 7, 9 and 10).

The State party should take effective measures to ensure full implementation of legal provisions related to the use, in compliance with the Covenant, of physical restraint measures in residential homes, including by improving training of staff, regular monitoring, investigations and appropriate sanctions for those responsible.

(16) While welcoming measures taken by the State party to provide remedies against German companies acting abroad allegedly in contravention of relevant human rights standards, the Committee is concerned that such remedies may not be sufficient in all cases (art. 2, para. 2).

The State party is encouraged to set out clearly the expectation that all business enterprises domiciled in its territory and/or its jurisdiction respect human rights standards in accordance with the Covenant throughout their operations. It is also encouraged to take appropriate measures to strengthen the remedies provided to protect people who have been victims of activities of such business enterprises operating abroad.

(17) While noting the various measures taken by the State party to combat racism, the Committee is concerned at the persistence of racially-motivated incidents against members of the Jewish and Sinti and Roma communities as well as Germans of foreign origin and asylum seekers in the State party. The Committee is concerned about the persistent

discrimination faced by members of the Sinti and Roma communities regarding access to housing, education, employment and health care (arts. 2, 18, 20, and 26).

The State party should take concrete measures to increase the effectiveness of its legislation and to investigate all allegations of racially-motivated acts and to prosecute and punish those responsible. The State party should also strengthen its efforts to integrate members of the Sinti and Roma communities in Germany by firmly promoting their access to education, housing, employment and health care. The State party should further pursue its awareness-raising campaigns and promote tolerance between communities.

(18) The Committee is concerned at continued allegations of hate speech and racist propaganda on the Internet including from right-wing extremism, despite awareness-raising efforts and judicial measures taken on the basis of Sections 86 and 130 of its Criminal Code (arts. 2, 18, and 26).

The State party should take the necessary steps to effectively prohibit and prevent hate speech and racist propaganda in particular through the Internet. It should increase its awareness at federal and at *Länder* levels with regard to racist propaganda and speech, in particular from extreme right-wing associations or groups.

(19) The State party should widely disseminate the Covenant, the two Optional Protocols to the Covenant, the text of the sixth periodic report, the written responses it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations so as to increase awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public. The Committee also suggests that the report and the concluding observations be translated into the official language of the State party. The Committee also requests the State party, when preparing its seventh periodic report, to broadly consult with civil society and non-governmental organizations.

(20) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 11, 14 and 15 above.

(21) The Committee requests the State party, in its next periodic report, due to be submitted on 31 October 2018, to provide, specific, up-to-date information on all its recommendations and on the Covenant as a whole.

114. Philippines

(1) The Committee considered the fourth periodic report submitted by the Philippines (CCPR/C/PHL/4) at its 2924th and 2925th meetings (CCPR/C/SR.2924 and 2925, held on 15 and 16 October 2012. At its 2944th meeting (CCPR/C/SR.2944), held on 30 October 2012, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the submission of the fourth periodic report of the Philippines and the information presented therein. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's high level delegation on the measures that the State party has taken during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies (CCPR/C/PHL/Q/4/Add.1) to the list of issues (CCPR/C/PHL/Q/4) which were supplemented by the oral responses provided by the delegation and for the supplementary information provided to it in writing. The Committee, however, regrets that the written replies were submitted late, only a few days before the consideration of the State party's report.

B. Positive aspects

(3) The Committee welcomes the following legislative and other steps taken by the State party:

(a) The signing of a framework agreement for peace between the Government and the Moro Islamic Liberation Front (MILF), on 15 October 2012;

(b) The enactment of Republic Act 9346 abolishing the death penalty, in June 2006;

(c) The enactment of the Magna Carta of Overseas Migrant Workers (Republic Act 10022), in March 2010;

(d) The enactment of an Act providing for the Magna Carta of Women (Republic Act 9710), in August 2009;

(e) The enactment of the Juvenile Justice and Welfare Act (Republic Act 9344), in April 2006;

(f) The enactment of the Anti-Forced Disappearance Act, on 16 October 2012;

(g) The introduction of a Rule on the *Writ of Amparo* for cases of Extrajudicial Execution and Enforced Disappearances which took effect, in October 2007.

(4) The Committee welcomes the ratification by the State party of the following international instruments:

(a) The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, on 20 November 2007;

(b) The Convention on the Rights of Persons with Disabilities, on 15 April 2008;

(c) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, on 17 April 2012; and

(d) ILO Convention No. 189 (2011) on Decent Work for Domestic Workers, on 5 September 2012.

C. Principal matters of concern and recommendations

(5) While taking note of article II, section 2 of the 1987 Constitution and the State party's response in its replies that international instruments ratified by the State party have become an integral part of domestic law, the Committee is concerned at the lack of clarity on the status of the Covenant in domestic law. It is particularly concerned that, although courts have on several occasions referred to the provisions of the Covenant in their decisions, the representatives of the State party have argued before the Supreme Court that the Covenant cannot be considered part of the law of the land without the need of a law enacted by the legislature (art. 2).

The State party should take all necessary measures to ensure legal clarity on the status of the Covenant in domestic law. The State party should also continue to take appropriate measures to raise awareness of the Covenant among judges, lawyers and prosecutors to ensure that its provisions are taken into account by national courts.

(6) The Committee recalls its previous concluding observations (CCPR/CO/79/PHL, para. 6) and reiterates its concern at the absence of a specific procedure or mechanism to examine and give effect to its Views under the Optional Protocol to the Covenant, and at the fact that recommendations in the Views have not been implemented (art. 2).

The State party should take concrete steps to implement the Views of the Committee which finds a violation of the Covenant. It should also establish, with the aim of

implementing the Views of the Committee, a mechanism with a mandate to (a) study the Committee's findings in its Views; (b) propose measures to be taken by the State party to give effect to the Views; and (c) provide victims with an effective remedy for any violation of their rights.

(7) While noting the expansion of the Commission on Human Rights' (CHRP) responsibilities under various pieces of legislation, the Committee is concerned that this expansion has not been matched with an increase in resources and that the CHRP lacks full fiscal autonomy (art. 2).

The State party should provide adequate financial and human resources to the CHRP that are commensurate with the additional responsibilities that have been conferred on it. The State party should ensure that the CHRP enjoys full fiscal autonomy as provided by the Administrative Code of 1987, Book VI on National Government budgeting.

(8) While the Committee appreciates the State party's need to adopt measures to combat acts of terrorism, it is concerned at the scope of certain offences under the provisions of the Human Security Act of 2007. The Committee is also concerned at the lack of data on the implementation of this legislation and how it affects the enjoyment of rights under the Covenant (art. 2).

The State party should review the Human Security Act of 2007 to ensure that it not only defines terrorist crimes in terms of their purpose, but also defines the nature of those acts with sufficient precision to enable individuals to regulate their conduct accordingly. The Committee urges the State party to compile data on the implementation of anti-terrorism legislation and how it affects the enjoyment of rights under the Covenant, and include it in the next periodic report.

(9) While welcoming the State party's efforts to narrow the gender gap in public and private sectors, the Committee is concerned at reports that women constitute a large proportion of those employed in the informal sector (arts. 2, 3 and 26).

The State party should continue to strengthen its efforts to increase the participation of women in the public and private sectors, including where necessary, through appropriate temporary special measures.

(10) While welcoming the decision of the Supreme Court in the *Ang Ladlad* case and the statement of the delegation that it will take up a leadership role to promote lesbian, gay, bisexual, and transgender (LGBT) rights, the Committee is concerned that LGBT persons are subjected to arrest and prosecution by means of the "grave scandal" provision provided under article 200 of the Revised Penal Code. The Committee is also concerned that the comprehensive anti-discrimination bill that prohibits discrimination on grounds of sexual orientation and gender identity has not been passed into law. Furthermore, the Committee is concerned at the prevalence of stereotypes and prejudices against LGBT persons in the military, police and the society at large (arts. 2 and 26).

The State party should ensure that LGBT persons are neither arrested nor prosecuted on the basis of their sexual orientation or gender identity including for violating the "grave scandal" provision under the Revised Penal Code. The State party should adopt a comprehensive anti-discrimination law that prohibits discrimination on the basis of sexual orientation and gender identity and take steps, including awareness-raising campaigns, to put an end to the social stigmatization of and violence against homosexuals.

(11) The Committee is concerned that the Muslim Personal laws codified by Presidential decree No. 1083 discriminate on the basis of religion regarding the minimum age for

marriage for girls and also permits polygamy amongst Muslims, which undermine the principle of non-discrimination as provided under the Covenant (arts. 2, 23, 24 and 26).

The State party should revise the Code of Muslim Personal laws to prohibit polygamous marriages and repeal the provisions that discriminate on the basis of religion regarding the minimum age for marriage for girls.

(12) The Committee is concerned at the lack of legislation providing for the dissolution of marriages, which might have the effect of compelling victims of sexual and gender based violence to remain in violent relationships (arts. 2, 3, 7 and 23).

The State party should adopt legislation that governs the dissolution of marriages and ensure that it protects the rights of children, and the rights of spouses to custody of children, and equality in the devolution of matrimonial property.

(13) The Committee regrets the absolute ban on abortions, which compels pregnant women to seek clandestine and harmful abortion services, and accounts for a significant number of maternal deaths. The Committee also regrets the issuance of Executive Order 0030 in Manila City which prohibits the disbursement of funds for the purchase of materials and medicines for artificial birth control (arts. 2, 3, 6 and 17).

The State party should review its legislation with a view to making provision for exceptions to the prohibition of abortion, such as protection of life or health of the mother, and pregnancy resulting from rape or incest, in order to prevent women from having to seek clandestine harmful abortions. The State party should also ensure that reproductive health services are accessible for all women and adolescents. In this regard, the State party should lift Executive Order 0030 for Manila city in so far as it prohibits the disbursement of funds for the purchase of materials and medicines for artificial birth control. Furthermore, the State party should increase education and awareness-raising programmes, both formal (at schools and colleges) and informal (in the mass media), on the significance of using contraceptives and the right to reproductive health.

(14) The Committee is concerned at the continued perpetration of extrajudicial killings and enforced disappearances in the State party. It is particularly concerned at the proliferation of private armies and vigilante groups that are partly responsible for these crimes as well as at the large number of illegal firearms. The Committee is also concerned at the arming and use of "force multipliers" for counter-insurgency and other purposes pursuant to Presidential Executive Order No. 546 (arts. 6, 7 and 9).

The State party should take necessary measures to prevent extrajudicial killings and enforced disappearances and ensure that alleged perpetrators of these crimes are effectively investigated, prosecuted and, if convicted, punished with appropriate sanctions, and that the victims' families are adequately compensated. The State party should establish a mechanism to disband and disarm all private armies, vigilante groups and "force multipliers", and also increase efforts to reduce the number of illegal firearms. The Committee urges the State party to revoke Executive Order No. 546, and to take advantage of the framework agreement for peace signed with the Moro Islamic Liberation Front to address the issues of extrajudicial killings and enforced disappearances. The State party should provide information in its next periodic report on the specific measures taken to implement these recommendations.

(15) The Committee is concerned at reports that human rights defenders and political dissidents are often subjected to surveillance by law enforcement personnel (art. 17).

The State party should take appropriate measures to protect the rights of human rights defenders and political dissidents and ensure that any surveillance programmes for purposes of State security are compatible with article 17 of the Covenant.

(16) The Committee is concerned at problems in the implementation of the Witness Protection Program such as the failure to ensure full protection of witnesses. It particularly regrets the killing of some of the witnesses in the *Ampatuan* case, which involves the prosecution of individuals accused of killing 58 people in *Maguindanao* on 23 November 2009 (arts. 6 and 14).

The State party should take concrete measures to increase the effectiveness of the witness protection programme to ensure the full protection of witnesses. The State party should ensure that authorities fully investigate cases of killings and suspected intimidation of witnesses to put an end to the climate of fear that plagues investigation and prosecution in the State party.

(17) The Committee is concerned at continued allegations of torture and the lack of data on the incidence of torture, particularly on the number of investigations, prosecutions, convictions and sanctions imposed on perpetrators of torture in the State party (art. 7).

The State party should take appropriate measures to improve the conduct of investigations of alleged torture and ill-treatment by law enforcement personnel. The State party should ensure that allegations of torture and ill-treatment are effectively investigated in accordance with the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolution 55/89); and that alleged perpetrators are prosecuted and, if convicted, punished with appropriate sanctions; and that the victims are adequately compensated. The State party should establish a system to collect data on the number of investigations, prosecutions, convictions, sanctions and compensation granted to victims of torture or members of their families, and report comprehensively about these figures in its next report.

(18) The Committee is concerned at reports of continued cases of trafficking in persons, which mainly affect women and children (arts. 3, 8 and 24).

The State party should take all necessary measures to ensure that victims of trafficking in persons are provided with medical, psychological, social and legal assistance. Protection should be provided to all witnesses and victims of trafficking so that they may have a place of refuge and an opportunity to give evidence against those held responsible. The State party should also continue to reinforce international cooperation as well as existing measures to combat trafficking in persons and the demand for trafficking. It should also devout sufficient resources to investigations of cases of trafficking in persons by identifying those responsible, prosecuting them and imposing penalties that are commensurate with the seriousness of the acts committed.

(19) While welcoming efforts by the State party to improve conditions of detention and imprisonment such as early release, the Committee regrets the high levels of overcrowding and the poor conditions of incarceration prevailing in detention centres and prisons which often operate beyond their capacities (arts. 2 and 10).

The State party should increase its efforts to improve the conditions of detained persons and prisoners. It should address the issues of sanitation and overcrowding as a matter of priority, including through resort to the wider application of alternative forms of punishment.

(20) The Committee is concerned at the existence of a huge backlog of cases in the judiciary, which is partly attributable to the lack of judicial officers for appointment by the President to judicial positions and the capacity of the Judicial and Bar Council to expedite the processing of nominees (art. 14).

The State party should strengthen the capacity of the Judicial and Bar Council, which is responsible for the nomination of candidates, to ensure that vacancies in the

judiciary are filled as a matter of urgency. Furthermore, the State party should continue to strengthen the judiciary so that it clears the backlog of existing cases and reduces delays in the disposition of cases.

(21) While taking note that the Supreme Court has adopted a policy that libel convictions should be penalized through the imposition of a fine only and that Senate Bill 2344 seeks to decriminalize libel, the Committee regrets that the Cybercrime Prevention Act of 2012, which has been suspended by the Supreme Court, criminalizes libel over the Internet (arts. 2 and 19).

The Committee recalls its general comment No. 34 (2011) on freedoms of opinion and expression and urges the State party to consider the decriminalization of defamation. The Committee reiterates its position therein that the application of criminal law in defamation cases should only be countenanced in the most serious of cases and that imprisonment is never an appropriate penalty.

(22) The Committee regrets that foreign workers in the State party are prohibited from forming or joining trade unions unless the State party has a reciprocal agreement on this matter with the foreigners' countries of origin (art. 22).

The State party should revise its Labour Code to guarantee the right of foreign workers to form and join trade unions in the State party.

(23) The Committee is concerned about the high incidence of child labour which continues to increase, and about the fact that children continue to be employed in hazardous conditions including involvement in the worst forms of child labour such as the sex trade, drug trafficking, pornography, the performance of auxiliary tasks for combatants and other illicit activities (art. 24).

The State party should intensify its efforts to implement existing policies and laws that are designed to eradicate child labour, including through public information and education campaigns on the protection of children's rights, and strengthening the capacity and reach of labour inspectors. It should also ensure that exploitative acts of child labour are prosecuted and punished, and should keep reliable statistics in order to combat it effectively.

(24) The State party should widely disseminate the Covenant, the two Optional Protocols to the Covenant, the text of the fourth periodic report, the written responses it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations so as to increase awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public. The Committee also suggests that the report and the concluding observations be translated into the other official language of the State party. The Committee also requests the State party, when preparing its fifth periodic report, to broadly consult with civil society and non-governmental organizations.

(25) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 7, 16 and 20 above.

(26) The Committee requests the State party, in its next periodic report, due to be submitted on 31 October 2016, to provide, specific, up-to-date information on all its recommendations and on the Covenant as a whole.

115. **Portugal**

(1) The Committee considered the fourth periodic of Portugal (CCPR/C/PRT/4) at its 2936th and 2937th meetings (CCPR/C/SR.2936 and CCPR/C/SR.2937), held on 23 and 24

October 2012. At its 2945th meeting (CCPR/C/SR.2945), held on 31 October 2012, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the submission of the fourth periodic report of Portugal and the information presented therein. It expresses appreciation for the constructive dialogue with the State party's delegation on the measures that the State party has taken during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies (CCPR/C/PRT/Q/4/Add.1) to the list of issues (CCPR/C/PRT/Q/4), which were supplemented by the oral responses provided by the delegation, and for the supplementary information provided to it in writing.

B. Positive aspects

(3) The Committee welcomes:

(a) The adoption of the Second National Plan against Trafficking in Human Beings (2012–2013);

(b) The adoption in 2011 of the Fourth National Plan for Gender Equality;

(c) The amendment to the Penal Code in 2007, criminalizing all forms of corporal punishment of children and making domestic violence an autonomous crime;

(d) The setting up in 2005 of the National Network of Domestic Violence Centres;

(e) The creation in 2007 of the Office to Support Roma Communities, as well as the establishment of a Pilot Project for Municipal Roma Mediators.

C. Principal matters of concern and recommendations

(4) The Committee is concerned that women are underrepresented in decision-making positions in the public sector, including in the Foreign Service, as well as in the legislative assemblies of the autonomous regions of the Azores and Madeira. The Committee is also concerned about the significant and increasing wage gap between men and women (arts. 2, 3, 25 and 26).

The State party should strengthen its efforts to increase the representation of women in decision-making positions in the public sector, including in the Foreign Service, as well as in the legislative assemblies of the autonomous regions of the Azores and Madeira, if necessary, through appropriate temporary special measures. The State party should continue to take steps to guarantee equal pay for women and men for work of equal value, in line with the 2009 Labour Code. It should also take steps to address the structural difficulties identified with regard to the implementation of gender-equality policies, including insufficient human and financial resources, limited conceptions of equality in public opinion and lack of political commitment, as mentioned in paragraph 47 of the State party's fourth periodic report.

(5) The Committee is concerned that, despite considerable action taken by the State party, immigrants, foreigners and ethnic minorities, including the Roma minority, continue to face discrimination in access to housing, employment, education, equal wages, health care and public services, as well as in participation in public life. The Committee is also concerned about reports of racist and discriminatory conduct by law enforcement personnel (arts. 2, 25 and 26).

The State party should intensify measures to ensure that immigrants, foreigners and ethnic minorities, including the Roma minority, do not suffer from discrimination in access to housing, employment, education, equal wages, health care and public

services, as well as in participation in public life. The State party should also take steps to ensure that law enforcement personnel refrain from racist and discriminatory conduct, including through intensified awareness-raising efforts.

(6) The Committee is concerned that under article 143, paragraph 4, of the Code of Criminal Procedure detainees are prevented from communicating with other persons in cases of terrorism or violent or highly organized crimes, until such time as the detainee is brought before a court (arts. 7, 9 and 10).

The State party should take measures to ensure that detention ordered by the Public Prosecutor's Office, under article 143, paragraph 4, of the Code of Criminal Procedure, in cases of terrorism or violent or highly organized crime, is strictly regulated, that detainees held under this provision are under judicial supervision, and that limits on their communication with third persons are stringently reviewed by the judiciary.

(7) The Committee is concerned that time spent in custody for identification purposes, which is carried over into detention for a suspected crime, is not counted as part of the 48-hour period within which a detained person must be brought before a judge, and that persons suspected of a crime are not afforded the protections of criminal suspects during this period (arts. 7, 9 and 10).

The State party should take measures to ensure that time spent in custody for identification purposes, which is carried over into detention for a suspected crime, is considered part of the 48-hour period within which a detained person must be brought before a judge, and that such time is not misused to circumvent the rights of persons detained on suspicion of a crime.

(8) The Committee is concerned that law enforcement officials do not always inform detainees of their right to legal counsel from the time of arrest, and that some detainees in ordinary criminal cases have not been allowed to contact a third party while in police custody (arts. 7, 9 and 10).

The State party should ensure that detained persons have an effective right of access to legal counsel from the time they become subject to police custody, and that law enforcement officials abide by the legal duty to inform all persons deprived of their liberty of their rights. The State party should also take steps to ensure that persons in police custody, including those held by the Judicial Police, are guaranteed the right to notify a third party of their detention, subject only to clearly defined and time-limited exceptions aimed at protecting legitimate interests of the police investigation.

(9) The Committee is concerned that the average pretrial detention time is excessively long, with approximately 20 per cent of pretrial detainees spending more than one year in detention. It is also concerned that pretrial detainees have been held together with convicted criminals (arts. 9 and 10).

The State party should take further steps to reduce the number of persons in pretrial detention as well as the duration of such detention, including through measures aimed at reducing the length of investigations and legal procedures, improving judicial efficiency and addressing staff shortages. It should also ensure that pretrial detainees are held separately from convicted criminals.

(10) The Committee continues to be concerned about reports of excessive use of force and ill-treatment by law enforcement officials and members of the security forces, and by the authorization for use of Taser weapons under certain circumstances (arts. 7, 9 and 10).

The State party should continue to take steps, legislative or otherwise, to prevent the excessive use of force and ill-treatment by law enforcement officials and members of

the security forces. The State party should include in its next periodic report information on the number of complaints since 2011, investigations carried out by the Inspectorate General of Internal Administration and internal investigation departments of local police services, and punishments handed down in each case. The report should also include more complete information about the regulation and use of electric shock devices, such as Tasers.

(11) The Committee is concerned that some prisons are faced with overcrowding, inadequate facilities and poor health conditions. It is concerned about drug abuse by detainees, as well as the high rate of detainees with HIV/AIDS and hepatitis C. The Committee is also concerned about some reports of physical ill-treatment and other forms of abuse by prison guards at the Monsanto High Security, Coimbra Central and Oporto Central prisons (arts. 7 and 10).

The State party should expedite its efforts to address the problem of overcrowding in prisons, including the Angra do Heroismo Regional Prison (Azores), as well as inadequate facilities, the availability of drugs and drug dependence, and the high rate of HIV/AIDS and hepatitis C in correctional institutions. It should also take steps, legislative or otherwise, to prevent physical ill-treatment and other forms of abuse, including excessive strip searches, by prison guards.

(12) The Committee is concerned that domestic violence continues to be prevalent and that victims of domestic violence often do not report the crime due to traditional societal attitudes (arts. 7 and 9).

The State party should continue to take steps, in particular within its Fourth National Action Plan against Domestic Violence (2011–2013), to combat and prevent domestic violence and ensure that victims have effective access to complaints mechanisms. It should ensure that victims have access to means of protection, including an adequate number of shelters set up for women victims. The State party should also ensure that acts of domestic violence are effectively investigated and that perpetrators are brought to justice and sanctioned.

(13) The Committee is concerned that the State party continues to be a destination, transit and source country for women, men and children subjected to trafficking for sexual exploitation and forced labour. It is also concerned that article 160 of the Penal Code employs an overly broad definition of trafficking that includes lesser crimes, complicating the assessment of the extent of prosecution, conviction and sentencing of trafficking offenders (art. 8).

The State party should intensify its efforts to combat trafficking in persons and should change its methods of collecting and reporting data in order to present a more useful description of the legal response. It should also provide in its next periodic report information, for each year since 2011, on the number of victims of the crime of trafficking for sexual and other exploitative purposes, such as forced labour, as well as the number of prosecutions and convictions of perpetrators.

(14) The Committee notes with concern that persons do not have the right to defend themselves in person in criminal proceedings, due to obligatory representation by a lawyer, in contravention of article 14, paragraph 3 (d), of the Covenant (see communication No. 1123/2002, *Correia de Matos v. Portugal*, Views adopted on 28 March 2006) (art. 14).

The State party should ensure that persons are able to exercise their right to defend themselves in person, in line with article 14, paragraph 3 (d), of the Covenant, and that any restriction of this right has an objective and sufficiently serious purpose and does not go beyond what is necessary to uphold the interests of justice. In this light, the State party should implement the recommendation contained in the Committee's

communication No. 1123/2002 and make the current rule less rigid and consider the compulsory provision of back-up counsel to advise defendants who defend themselves.

(15) The State party should widely disseminate the Covenant, the text of the fourth periodic report, the written responses that it has provided in response to the list of issues drawn up by the Committee and the present concluding observations so as to increase awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public. The Committee also suggests that the report and the concluding observations be translated into the official language of the State party. The Committee also requests the State party, when preparing its fifth periodic report, to broadly consult with civil society and non-governmental organizations.

(16) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 9, 11 and 12 above.

(17) The Committee requests the State party, in its next periodic report, due by 31 October 2018, to provide specific, up-to-date information on all its recommendations and on the Covenant as a whole.

116. **Turkey**

(1) The Human Rights Committee considered the initial periodic report of Turkey (CCPR/C/TUR/1) at its 2927th, 2928th and 2929th meetings (CCPR/C/SR/2927, 2928 and 2929), held on 17 and 18 October 2012. At its 2944th meeting (CCPR/C/SR/2944), held on 30 October 2012, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the submission of the initial report of Turkey and the information presented therein while regretting that it was submitted late. The Committee is grateful to the State party for its written replies (CCPR/TUR/Q/1/Add.1) to the list of issues which were supplemented by the oral responses provided by the delegation and for the supplementary information provided to it in writing.

B. Positive aspects

(3) The Committee welcomes the following legislative and institutional steps taken by the State party:

(a) The 2010 Constitutional reform;

(b) The abolition of the death penalty in 2002 and the abolition of the death penalty in all circumstances in 2004;

(c) The 2003 new Labour Law No. 4857, that introduced new improvements to eliminate inequalities between men and women in the field of work.

(4) The Committee welcomes the ratification by the State party of:

(a) The Optional Protocol to the Convention on the Rights of the Child in 2004;

(b) The Optional Protocols I and II to the Covenant on Civil and Political Rights, in 2006;

(c) The Convention on the Rights of Persons with Disabilities and the signature of its Optional Protocol, in 2009;

(d) The Optional Protocol to the Convention against Torture and other Inhuman and Degrading Treatment or Punishment, in 2011.

C. Principal matters of concern and recommendations

(5) The Committee is concerned that the State party maintains its declarations and reservation made at the time of ratification of the Covenant and its Optional Protocol. In particular, the Committee is concerned that one of these declarations appears in fact to be a reservation limiting the effect of the Covenant to the national territory of the State party, which could result in the complete non-applicability of the Covenant to persons subject to its jurisdiction in situations where its troops or police forces operate abroad.

The State party should consider withdrawing its reservation and declarations. In accordance with the Committee's general comment No. 31 (2004) on the nature of the general legal obligation imposed on States Parties to the Covenant, the State party should ensure that all persons under its jurisdiction and effective control are afforded the full enjoyment of the rights enshrined in the Covenant.

(6) The Committee is concerned at the apparently limited level of awareness of the provisions of the Covenant among the judiciary, the legal profession and the general public, as a result of which there are few cases in which the provisions of the Covenant have been invoked or applied by national courts (art. 2).

The State party should take measures to raise awareness among judges, the legal profession and the general public of the rights set out in the Covenant and their applicability under domestic law. In its next periodic report, the State party should include detailed information on the application of the Covenant by national courts.

(7) The Committee is concerned that the law for the establishment of the national human rights institution adopted by the Parliament in June 2012 provides for the appointment of its members by the Prime Minister's office, thereby jeopardizing the independence of the Institution from the Executive Power in violation of the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principle) (art. 2).

The State party should amend the 2012 law for the establishment of the national human rights institution, guaranteeing the organic and financial independence of the National Human Rights Institution in full compliance with the Paris Principles.

(8) The Committee is concerned that the current legislation of the State party on discrimination is not comprehensive, thus failing to protect against discrimination on all the grounds enumerated in the Covenant. In particular, the Committee is concerned about the lack of specific reference to the prohibition of discrimination on the basis of gender identity and sexual orientation (art. 2, para. 1).

The State party should enact legislation on anti-discrimination and equality, ensuring that it includes a comprehensive prohibition of discrimination on all the grounds as set out in the Covenant, as well as the prohibition of discrimination on the basis of gender identity and sexual orientation. The State party should also ensure that reliable and public data is systematically collected on cases of discrimination and their treatment by the competent judicial authorities.

(9) The Committee is concerned about the discrimination and the restrictions suffered by members of minorities, such as the Kurds and the Roma, affecting their right to enjoy their own culture and use their own language (arts. 2 and 27).

The State party should ensure that all persons belonging to ethnic, religious or linguistic minorities are effectively protected against any form of discrimination, and can fully enjoy their rights. To this regard, the State party should consider withdrawing its reservation with respect to article 27 of the Covenant.

(10) The Committee is concerned about the discrimination and alleged acts of violence against people on the basis of their gender identity and sexual orientation, and about the social stigmatization and social exclusion of lesbian, gay, bisexual, and transgender (LGBT) persons in terms of their access to health services, education, or to their treatment in the context of the regulations concerning compulsory military service and while serving in the military (arts. 2 and 26).

While acknowledging the diversity of morality and cultures internationally, the Committee recalls that all cultures are always subject to the principles of universality of human rights and non-discrimination (general comment No. 34, para. 32). The State party should therefore state clearly and officially that it does not tolerate any form of social stigmatization of homosexuality, bisexuality or transexuality, or harassment of or discrimination or violence against persons because of their sexual orientation or gender identity. It should ensure the investigation, prosecution and punishment of any act of discrimination or violence motivated by the victim's sexual orientation or gender identity.

(11) The Committee is concerned that families of victims of enforced disappearance in the 1980's and 1990's still do not know the whereabouts of their loved ones, and that no comprehensive approach to cases of enforced disappearance and exhumations has been adopted, including in those cited by the European Court of Human Rights (*Cyprus v. Turkey* and numerous other individual cases) and those identified by the Working Group on Enforced and Involuntary Disappearances (arts. 6 and 14).

The State party should ensure the effective, transparent and independent investigations into all outstanding cases of alleged disappearances. In all such cases, the State party should prosecute and punish the perpetrators and grant effective reparation, including appropriate compensation, to victims or their families. Additionally, it should ensure that all mass graves are thoroughly investigated.

(12) The Committee welcomes the adoption of the Law No. 6284 on Protecting Woman and Family Members from Violence which entered into force on 20 March 2012. Nonetheless, the Committee remains concerned that the institutions in charge of the implementation of the law have not yet been provided with the necessary financial and human resources to guarantee its efficient functioning (arts. 6 and 7).

The State party should adopt a strict timeline to protect women and family members from violence; through the organization of periodic and compulsory training for the professionals in charge, and through the development of awareness-raising programmes to inform the population of their rights and available procedures.

(13) While noting the abolition of the de facto reduction of sentences for perpetrators of "honour killings", the Committee is concerned at the prevalence of high rates of such crimes (arts. 6 and 7).

The State party should under no circumstances tolerate "honour killings". In this perspective, the State party should ensure the inclusion of such killings within the scope of article 82 of the Penal Code to classify them as aggravated homicides. It should pursue its efforts to guarantee the effective investigation and sanction of all allegations of "honour killings" and widely disseminate information on the gravity of such crimes.

(14) The Committee is concerned that despite progress made, the number of allegations of torture and other inhuman and degrading treatment at the hands of law enforcement officers is still high. The Committee is also concerned that a genuinely independent complaints mechanism to deal with cases of alleged torture or ill-treatment by public officials is absent, that the number of prosecutions of such cases remains low. Additionally,

the Committee is concerned that no information is provided by the State party on the remedies that have been provided to the victims of such acts (arts. 7, 9 and 14).

The State party should eradicate all forms of torture, and inhuman and degrading treatment by law enforcement officers, including through prompt and independent investigations, the prosecution of perpetrators and the adoption of provisions for effective protection and remedies to the victims. The State party should ensure the creation and implementation of an independent oversight mechanism with respect to complaints against criminal conduct by members of the police. It should also ensure that all cases of torture and other forms of inhuman and degrading treatment are properly investigated and prosecuted, and that victims of such acts receive adequate reparation and compensation.

(15) While taking note of the adoption of the "Second National Action Plan on Combatting Trafficking in Human Beings", the Committee is concerned at the number of cases of trafficking in persons, and at the fact that only a few cases have resulted in investigations, prosecution and sentences. The Committee is also concerned that victims of trafficking are not protected from being prosecuted, detained or punished for the illegality of their entry or residence, or for the activities in which they are involved as a direct consequence of their situation as trafficked persons (arts. 7 and 8).

The State party should continue its efforts to prevent, suppress and punish trafficking in persons, including at the regional level and in cooperation with neighbouring countries, and through the organization of training for police officers, border personnel, judges, lawyers and other relevant personnel in order to raise awareness of this phenomenon and the rights of victims. The State party should take measures to protect victims of trafficking from prosecution, detention or punishment for activities they were involved in as a direct consequence of their situation as trafficked persons. The State party should ensure that assistance and protection schemes for victims of trafficking of persons are not applied in a selective manner.

(16) The Committee is concerned that several provisions of the 1991 Anti-Terrorism Law (Law 3713) are incompatible with the Covenant rights. The Committee is particularly concerned at (a) the vagueness of the definition of a terrorist act; (b) the far-reaching restrictions imposed on the right to due process; (c) the high number of cases in which human rights defenders, lawyers, journalists and even children are charged under the Anti-Terrorism Law for the free expression of their opinions and ideas, in particular in the context of non-violent discussions of the Kurdish issue (arts. 2, 14 and 19).

The State party should ensure that its counter-terrorism legislation and practices are in full conformity with the Covenant. The State party should address the vagueness of the definition of a terrorist act in the 1991 Anti-Terrorism Law to ensure that its application is limited to offences that are indisputably terrorist offences. In this context, the State party should guarantee that the prosecution of terrorist acts is carried out in full respect of all the legal safeguards enshrined in article 14 of the Covenant, and ensure the consistent application of the transitional legal provisions, even in the case of offences allegedly committed by journalists before November 2011.

(17) The Committee is concerned about the widespread use of lengthy pretrial detention of up to ten years for terrorism-related offences and five years for other offences, including three one-year extensions, largely contributing to the problem of overcrowding of prisons. The Committee is also concerned that detainees do not have access to an effective mechanism to challenge the lawfulness of their pretrial detention, and do not always in practice have prompt access to a lawyer (art. 9).

The State party should reduce the legal period of pretrial detention in compliance with article 9 of the Covenant, and ensure that it is only used as an exceptional

measure. The State party should guarantee the access of detainees to a lawyer, and to an effective and independent mechanism to challenge the lawfulness of their pretrial detention. The State party should also enhance the use of alternative measures to pretrial detention, such as electronic monitoring and conditional release.

(18) The Committee is concerned about the overcrowding in prisons and about the conditions of detention. The Committee is also concerned that prisoners are frequently deprived from timely access to adequate health services (art. 10).

The State party should take concrete steps to improve the treatment of prisoners and conditions in prisons and detention facilities in line with the Covenant and the United Nations Standard Minimum Rules for the Treatment of Prisoners, including with regard to their timely access to adequate health services. In this regard, the State party should consider not only the construction of new prison facilities but also the wider application of alternative non-custodial sentences, such as electronic monitoring, parole and community service.

(19) The Committee is concerned about the vagueness and lack of clarity of the definition of "illegal organisations", which has the effect of restricting the right to freedom of association under article 22 of the Covenant (art. 22).

The State party should strictly limit the notion of "illegal organisations" to ensure its full compliance with article 22 of the Covenant.

(20) While welcoming the large support provided by the State party to Syrian refugees through consistent implementation of the Temporary Protection regime and assurances of the delegation to continue to do so, and taking note of the ongoing process of legal reform, the Committee is concerned that present law insufficiently protects refugees, in particular as a consequence of the geographical limitation adopted by Turkey under the 1951 Refugee Convention (arts. 7, 9 and 13).

The State party should ensure that all persons applying for international protection are given access to a fair and effective refugee determination procedure, regardless of their region of origin, and receive appropriate and fair treatment at all stages in compliance with human right standards. In that perspective, the State party should also promptly enact legislation in line with the Covenant and with the 1951 Convention.

(21) The Committee, while recognizing the secular character of the Turkish State and welcoming amendments made to the Law on Foundations, No.5737, in 2011 and their implementation allowing non-Muslim religious communities to have their property registered, is concerned about the restrictions imposed on Muslim communities, as well as non-Muslim religious communities, that are not covered by the 1935 Law on Foundations (arts. 18 and 26).

The State party should guarantee the right of all persons to manifest their religion or belief in community with others through the recognition of their right to organize themselves in the form of associations or foundations, as provided, for example, by the Turkish Civil Code.

(22) The Committee is concerned about reports of hate crimes against non-Muslim religious communities and other minorities, and about the ongoing and unpunished hate speech in the media, including in TV series and films (arts. 18, 20 and 27).

The State party should intensify its efforts to effectively prohibit hate speech violating article 20 of the Covenant, and to ensure that relevant criminal law provisions and policy directives are effectively implemented.

(23) The Committee is concerned that conscientious objection to military service has not been recognized by the State party. The Committee regrets that conscientious objectors or persons supporting conscientious objection are still at risk of being sentenced to imprisonment and that, as they maintain their refusal to undertake military service, they are practically deprived of some of their civil and political rights such as freedom of movement and right to vote (arts. 12, 18 and 25).

The State party should adopt legislation recognizing and regulating conscientious objection to military service, so as to provide the option of alternative service, without the choice of that option entailing punitive or discriminatory effects and, in the meantime, suspend all proceedings against conscientious objectors and suspend all sentences already imposed.

(24) The Committee is concerned that human rights defenders and media professionals continue to be subjected to convictions for the exercise of their profession, in particular through the criminalization of defamation in article 125, and through the excessive application of articles 214, 215, 216 and 220 (protection of public order), or articles 226 (publication or broadcasting of obscene materials), 285 (confidentiality of investigations), 228 (judiciary), 314 (membership of an armed organization), 318 (prohibiting criticism of the military) of the Criminal Code, thereby discouraging the expression of critical positions or critical media reporting on matters of valid public interest, adversely affecting freedom of expression in the State party. In addition, while welcoming the information provided by the State party on the partial amnesty concerning some offences allegedly committed by journalists before November 2011, the Committee is concerned about the inconsistent application of the transitional legal provisions and by the continued prosecution of other journalists not covered by the political amnesty (arts. 9, 14 and 19).

The State party should ensure that human rights defenders and journalists can pursue their profession without fear of being subjected to prosecution and libel suits, having in mind the Committee's general comment No. 34 (2011) on freedoms of opinion and expression. In doing so, the State party should:

(a) Consider decriminalizing defamation and, in any case, it should countenance the application of the criminal law in the most serious of cases taking into account that imprisonment is never an appropriate penalty;

(b) Provide redress to journalists and human rights activists who are subjected to criminal prosecution and imprisonment in contravention of articles 9 and 19 of the Covenant;

(c) Bring relevant provisions of the Criminal Code into line with article 19 of the Covenant and apply any restrictions within the strict terms of this provision.

(25) The State party should widely disseminate the Covenant, the two Optional Protocols to the Covenant, the text of the initial report, the written responses it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations, so as to increase awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public. The Committee also suggests that the report and the concluding observations be translated into the official language of the State party. The Committee also requests the State party, when preparing its second periodic report, to broadly consult with civil society and non-governmental organizations.

(26) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 10, 13 and 23 above.

(27) The Committee requests the State party, in its next periodic report, due to be submitted on 31 October 2016, to provide, specific, up-to-date information on all its recommendations and on the Covenant as a whole.

117. **Angola**

(1) The Committee considered the initial report submitted by Angola (CCPR/C/AGO/1) at its 2957th, 2858th and 2959th meetings (CCPR/C/SR.2957; 2958 and 2959), held on 14 and 15 March 2013. At its 2975th meeting (CCPR/C/SR.2975), held on 27 March 2013, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the initial report of Angola and the information presented therein. It expresses appreciation for the opportunity to initiate a constructive dialogue with the State party's high-level delegation on the measures that the State party has taken during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies (CCPR/C/AGO/Add.1) to the list of issues, which were supplemented by the oral responses provided by the delegation, and for the supplementary information provided to it in writing.

B. Positive aspects

(3) The Committee welcomes the adoption by the State party, in February 2010, of the new Constitution which contains provisions on human rights, and abolishes the death penalty.

(4) The Committee welcomes the ratification by the State party of the following international instruments:

(a) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 24 March 2005;

(b) The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, on 1 November 2007;

(c) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 11 October 2007.

C. Principal matters of concern and recommendations

(5) While noting that the Covenant takes precedence over national laws, the Committee is concerned that the Covenant was invoked and applied by domestic courts in a few cases only (art. 2).

The State party should take measures to raise awareness of the Covenant and its first Optional Protocol among judges, lawyers and prosecutors to ensure that its provisions are taken into account by domestic courts.

(6) While welcoming the accession by the State party to the Optional Protocol to the International Covenant on Civil and Political Rights and the State party's commitment to implementing the Committee's Views adopted thereunder, the Committee regrets the lack of information on measures taken to implement the Committee's Views concerning complaints related to the State party (art. 2).

The Committee urges the State party to cooperate with the Committee in the follow-up to its Views, to implement such Views and to provide information on measures taken in this regard.

(7) The Committee regrets that the law on the Office of the Ombudsman does not provide the guarantees necessary to ensure its independence and that the Office does not have an appropriate mandate to address human rights issues (art. 2).

The State party should revise the Ombudsman Law to ensure that it complies with the Paris Principles (General Assembly resolution 48/134, annex) or establish a new national human rights institution with a broad human rights mandate in line with the same principles.

(8) Although article 23 of the Constitution guarantees the principle of equality, the Committee notes with concern that the State party has not adopted a general law on equality and non-discrimination. The Committee is concerned at the discrimination faced by persons with disabilities in the State party, in particular, with regard to article 12 of the Electoral Law, which prevent persons with disabilities from fully exercising their right to electoral rights (arts. 2, 16 and 25).

The State party should consider adopting a general law on equality and non-discrimination in order to effectively protect all citizens and persons living in its territory from discrimination. It should take appropriate measures to protect persons with disabilities from discrimination, including with regard to their electoral rights. It should also raise the awareness of the population on the rights of persons with disabilities.

(9) The Committee notes with concern that women remain underrepresented in public and political affairs, in particular in the Government and the judiciary. The Committee regrets the lack of information on representation of women in the private sector (arts. 2 and 3).

The State party should strengthen efforts to increase the participation of women in political and public affairs as well as in the private sector, if necessary, through temporary special measures to give effect to the provisions of the Covenant. The Committee urges the State party to include in its next periodic report, disaggregated statistical data on the representation of women in the private sector.

(10) While noting the adoption of Law 25/11 of 14 July 2011 against domestic violence, the Committee is concerned at the persistence of gender-based violence in the State party, which results, in some cases, in death. The Committee is also concerned at the lack of statistical data on victims of gender-based violence; investigations carried out; prosecutions and sanctions imposed; as well as the low number of shelters for victims and rehabilitation services provided to victims (arts. 3, 6 and 7).

The State party should adopt a national strategy to prevent and address gender-based violence in all its forms and manifestations. In this regard, the State party should collect data to establish the magnitude of the problem, its causes and consequences on women. The State party should also adopt measures to ensure the effective application of Law 25/11 of 14 July 2011 against domestic violence by domestic courts and law enforcement officials. The State party should further ensure that cases of domestic violence are thoroughly investigated, perpetrators prosecuted and, if convicted, punished with appropriate sanctions; victims should be adequately compensated. Furthermore, the State party should strengthen its measures of protection and prevention, in particular by increasing the number of shelters and providing rehabilitation to victims. It should pursue awareness-raising campaigns among the population on the issue of domestic violence and its negative effects on women and girls.

(11) The Committee is concerned that the practice of polygamy persists in the State party and regrets the lack of statistical data on this practice and on its effects on women. It also

notes with concern that although the minimum age of marriage is 18 years, there is a high percentage of Angolan children between 12 and 14 years who are in de facto marriages, in particular in the provinces of Lunda Sul, Moxico, Huambo, Bié, Malanje and in other rural areas. The Committee regrets the lack of information on concrete results achieved by initiatives taken by the State party to combat such early marriages (arts. 2, 3, 24 and 26).

The State party should take appropriate measures to ensure that its legislation effectively prohibits polygamy and is effectively implemented, and conduct awareness campaigns on its prohibition and its negative effects, among the population, in particular among women and in rural areas. The State party should also take concrete measures to ensure the application of its legislation which prohibits early marriage and ensure that all marriages are registered. The State party should further strengthen measures to combat early marriage by reinforcing the mechanisms already put in place in the provinces and by pursuing community awareness-raising strategies focusing on the consequences of early marriages. The State party should also collect data on polygamy and early marriages and provide it to the Committee in its periodic report.

(12) While noting information on measures taken by the State party regarding the non-proliferation of small arms, the Committee is concerned that the State party has not yet succeeded in collecting all remaining small arms illegally possessed since the end of the civil war. It regrets that the State party has not provided statistical data regarding the number of crimes committed involving small arms; investigations undertaken; prosecutions made; sanctions imposed on those responsible and measures taken to protect its population against insecurity caused by small arms. The Committee is also concerned at the continuing existence in the State party's territory of land mines which continue to kill and injure people (art. 6).

The State party should strengthen measures to collect small arms held by the population and to reduce insecurity in its territory. It should further consider reinforcing its legislation in order to combat illegal possession and use of small arms. The State party should continue and strengthen its demining efforts.

(13) The Committee is concerned at article 358 of its Penal Code which criminalizes abortion, except in some restrictive circumstances, including when the mother's life is in danger, which forces pregnant women to seek clandestine abortion services that endanger their health and lives (arts. 3 and 6).

The Committee recommends that the State party review its legislation on abortion and provide for exceptions to the general prohibition of abortion for therapeutic reasons and in cases of pregnancy resulting from rape or incest. The State party should ensure that reproductive health services are accessible for all women and adolescents. Furthermore, the State party should increase education and awareness-raising programmes, both formal (at schools and colleges) and informal (in the mass media), on the importance of using contraceptives and the right to reproductive health.

(14) The Committee is concerned by reports of arbitrary and extrajudicial killings by security forces in the State party, in particular those which occurred in the province of Huambo in 2010, as well as during the counter-insurgency against the Front for the Liberation of the Enclave of Cabinda in 2010. The Committee is also concerned at reports of cases of disappearances of protesters which occurred in Luanda between 2011 and 2012. The Committee is further concerned at the lack of concrete and comprehensive information on investigations, prosecutions, convictions and sanctions imposed on those responsible and at the reported impunity of security forces involved in such human rights violations (art. 6).

The State party should take practical steps to put an end to impunity by its security forces regarding arbitrary and extrajudicial killings and disappearances that occurred in its territory and should take appropriate measures to prevent their occurrence. The State party should systematically and effectively investigate, prosecute and, if convicted, punish those responsible, provide adequate compensation to victims and their families and inform the Committee accordingly. The State party should expand and enhance training programmes on human rights — in particular, on the Covenant — to its security forces.

(15) The Committee is concerned at the absence of a definition of torture in the Penal Code which may lead to inadequate repression of the crime of torture. The Committee is also concerned at reports of torture and ill-treatment or excessive use of force by the police or security forces during arrests, in police stations, during interrogation as well as in other detention facilities. It is further concerned that there is no independent complaints authority to deal with such complaints which are currently only dealt with by a police force investigator (arts. 7 and 10).

The State party should adopt a definition of torture and explicitly prohibit torture in its Penal Code. The State party should also ensure that investigations of alleged misconduct by police officers and security forces are carried out by an independent authority. It should further ensure that law enforcement personnel receive training on prevention and investigation of torture and ill-treatment by integrating the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) in all their training programmes. Allegations of torture and ill-treatment should be effectively investigated and alleged perpetrators prosecuted and, if convicted, punished with sanctions commensurate with the seriousness of the crime; victims should be adequately compensated.

(16) The Committee is concerned at reports of torture, ill-treatment and human rights abuses, including sexual violence by police and security forces, on undocumented Congolese migrants during their expulsion from the State party. The Committee is also concerned at reports that such human rights violations have not been effectively investigated and that those responsible were not punished, and victims were not compensated. The Committee is further concerned at reports that undocumented migrants may be subjected to detention without recourse to a court to pronounce on its legality. Moreover, the Committee is concerned at the fact that the State party has stopped its registration procedure for asylum seekers who may therefore be under threat of refoulement (arts. 7, 9 and 13).

The State party should take all appropriate measures to guarantee that undocumented migrants are not subjected to ill-treatment and human rights abuses by police or security forces, including during their deportation. In the case of Congolese migrants expelled from the State party between 2003-2011, the State party should thoroughly investigate all cases of human rights abuses, including on cases of sexual violence, prosecute and, if convicted, punish those responsible with appropriate sanctions, as well as provide adequate compensation to victims. The State party should further ensure that undocumented migrants are protected against refoulement and if detained are entitled to bring proceedings before a court that will decide on the lawfulness of their detention. Moreover, the State party should re-establish its asylum procedures and proceed with the registration of asylum seekers.

(17) The Committee is concerned that the State party remains a country of origin, transit and destination for trafficking in persons, in particular women and girls for sexual exploitation. The Committee is also concerned at the lack of specific legislation prohibiting trafficking in persons, the absence of statistical data on trafficking in persons in the State

party, as well as the absence of concrete results of initiatives taken by the State party to combat trafficking, such as the Child Protection Networks (arts. 8 and 24).

The State party should strengthen its efforts to effectively combat trafficking in persons, in particular of women and girls. In the context of its legislative reform, the State party should include the prohibition of trafficking as a specific offence in its legislation and conduct training of all law officials as well as social workers. The State party should also investigate cases of trafficking, prosecute, and if convicted, punish those responsible, as well as provide compensation and protection to victims. The State party should further reinforce its cooperation with neighbouring countries and consider adopting a National Action Plan to combat trafficking.

(18) The Committee is concerned at information, including from the State party, of arbitrary arrests and detentions, incommunicado detention and detention in military custody by the police or security forces in the State party, in particular of sympathizers of the Front for the Liberation of Cabinda in the enclave of Cabinda, as well as human rights activists for alleged crimes against the security of the State. The Committee is also concerned at reports that persons have been detained for long periods in the absence of legal guarantees, such as in particular, appearance before a judge, access to a lawyer and a medical doctor, and the right to inform their family. The Committee is further concerned at the lack of clarity in the legislation regarding the duration of pretrial detention which may not be in compliance with the Covenant (arts. 9 and 14).

The State party should take appropriate measures to ensure that no one under its jurisdiction is subject to arbitrary arrest or detention and incommunicado detention, in line with the relevant provisions of the Covenant. The Committee should investigate the above-mentioned cases of arbitrary detention, in particular those regarding sympathizers of the Front for the Liberation of Cabinda and human rights activists. It should also take all measures, including in its Code of Criminal Procedure which is currently under revision, to ensure that detained persons enjoy all legal guarantees, in compliance with articles 9 and 14 of the Covenant.

(19) While noting efforts implemented by the State Party to reduce overcrowding and improve conditions of detention, the Committee remains concerned at the inadequate conditions of detention and the limited use of alternatives to detentions, such as bail or release on parole. The Committee is further concerned that in some prisons, separation of minors from adults is not always guaranteed. Moreover, the Committee regrets the lack of information on mechanisms set up in prison facilities to receive and address complaints lodged by detainees (art. 10).

The State party should continue to strengthen its efforts to improve detention conditions. In particular, it should take measures to reduce the high percentage of overcrowding, including by using alternatives to detention. It should also ensure that the principle of separation of minors and adults is guaranteed in detention facilities. It should further facilitate complaints by detainees regarding detention conditions or ill-treatment and take appropriate measures to investigate and sanction those responsible.

(20) The Committee is concerned at the reported lack of independence as well as corruption of the judiciary, and the insufficient number of judges, lawyers, tribunals and courts, all of which may create difficulties regarding access to justice. The Committee is further concerned at the prohibitive cost of legal fees, which may prevent some citizens, in particular disadvantaged persons and those living in rural areas, from accessing justice (art. 14).

The State party should strengthen the independence of the judiciary and effectively combat corruption. It should also increase the number of trained judges and lawyers.

The State party is encouraged to implement its plan aimed at increasing the number of tribunals and courts (municipal and provincial) in order to ensure that justice is accessible to all, in particular to disadvantaged persons and those living in rural areas. It should further ensure that legal assistance is provided in all cases where the interest of justice so requires.

(21) The Committee is concerned at the existence in the State party's legislation of offences which may constitute obstacles to the exercise of freedom of expression, including freedom of the press. The Committee is particularly concerned about threats, intimidation and harassment by security or police forces of journalists, human rights defenders and protesters during political rallies or demonstrations in Luanda (arts. 19 and 21).

In line with the Committee's general comment No. 34 (2011) on freedoms of opinion and expression, the State party should amend its legislation to protect the freedom of expression including the freedom of press. The State party should also take the necessary steps to ensure that any restrictions to the freedom of expression fully comply with the strict requirements of article 19, paragraph 3, of the Covenant, as further developed in general comment No. 34. The State party should ensure the enjoyment by all of the freedom of peaceful assembly and protect journalists, human rights defenders and protesters from harassment, intimidation and violence; it should investigate such cases and prosecute those responsible.

(22) The Committee is concerned at legal restrictions to freedom of association, which have resulted in difficulties for non-governmental organizations to be registered. The Committee is also concerned at reports of intimidation and harassment faced by some non-governmental organizations face, which prevent them from effectively carrying out their activities (art. 22).

The State party should amend its legislation to remove restrictions on the establishment and registration of associations, and take measures to encourage their activities and collaborate with them. The State party should take concrete measures to protect non-governmental organizations and ensure the protection of their members from reprisals.

(23) While noting the explanations provided by the State party, the Committee is concerned at reports that only 31 per cent of children under age 5 are registered, and that an estimated number of over two million children aged between 0 to 4 are not registered. The Committee is also concerned at information that less than 1 per cent of parents are aware of procedures to properly register their children. The Committee further notes with concern information by the State party that a great number of adults are not registered as a result of successive wars in the State party (art. 24).

The State party should finalize the adoption of the new decree on free birth registration for all children and adults, and improve its official system of birth registration. It should also conduct awareness-raising campaigns on birth registration procedures within communities, in particular in rural areas.

(24) The Committee is concerned at the practice of accusing children of witchcraft and the ill-treatment they are subjected to as a result thereof (arts. 7 and 24).

The State party should take effective measures to protect children accused of witchcraft from ill-treatment and abuses, and carry out awareness-raising programmes among the population, in particular in rural areas, on the negative effects of such practice.

(25) The State party should widely disseminate the Covenant, the two Optional Protocols to the Covenant, the text of its first periodic report, the written replies it has provided in response to the Committee's list of issues, and the present concluding observations, in its

official language, so as to increase awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public. The Committee also requests the State party, when preparing its second periodic report, to broadly consult with civil society and non-governmental organizations.

(26) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 7, 10 and 23 above.

(27) The Committee requests the State party, in its next periodic report, due to be submitted on 28 March 2017, to provide, specific, up-to-date information on all its recommendations and on the Covenant as a whole.

118. **Macao, China**

(1) The Committee considered the initial report of the Macao Special Administrative Region of the People's Republic of China (Macao, China) (CCPR/C/CHN-MAC/1) at its 2962nd and 2963rd meetings (CCPR/C/SR.2962 and 2963), held on 18 and 19 March 2013. This is the first report for Macao submitted by the People's Republic of China following the return of Macao to Chinese sovereignty on 20 December 1999. At its 2975th meeting (CCPR/C/SR.2975), held on 27 March 2013, the Committee adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the submission of the initial report of the Macao Special Administrative Region of the People's Republic of China (Macao, China), while regretting that it was submitted late. It expresses appreciation for the opportunity to start its constructive dialogue with the high-level delegation on the measures taken by Macao, China, to implement the provisions of the Covenant since the transfer of sovereignty over Macao from Portugal to the People's Republic of China on 20 December 1999. The Committee expresses its satisfaction with the constructive dialogue with the delegation of Macao, China. The Committee appreciates the detailed written replies to the list of issues (CCPR/C/CHN-MAC/Q/1/Add.1) which were supplemented by the oral responses provided by the delegation during the dialogue, as well as the supplementary information provided to it in writing.

B. Positive aspects

(3) The Committee welcomes the ratification of the following international instruments:

(a) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 3 December 2002;

(b) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 20 February 2008;

(c) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, on 8 February 2010;

(d) The Convention on the Rights of Persons with Disabilities, on 1 August 2008.

(4) The Committee welcomes the following legislative and other measures taken by Macao, China, since the consideration of the fourth periodic report of Portugal relating to Macao (CCPR/C/POR/99/4):

(a) The adoption of Law No. 1/2004, establishing the legal framework on the recognition and loss of refugee status, which provides for the set up of the Commission for Refugees to assess asylum claims, in cooperation with the United Nations High Commissioner for Refugees (UNHCR);

(b) The adoption of Law No. 2/2007, on the juvenile justice system, which introduced restorative justice principles;

(c) The adoption of the Law No. 6/2008, on the fight against trafficking in persons, which define and criminalize trafficking in accordance with international standards.

C. Principal subjects of concern and recommendations

(5) The Committee notes that the Covenant forms part of the legal order of Macao, China, and takes precedence over local law, and that its provisions may be directly invoked in court. Nonetheless, the Committee is concerned at the apparently limited level of awareness of the provisions of the Covenant among the judiciary, the legal profession and the general public, resulting in a restricted number of cases in which the provisions of the Covenant have been invoked or applied by courts in Macao, China (art. 2).

Macao, China, should continue its efforts to raise awareness among judges, the legal profession and the general public of the rights set out in the Covenant, and their applicability under local law. In its next periodic report, Macao, China, should include detailed information on the application of the Covenant by its courts and the remedies provided for individuals claiming a violation of their rights as enshrined in the Covenant.

(6) The Committee notes with concern that under article 143 of the Basic Law, the power of interpretation of the Basic Law shall be vested in the Standing Committee of the National People's Congress, a fact that may weaken and undermine the rule of law and the independence of the judiciary (arts. 2 and 14).

Macao, China, should ensure the proper functioning of judicial structures in accordance with the Covenant and with principles governing the rule of law. It should also ensure that interpretations of the Basic Law are in full compliance with the Covenant.

(7) The Committee takes note of the recent amendments adopted in 2012 by Macao, China, to the method for the selection of the Chief Executive (annex I to the Basic Law), according to which membership of the Election Committee mandated to elect the Chief Executive has been extended from 300 to 400. The Committee recalls that article 25 of the Covenant recognizes and protects the right of every citizen to take part in the conduct of public affairs, the right to vote and to be elected and the right to have access to public service. Furthermore, article 25 lies at the core of democratic government based on the consent of the people and in conformity with the principles of the Covenant (Committee's general comment No. 25, para. 1). While recognizing the reservation to article 25 (b) of the Covenant, the Committee regrets that Macao, China, has not expressed its intention to institute universal suffrage to ensure the right of all persons to vote at genuine elections and to stand for election without unreasonable limitations, nor has it indicated a timeline for the introduction of such an electoral system. The Committee is also concerned about Macao, China's position in maintaining its reservation to article 25 (b) of the Covenant (arts. 2, 25 and 26).

Macao, China, should consider taking all preparatory measures with a view to introducing universal and equal suffrage in conformity with the Covenant, as a matter of priority. It should outline a clear and comprehensive plan of action and set timelines for the transition to an electoral system based on universal and equal

suffrage that will ensure enjoyment by all its citizens of the right to vote and to stand for election in compliance with article 25 of the Covenant, taking due account of the Committee's general comment No. 25 (1996). The Committee recommends that Macao, China, consider steps leading to the withdrawal of the reservation to article 25 (b) of the Covenant.

(8) While noting the dual mandate of the Commission against Corruption to fight corruption and to fulfil the function of ombudsman, the Committee regrets the lack of concrete information on the effective functioning of the ombudsman's mandate, the capacity to investigate individual complaints and to take measures to remedy attested violations. The Committee is also concerned that the Commissioner is appointed by the Chief Executive, which might affect the independence of the institution in relation to the executive power (art. 2).

Macao, China, should ensure that the ombudsman's mandate of the Commission against Corruption is independent and in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134, annex). Alternatively, Macao, China, should establish a new, independent statutory human rights institution, with a broad human rights mandate, and provide it with adequate financial and human resources, in line with the Paris Principles. It should also raise awareness among the general public of the ombudsman's mandate so that anyone can submit complaints to seek remedies for the violation of their rights as protected under the Covenant.

(9) While the Committee welcomes the measures taken to eliminate inequalities in salaries between men and women, the Committee is still concerned at the persistent wage gap between women and men in Macao, China, especially in the private sector (arts. 2, 3, and 26).

In the light of the Committee's previous recommendation (CCPR/C/79/Add.115, para. 10), Macao, China, should pursue and strengthen measures to reduce the wage gap which persists between women and men, and give full effect to the principle of equal pay for work of equal value, in practice. It should also address all the causes that widen said gap.

(10) While welcoming the efforts made by Macao, China, to combat and eliminate domestic violence, the Committee is concerned that, despite the decrease in the number of investigated cases of domestic violence, the magnitude of the domestic violence phenomenon remains unclear. The Committee also regrets the lack of specific legislation proscribing sexual harassment in all settings, including at workplace (arts. 7 and 14).

Macao, China, should continue its efforts to eliminate domestic violence; adopt the law on prevention of domestic violence; strengthen the services available to victims and the remedies provided and conduct studies on the magnitude and root causes of domestic violence in Macao, China. It should also enact specific legislation prohibiting sexual harassment in all settings, including in the workplace; thoroughly investigate such cases; sanction perpetrators; provide adequate remedies to victims and take measures to raise awareness of the sexual harassment phenomenon.

(11) While the Committee welcomes the actions of the judiciary in blocking the transfer of an offender to mainland China (case No. 12/2007, decision of the Court of Final Appeal of Macao), it is concerned that, despite its previous recommendation (CCPR/C/79/Add.115, para. 14), Macao, China, has not adopted any specific regulations regulating the transfer of offenders from Macao, China, to mainland China to protect them against the risk of the death penalty or ill-treatment upon return. The Committee takes due note of Macao,

China's assertion that negotiations with mainland China on this matter are ongoing (arts. 6, 7, 9, 10 and 14).

The Committee reiterates its previous recommendation and urges Macao, China, to pursue negotiations with mainland China with a view to reaching a firm agreement on the transfer of offenders from Macao to the mainland, as a matter of priority. Macao, China, should ensure that the agreement is in line with its obligations under articles 6 and 7 of the Covenant.

(12) While commending Macao, China, for the adoption of the law on juvenile justice, the Committee is concerned at the excessive length of solitary confinement that may be applied in respect of juvenile offenders during night-time. It also notes Macao, China's commitment to reconsider this practice (arts. 7, 10 and 24).

Macao, China, should review the overall period of night-time solitary confinement for juveniles, taking due account of articles 7 and 10 of the Covenant.

(13) While appreciating the various efforts made by Macao, China, to address and combat trafficking in persons, the Committee is concerned about the persistence of the phenomenon in Macao, China, as well as about the low number of cases of trafficking in persons that come to the attention of the authorities and the limited number of convictions. The Committee also regrets the lack of information on the existence of any legal alternatives to removal of victims to countries where they may face hardship and retribution (art. 8).

Macao, China, should intensify its efforts to combat trafficking in persons; systematically and vigorously investigate and prosecute perpetrators, and ensure that, when convicted, they are adequately sanctioned. Macao, China, should also guarantee adequate protection, reparation and compensation to victims, including rehabilitation. It should ensure that legal alternatives are available to victims that may face hardship and retribution upon removal.

(14) While noting the efforts made by Macao, China, regarding the training and employment of more judges and magistrates, the Committee remains concerned about inadequate staffing of the court system; the substantial backlog of cases; the delays in proceedings; and the reported difficulties non-Portuguese-speakers may face due to inadequate interpretation during court proceedings (art. 14).

In the light of the Committee's previous recommendation (CCPR/C/79/Add.115, para. 9), Macao, China, should increase the number of qualified and professionally trained judicial personnel, as a matter of urgency; continue efforts to reduce the backlog of court cases; and decrease delays in proceedings. It should also ensure that adequate compensation is awarded in cases related to lengthy proceedings. Macao, China, should also ensure true bilingualism in the administration of justice.

(15) The Committee is concerned at measures taken against journalists and social activists that create an environment discouraging the expression of critical positions or of critical media reporting on matters of valid public interest, and adversely affect the exercise of freedom of expression in Macao, China. In particular, the Committee expresses concern at reports of media self-censorship; application of the Internal Security Law to impose immigration bans against Hong Kong journalists and activists, on the grounds that they "constitute a threat to the stability of internal security"; police use of identity checks to justify detention of social activists and journalists up to six hours; as well as reports that journalists may face arbitrary arrest and confiscation of their material. The Committee also regrets the lack of clarification regarding the crime of abuse of freedom of the press and criminalization of defamation (arts. 9, 14 and 19).

Macao, China, should ensure that journalists, social activists and individuals are able to freely exercise their right to freedom of expression, in accordance with article 19 of the Covenant and the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression. Macao, China, should refrain from profiling foreign journalists as threats to internal security, and abstain from applying its Internal Security Law to ban their entry into Macao, China. It should also refrain from any measures taken against journalists and individuals aimed at deterring or discouraging them from freely expressing their opinions. Any restrictions on the exercise of freedom of expression should comply with the strict requirements of article 19, paragraph 3, of the Covenant. Macao, China, should consider decriminalizing defamation and, in any case, it should countenance the application of criminal law only in the most serious of cases.

(16) Regarding the right to freedom of assembly, the Committee is concerned, in particular, at reports of application of the section of the Penal Code establishing the offences of "inciting, in a public gathering or by any means of communication, collective disobedience of public order or law, with an intention to destroy, alter or overturn the established political, economic or social system", and of spreading "false or demagogic information that may frighten or unsettle the residents" against those exercising their right to freedom of assembly and freedom of expression. It is also concerned at reports of systematic use by police of cameras and video-recordings during demonstrations, as well as other methods to deter individuals from participating in any type of street actions (art. 21).

Macao, China, should take all measures to ensure that individuals fully enjoy their rights under article 21 of the Covenant and that the right to freedom of assembly is safeguarded in practice. It should abstain from any unjustified interference with the exercise of this right and ensure that any restrictions imposed are in compliance with the strict requirements of article 21 of the Covenant.

(17) While welcoming the legal framework in place for the protection of the rights of migrant workers, the Committee remains concerned at the practice of employing migrant workers without formal contracts; the excessive fees that may be requested from them by recruitment agencies; and the payment of lower wages compared to local workers. All these factors make migrant workers vulnerable and expose them to abuses and exploitation. The Committee is also concerned at the lack of effective legal recourse against unfair dismissal or unpaid wages (arts. 2, 8 and 26).

Macao, China, should strengthen the protection of rights of migrant workers against abuses and exploitation and establish affordable and effective mechanisms to ensure that abusive employers or recruitment agencies are held accountable.

(18) Macao, China, should widely disseminate the Covenant, the text of the initial report, the written replies it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations, so as to increase awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the region,, as well as the general public. The Committee also requests Macao, China, when preparing its second periodic report, to broadly consult with civil society and non-governmental organizations.

(19) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, Macao, China, should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 7, 11 and 17 above.

(20) The Committee requests Macao, China, in its next periodic report, due to be submitted on 30 March 2018, to provide specific, up-to-date information on all its recommendations and on the Covenant as a whole.

119. **Hong Kong, China**

(1) The Human Rights Committee considered the third periodic report of the Hong Kong Special Administrative Region of the People's Republic of China, (Hong Kong, China,) (CCPR/C/CHN-HKG/3) at its 2954th and 2955th meetings (CCPR/C/SR.2954 and 2955), held on 12 and 13 March 2013. This report is the third submitted by the People's Republic of China after the return of Hong Kong, China, to Chinese sovereignty on 1 July 1997. At its 2974th meeting (CCPR/C/SR.2974), held on 26 March 2013, the Committee adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the submission of Hong Kong, China's third periodic report and expresses its satisfaction with the constructive dialogue with the delegation of the Government of Hong Kong, China. It appreciates the written replies (CCPR/C/CHN-HKG/Q/3/Add.1) to the Committee in response to its list of issues, while regretting that they were only provided a few days before the 107th session. The Committee thanks the delegation for the additional detailed information provided orally during the consideration of the report.

B. Positive aspects

(3) The Committee welcomes the ratification of the following international instruments:

(a) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 20 February 2008;

(b) The Convention on the Rights of Persons with Disabilities, on 1 August 2008.

(4) The Committee welcomes the following legislative and other measures taken since the consideration of Hong Kong, China's second periodic report:

(a) The adoption of the Immigration (Amendment) Ordinance (2012);

(b) The amendments to the Personal Data (Privacy) Ordinance (2012);

(c) The amendments to the Domestic Violence Ordinance (Cap. 189) (2009).

C. Principal subjects of concern and recommendations

(5) The Committee takes note of Hong Kong, China's view that the power of interpretation of the Basic Law by the Standing Committee of the National People's Congress (NPCSC) is "in general and unqualified terms" and the principle is fully acknowledged and respected by Hong Kong, China's courts (CCPR/C/CHN-HKG/3, para. 322). However, the Committee remains concerned that a mechanism of binding constitutional interpretation by a non-judicial body may weaken and undermine the rule of law and the independence of judiciary (arts. 2 and 14).

Hong Kong, China, should ensure the proper functioning of judicial structures in accordance with the Covenant and with principles governing the rule of law. As previously recommended (CCPR/C/HKG/CO/2, para. 18), it should also ensure that all interpretations of the Basic Law, including on electoral and public affairs issues, are in full compliance with the Covenant.

(6) The Committee notes Hong Kong, China's indication that universal and equal suffrage for the Chief Executive elections in 2017 and for the Legislative Council elections in 2020 may be granted. The Committee expresses concern about the lack of a clear plan to institute universal suffrage and to ensure the right of all persons to vote and to stand for election without unreasonable limitations, as well as Hong Kong, China's position in maintaining its reservation to article 25(b) of the Covenant (arts. 2, 25 and 26).

Hong Kong, China, should take all necessary measures to implement universal and equal suffrage in conformity with the Covenant as a matter of priority for all future elections. It should outline clear and detailed plans on how universal and equal suffrage might be instituted and ensure enjoyment by all its citizens, under the new electoral system, of the right to vote and to stand for election in compliance with article 25 of the Covenant, taking due account of the Committee's general comment No. 25 (1996) on the right to participate in public affairs, voting rights and the right of equal access to public service. It is recommended to consider steps leading to withdrawing the reservation to article 25(b) of the Covenant.

(7) The Committee regrets that there is no independent statutory body to investigate and monitor violations of human rights guaranteed by the Covenant in a comprehensive manner. The Committee is moreover concerned that the proliferation of bodies focusing on the rights of specific groups may militate against greater effectiveness on the part of Hong Kong, China, in fulfilling its obligations under the Covenant and against greater clarity in its overall policy on human rights (art. 2).

Hong Kong, China, should strengthen the mandate and the independence of the existing bodies, including the Ombudsman and the Equal Opportunities Commission. It is also recommended to revise the multiplicity of the existing bodies whose mandate does not afford effective protection of all Covenant rights. Furthermore, the Committee reiterates its previous recommendations (CCPR/C/HKG/CO/2, para. 8) that Hong Kong, China, consider establishing a human rights institution, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles), with adequate financial and human resources, with a broad mandate covering all international human rights standards accepted by Hong Kong, China, and with competence to consider and act on individual complaints of human rights violations by public authorities and to enforce the Hong Kong Bill of Rights Ordinance.

(8) While noting the view of Hong Kong, China, that the definition of the crime of torture under the Crimes (Torture) Ordinance is consistent with international standards, the Committee shares the concerns raised by the Committee against Torture in 2008 that the terms contained in Sections 2(1) and 3(4) of the Ordinance in practice contain loopholes that might prevent effective prosecution of torture and allow possible defences for acts of torture (art. 7).

Hong Kong, China, should bring its legislation in line with international standards, in particular, it should recognize the non-derogable character of the prohibition of torture and should therefore eliminate any possible defences for the crime of torture in accordance with article 7 of the Covenant.

(9) While noting with appreciation the Hong Kong, China's cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR) to ensure protection of refugees and asylum seekers, the Committee regrets that Hong Kong, China, maintains a position not to seek the extension of the 1951 United Nations Convention relating to the Status of Refugees and its 1967 Protocol, and that persons facing deportation proceedings are not always covered by safeguards established in the Covenant. The Committee expresses concern about allegations that deportation operations are not properly monitored by the relevant oversight bodies (arts. 2, 6, 7 and 13).

In light of the Committee's previous recommendations (CCPR/C/HKG/CO/2, para. 10), Hong Kong, China, should ensure that all persons in need of international protection receive appropriate and fair treatment at all stages, in compliance with the Covenant. The Hong Kong, China, authorities should recognize the absolute character of prohibition of return to a location where the individual faces a real risk of torture

or cruel, inhuman or degrading treatment, also emphasized in the judgement of the Court of Final Appeal in *Ubamaka v. Secretary for Security and Anor* (FACV 15/2011, 21 December 2012). Hong Kong, China, is urged not to set an inappropriate high threshold for recognizing a real risk of ill-treatment on return.

(10) The Committee is concerned about (a) the application in practice of certain terms contained in the Public Order Ordinance, inter alia, "disorder in public places" or "unlawful assembly", which may facilitate excessive restriction to the Covenant rights, (b) the increasing number of arrests of, and prosecutions against, demonstrators, and (c) the use of camera and video-recording by police during demonstrations (arts. 17 and 21).

Hong Kong, China, should ensure that the implementation of the Public Order Ordinance is in conformity with the Covenant. It should also establish clear guidelines for police and for records for the use of video-recording devices and make such guidelines accessible to the public.

(11) The Committee expresses concern about reports of excessive use of force by members of the police force, not compatible with the United Nations Principles on the Use of Force and Firearms by Law Enforcement Officials, in particular by the inappropriate use of pepper spray to break up demonstrations to restore order, notably with regard to demonstrations surrounding the annual Hong Kong march on 1 July 2011, the visits of Vice-Premier and President of China,, respectively in August 2011 and July 2012 (arts. 7, 19 and 21).

Hong Kong, China, should increase its efforts to provide training to the police with regard to the principle of proportionality when using force, taking due account of the United Nations Principles on the Use of Force and Firearms by Law Enforcement Officials.

(12) While noting that the statutory framework has reinforced the role of the Independent Police Complaint Council (IPCC), the Committee remains concerned that investigations of police misconduct are still carried out by the police themselves through the Complaints Against Police Office (CAPO) and that IPCC has only advisory and oversight functions to monitor and review the activities of the CAPO and that the members of IPCC are appointed by the Chief Executive (arts. 2 and 7).

Hong Kong, China, should take necessary measures to establish a fully independent mechanism mandated to conduct independent, proper and effective investigation into complaints about the inappropriate use of force or other abuse of power by the police and empowered to formulate binding decisions in respect of investigations conducted and findings regarding such complaints.

(13) The Committee is concerned about reports that Hong Kong, China, has seen deterioration in media and academic freedom, including arrests, assaults and harassment of journalists and academics (arts. 19 and 25).

Hong Kong, China, should, in line with the Committee's general comment No. 34 (2011) on freedoms of opinion and expression, take vigorous measures to repeal any unreasonable direct or indirect restrictions on freedom of expression, in particular for the media and academia, to take effective steps including investigation of attacks on journalists and to implement the right of access to information by public bodies.

(14) The Committee notes Hong Kong, China's intention to deal with the offences of treason and sedition in the context of the new legislation implementing article 23 of the Basic Law. However, it remains concerned at the broad wording of the definition of the offences of treason and sedition currently in Hong Kong, China's Crimes Ordinance (arts. 19, 21 and 22).

Hong Kong, China, should amend its legislation regarding the offences of treason and sedition to bring it into full conformity with the Covenant and ensure that the foreseen new legislation under article 23 of the Basic Law is fully consistent with the provisions of the Covenant.

(15) The Committee notes the information provided by Hong Kong, China, that the Director of Immigration may exercise her or his discretion on a case-by-case basis to grant permission to the applicants to enter Hong Kong from the Mainland China, as dependants if there are exceptional humanitarian or compassionate considerations. However, the Committee is concerned that many families, reportedly nearly a hundred thousand families composed of parents and their children, remain separated between Mainland China, and Hong Kong, as a result of the right of abode policies (arts. 23 and 24).

The Committee reiterates its previous recommendations (CCPR/C/HKG/CO/2, para. 15) that Hong Kong, China, review its policies and practices regarding the right of abode in accordance with its obligations with regard to the right of families and children to protection under articles 23 and 24 of the Covenant.

(16) The Committee notes the efforts made to prevent corporal punishment by parents. However, it is concerned about the continual practice of corporal punishment in the home (art. 7).

Hong Kong, China, should take practical steps to put an end to corporal punishment in all settings. It should encourage non-violent forms of discipline as alternatives to corporal punishment, and should conduct public information campaigns to raise awareness about its harmful effects. Hong Kong, China, should take steps to initiate a full public discussion on corporal punishment by parents on children.

(17) While noting that Falun Gong in Hong Kong is a legally registered organization, the Committee regrets restrictions on Falun Gong practitioners in Hong Kong, in particular in relation to the right of movement (arts. 12, 18 and 19).

Hong Kong, China, should ensure that its policies and practices relating to the Falun Gong practitioners conform fully to the requirements of the Covenant.

(18) The Committee notes with appreciation a variety of measures and programmes intended to combat domestic violence, but remains concerned at the high incidence of domestic violence in Hong Kong, China, including domestic violence against women and girls with disabilities (arts. 3, 7 and 26).

Hong Kong, China, should increase its efforts to combat domestic violence by, inter alia, ensuring effective implementation of the Domestic and Cohabitation Relationships Violence Ordinance (DCRVO). In this regard, Hong Kong, China, should ensure the provision of assistance and protection to victims, the criminal prosecution of perpetrators of such violence, and the sensitization of society as a whole to this matter.

(19) The Committee notes with concern that, unlike the other Discrimination Ordinances, the Race Discrimination Ordinance (RDO) does not specifically apply to the Government in the exercise of its public functions such as the operations of the Hong Kong Police Forces and Correctional Services Department (art. 26).

The Committee recommends that Hong Kong, China, rectify a key gap in the current Race Discrimination Ordinance, in close consultation with the Equal Opportunities Commission, in order to ensure full compliance with article 26 of the Covenant. Hong Kong, China, should also consider introducing comprehensive anti-discrimination laws, in accordance with the Covenant. Such legislation should impose obligations on the authorities to promote equality and to eradicate discrimination.

(20) The Committee is concerned about the persistence of the phenomenon of trafficking in persons in Hong Kong, China, and reports that Hong Kong, China, is a source, destination, and transit point for men, women, and teenage girls from Hong Kong, the mainland of China, and elsewhere in Southeast Asia, subjected to human trafficking and forced labour. The Committee is concerned about the reluctance of Hong Kong, China, to take steps which could lead to the extension of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol) to Hong Kong, China, (art. 8).

Hong Kong, China, should intensify its efforts to identify victims of trafficking and ensure the systematic collection of data on trafficking flows to and in transit through the region, review its sentencing policy for perpetrators of trafficking-related crimes, support private shelters offering protection to victims, strengthen victim assistance by ensuring interpretation, medical care, counselling, legal support for claiming unpaid wages and compensation, long-term support for rehabilitation and stability of legal status to all victims of trafficking. The Committee recommends the inclusion of certain practices regarding foreign domestic workers in the definition of the crime of human trafficking. Hong Kong, China, should consider taking steps which could lead to the extension of the Palermo Protocol to Hong Kong, China, in order to strengthen its commitment to fight trafficking in persons in the region.

(21) The Committee is concerned about the discriminatory and exploitation suffered by a large number of migrant domestic workers and the lack of adequate protection and redress provided for them (arts. 2 and 26).

Hong Kong, China, should adopt measures to ensure that all workers enjoy their basic rights, independently of their migrant status, and establish affordable and effective mechanisms to ensure that abusive employers are held accountable. It is also recommended to consider repealing the "two-weeks rule" (whereby domestic migrant workers have to leave Hong Kong within two weeks upon termination of contract) as well as the live-in requirement.

(22) The Committee is concerned that ethnic minorities are underrepresented in higher education and that no official education policy for teaching Chinese as a second language for non-Chinese speaking students with an immigrant background in Hong Kong has been adopted. The Committee also notes with concern the report of the Equal Opportunities Commission that non-Chinese speaking migrants face discrimination and prejudice in employment due to the requirement of written Chinese language skills, even for manual jobs (art. 26).

In light of the recommendation made by the Committee on the Elimination of Racial Discrimination (CERD/C/CHN/CO/10-13, para. 31), Hong Kong, China, should intensify its efforts to improve the quality of Chinese language education for ethnic minorities and non-Chinese speaking students with an immigrant background, in collaboration with the Equal Opportunities Commission and other groups concerned. Hong Kong, China, should further intensify its efforts to encourage the integration of students of ethnic minorities in public school education.

(23) The Committee is concerned about the absence of legislation explicitly prohibiting discrimination on the basis of sexual orientation and reported discrimination against lesbian, gay, bisexual and transgender persons in the private sector (arts. 2 and 26).

Hong Kong, China, should consider enacting legislation that specifically prohibits discrimination on ground of sexual orientation and gender identity, take the necessary steps to put an end to prejudice and social stigmatization of homosexuality and send a clear message that it does not tolerate any form of harassment, discrimination or

violence against persons based on their sexual orientation or gender identity. Furthermore, Hong Kong, China, should ensure that benefits granted to unmarried cohabiting opposite-sex couples are equally granted to unmarried cohabiting same-sex couples, in line with article 26 of the Covenant.

(24) The Committee is concerned about the disqualification from voting of all persons who are found to be incapable, by reason of their mental, intellectual or psychosocial disabilities of managing and administering their property and affairs under section 31(1) of the Legislative Council Ordinance and section 30 of the District Councils Ordinance (arts. 2, 25 and 26).

Hong Kong, China, should revise its legislation to ensure that it does not discriminate against persons with mental, intellectual or psychosocial disabilities by denying them the right to vote on bases that are disproportionate or that have no reasonable and objective relation to their ability to vote, taking account of article 25, of the Covenant and article 29 of the Convention on the Rights of Persons with Disabilities.

(25) Hong Kong, China, should widely disseminate the Covenant, the text of the third periodic report, the written responses it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations so as to increase awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the region, as well as the general public. The Committee also requests Hong Kong, China, when preparing its fourth periodic report, to broadly consult with civil society and non-governmental organizations.

(26) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure Hong Kong, China, should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 6, 21 and 22 above.

(27) The Committee requests Hong Kong, China, in its next periodic report, due by 30 March 2018, to provide, specific, up-to-date information on all its recommendations and on the Covenant as a whole.

120. **Paraguay**

(1) The Human Rights Committee considered the third periodic report of Paraguay (CCPR/C/PRY/3) at its 2952nd and 2953rd meetings (CCPR/C/SR.2952 and 2953), held on 11 and 12 March 2013. At its 2974th meeting (CCPR/C/SR.2974), held on 26 March 2013, the Committee adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the third periodic report of Paraguay and the information in it. It is grateful to have had the opportunity to resume a constructive dialogue with the delegation of the State party on the measures taken by the latter during the reporting period to implement the provisions of the Covenant. The Committee thanks the State party for its written replies (CCPR/C/PRY/Q/3/Add.1) to the list of issues (CCPR/C/PRY/Q/3), and for the supplementary replies provided orally by the delegation.

B. Positive aspects

(3) The Committee welcomes the ratification by the State party of the Convention on the Rights of Persons with Disabilities, in September 2008, and the International Convention for the Protection of All Persons from Enforced Disappearance, in August 2010.

(4) The Committee also welcomes:

(a) The adoption and implementation of Act No. 4288/2011 on the national preventive mechanism against torture and other cruel, inhuman or degrading treatment or punishment;

(b) The establishment of the national secretariat for the human rights of persons with disabilities, by Act No. 4720/12;

(c) The development of indicators to monitor the human rights situation and the progress made and results achieved by public policy in this area.

C. Principal subjects of concern and recommendations

(5) The Committee welcomes the establishment and operationalization of the Human Rights Network of the Executive Branch as the centre for inter-institutional coordination in the drafting of human rights policy and follow-up to the recommendations of international bodies. It also welcomes the State party's decision to increase the capacity of the Executive Inter-Institutional Commission for Compliance with International Judgements to follow up on and process the recommendations of the United Nations human rights mechanisms. The Committee hopes that both bodies will be strengthened and looks forward to the effective implementation of the above-mentioned decision. The Committee is, however, concerned about the small number of cases in which Covenant provisions have been invoked or applied by justice officials (art. 2).

The State party should strengthen the Human Rights Network of the Executive Branch in order to ensure that public policy is rights-based, and should ensure the prompt and effective implementation of its decision to extend the mandate of the Executive Inter-Institutional Commission for Compliance with International Judgements to cover the recommendations of United Nations human rights bodies. The State party should also ensure that all judges and justice officials receive training on the rights set forth in the Covenant and their applicability in domestic law. In its next periodic report, the State party should include detailed information on the application of the Covenant by the domestic courts.

(6) The Committee takes note of the adoption of the National Human Rights Plan by Decree No. 10747. However, the State party regrets that the plan adopted does not fully reflect the agreements and consensuses achieved following the participatory process of preparation of the draft plan, involving State institutions and civil society. In that connection, the Committee regrets that the plan adopted does not reflect all the concerns identified and does not include the strategic lines of action initially proposed for its effective implementation.

The State party should guarantee respect for the participatory processes for preparation of the National Human Rights Plan. In that connection, the State party should review the changes made, without consultation, to the National Human Rights Plan, and include an adequate budget for its effective implementation, as well as monitoring and accountability mechanisms, with the participation of civil society and the use of human rights indicators.

(7) The Committee is concerned that, under current procedures, it has not been possible to select a new ombudsman since 2008, and is also concerned about the lack of clear procedures and criteria for ensuring that the ombudsman's office is fully independent and effective, in accordance with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (the Paris Principles) (art. 2).

The State party should ensure that an ombudsman with unimpeachable credentials is elected in a transparent and participatory process as soon as possible. It should also create a legislative and regulatory environment in which the necessary human and material resources are available to ensure that the ombudsman's office carries out its

mandate in full and with complete independence, in accordance with the Paris Principles.

(8) The Committee is concerned that judicial investigations have not yet been completed in many cases of violations of the right to life, including disappearances, torture, extrajudicial executions and illegal detention under the dictatorship of General Alfredo Stroessner (1954–1989) and during the transitional period up to 2003. The Committee is concerned about the inequitable practices that have been identified and pointed out in proceedings to grant reparations and compensation to the victims of such violations. Finally, the Committee regrets that the State party does not have the material and human resources needed to identify the remains discovered in the course of investigations into enforced disappearances (arts. 2 and 6).

The State party should ensure that all the cases of serious human rights violations documented by the Truth and Justice Commission are duly investigated and that those responsible are tried and, where appropriate, punished. The State party should also guarantee prompt and fair access by all victims and their families to reparation or compensation, including in cases of torture — such as psychological torture — that leaves no physical marks. Finally, the State party should, as a matter of urgency, consider including in its budget the resources needed to continue the search for and identification of human remains in the context of investigations into enforced disappearances.

(9) The Committee regrets that the State party has not yet adopted the bill submitted to the Senate in May 2007 to outlaw all forms of discrimination, since stereotyping, discrimination and marginalization are still prevalent and are especially detrimental to women, persons with disabilities, indigenous people, people of African descent, and lesbians, gays, bisexuals and transsexuals (arts. 2, 26 and 27).

The State party should adopt comprehensive legislation to combat discrimination, including provisions that provide protection against discrimination on grounds of sexual orientation and gender identity, and should prioritize the implementation of programmes to eliminate stereotyping and discrimination and guarantee tolerance and respect for diversity. The State party should also adopt measures to promote equal opportunities and equal, unrestricted and non-discriminatory access to all services by women, persons with disabilities, indigenous people, people of African descent, and lesbians, gays, bisexuals and transsexuals.

(10) The Committee is concerned that there are few women in Congress or in decision-making positions in the public and private sectors, and that stereotypes persist as regards the role of women in the family and in society (arts. 3, 25 and 26).

The State party should redouble its efforts to eliminate gender stereotyping in relation to the role and responsibilities of men and women in the family and in society, and should run awareness campaigns on this subject. The State party should also adopt special interim measures to increase women's participation in political and public life, as well as in the private sector.

(11) While noting that the delegation has acknowledged the need to reform the Electoral Code to bring it fully into line with the Convention on the Rights of Persons with Disabilities, the Committee is concerned about the disproportionate restrictions on the right to vote of persons deprived of their liberty and persons with disabilities under articles 91 and 149 of the Electoral Code. The Committee is also concerned about the lack of practical measures to facilitate physical access to voting stations and to make voting slips available in Braille (arts. 2, 25 and 26).

The State party should revise articles 91 and 149 of the Electoral Code to: (a) eliminate disproportionate restrictions on the right to vote of persons deprived of their liberty; (b) ensure the elimination of discrimination exercised against persons with mental or psychosocial disabilities, and deaf mutes, through denial of their right to vote for reasons out of proportion or not reasonably or objectively related to their ability to vote, taking into account article 25 of the Covenant and article 29 of the Convention on the Rights of Persons with Disabilities. The State party should also ensure that practical measures are taken throughout the country to promote access by persons with disabilities to voting stations and voting slips.

(12) The Committee takes note of the measures adopted by the State party to protect women from domestic violence. However, the Committee is concerned at the persistence of high levels of violence against women and at the absence of an effective law to prevent, punish and eradicate such violence. The Committee is also concerned about the limited number of shelters or centres for women who are victims of domestic violence, since these facilities offer the only support for women survivors. Finally, the Committee regrets that there are as yet no precedents for granting reparation to the victims of domestic violence (arts. 6, 7, 14 and 26).

The State party should continue its efforts to prevent, punish and eradicate sexual and gender violence and to encourage victims to report cases, including by adopting a specific law on the subject after consultations with civil society. The State party should ensure that complaints of sexual and gender violence are properly investigated, that the perpetrators are tried and appropriately punished, and that victims receive suitable reparations and have access to specialized shelters or centres throughout the country. The State party should also include the topic of the protection of women against violence in educational programmes.

(13) The Committee expresses its concern at the criminalization of abortion, including in cases of rape or incest, which forces pregnant women to seek clandestine abortion services that put their lives and health at risk. The Committee is also concerned about the continuing high rates of teenage pregnancies and maternal mortality (arts. 3 and 6).

The Committee recommends that the State party should revise its legislation on abortion by making further exceptions to the ban on abortion, including when the pregnancy is the result of rape or incest. The State party should ensure that reproductive health services are accessible to all women and girls in every region of the country. The State party should also increase the number, and ensure the implementation, of education and awareness programmes at the formal level (in public and private schools) and at the informal level (through the media and other means of communication) on the importance of using contraceptives and on sexual and reproductive health rights.

(14) The Committee is concerned about reports that the neighbourhood watch committees set up in the departments of Caaguazú, Canindeyú and San Pedro have been involved in illegal detentions, death threats, house raids, murders and attempted murders, torture and ill-treatment, as well as in activities aimed at protecting drug traffickers and cigarette smugglers. The Committee is also concerned that no progress has been made in the investigation into the 2006 murder of Luis Martínez, a campesino leader of the Kamba Rember community who had criticized the committees (arts. 6, 7, 9 and 14).

The State party should evaluate and review the functioning of the neighbourhood watch committees, investigate, prosecute and punish all criminal acts for which their members are allegedly responsible, and provide appropriate compensation for their victims.

(15) The Committee is concerned about the high number of human rights defenders, particularly campesino and indigenous defenders, who have been assaulted, attacked and killed. In this connection, the Committee expresses particular concern at the recent killings of Mr. Vidal Vega, a campesino leader and witness in the Curuguaty case, and Mr. Benjamín Lezcano, secretary-general of the "Dr. Gaspar Rodríguez de Francia" campesino coordinating committee (arts. 6, 7, 9 and 14).

The State party should take immediate steps to provide effective protection for defenders whose safety is at risk because of their professional activities. It should also ensure that perpetrators are punished following prompt, impartial and comprehensive investigations into threats and attacks against human rights defenders and, as a priority, into the killings of Vidal Vega and Benjamín Lezcano.

(16) The Committee welcomes the establishment of the national mechanism for the prevention of torture and the adoption of Act No. 4614-2012, which brings the definition of torture and enforced disappearance in domestic legislation into line with international standards. However, the Committee regrets that few of the investigations into cases of torture by the Special Human Rights Unit of the Public Prosecution Service lead to the conviction of the perpetrators and reparation for the victims. The Committee is concerned that there is no truly independent complaints mechanism to deal with allegations of torture or ill-treatment in places of deprivation of liberty and that few of these cases have come to trial (arts. 7 and 14).

The State party should ensure that every act of torture or cruel, inhuman or degrading treatment is investigated in accordance with the Istanbul Protocol, and tried and punished in a manner commensurate with its gravity. To this end, the State party should strengthen the capacity of the Special Human Rights Unit of the Public Prosecution Service to investigate cases of torture and cruel, inhuman or degrading treatment. It should also strengthen the capacity of the forensic doctors of the Public Prosecution Service and the judiciary to detect and diagnose cases of torture and ill-treatment, and should set up an independent system to receive and process complaints of torture or ill-treatment in all places of deprivation of liberty. The State party should provide the resources necessary for a fully functioning national mechanism for the prevention of torture, and should ensure that every allegation of torture or cruel, inhuman or degrading treatment is duly recorded.

(17) While it is aware of the efforts made by the State party to prevent and punish human trafficking, the Committee is concerned about the large number of children and women who continue to be the victims of trafficking, and about the widespread impunity in such cases (arts. 7, 8 and 14).

The State party should step up its efforts to put a stop to human trafficking, particularly trafficking in women and children for purposes of sexual exploitation or child labour. The State party should try all alleged perpetrators of such acts and, if they are found guilty, punish them. The State party should continue training police and immigration officers and should provide protection and rehabilitation for victims. It should also strengthen its mechanisms for cooperation with neighbouring countries and run public awareness campaigns on the negative effects of human trafficking.

(18) The Committee is concerned about the working conditions of domestic workers, and about the lack of protection for their rights (arts. 3, 8 and 26).

The State party should guarantee respect for the fundamental labour rights of domestic workers, in accordance with the principles set forth in article 8 of the Covenant, and should protect them from any situation of domestic servitude. The State party should also establish effective monitoring mechanisms to ensure that employers respect the above labour rights, that domestic workers have access to the

courts in order to exercise those rights, and that any violations are investigated and punished.

(19) The Committee is concerned about the prevalence of the practice of *criadazgo*, which involves placing children and adolescents with another family to carry out domestic chores, usually without giving them access to education or basic labour rights (arts. 8 and 24).

The State party should adopt policies and strategies to eliminate the practice of *criadazgo*, including by supporting the original family unit so that it can play its full role in the upbringing of children and by running awareness campaigns to make society less tolerant of child labour. The State party should also take steps to implement vocational training programmes for children and adolescents from vulnerable families throughout the country.

(20) The Committee is concerned that, at present, around 70 per cent of detainees have not been tried and sentenced. The Committee is also concerned about reports that a large proportion of the individuals in pretrial detention have not been informed of the reasons for their detention. The Committee is also concerned about the lengthy duration of pretrial detention and the difficulties faced by detainees in having access to a lawyer from the very beginning of their detention (arts. 9 and 14).

The State party should reduce the number of people in pretrial detention and should strictly limit its duration, in accordance with article 14, paragraph 3 (c), of the Covenant, and it should ensure that the provisions of article 9 are fully adhered to. The State party should also promote the use of non-custodial alternatives such as bail or electronic bracelets. Finally, the State party should ensure that all detainees are informed immediately of the reason for their detention and their rights, and that they have proper access to a lawyer and can contact a family member or person of trust from the very beginning of their detention.

(21) The Committee is concerned about the very high levels of overcrowding and the poor conditions in places of detention, including in the youth custodial facilities known as "educational centres" (art. 10). The Committee is also concerned at the absence of penalty enforcement regulations for the purpose of monitoring conditions of custodial sentence enforcement and promoting the use of non-custodial alternatives.

The State party should improve conditions in prisons and detention centres, in accordance with the provisions of the Covenant and the Standard Minimum Rules for the Treatment of Prisoners. In particular, the State party should bring youth custodial facilities up to international standards, particularly in terms of education, sanitation, leisure opportunities, access to water and suitable basic washrooms. The State party should also adopt sentence enforcement regulations and consider the wider use of alternatives to imprisonment, such as electronic surveillance devices, parole and community service.

(22) The Committee is concerned about reports of high levels of corruption in the judiciary, which are not properly investigated and punished; this directly affects the independence and legitimacy of judges. The Committee is also concerned about the turnover of judges as a result of alleged pressure from the executive and legislature on the judicial authorities and as a result of the removability of judges (arts. 2 and 14).

The State party should safeguard, in law and in practice, the independence of the judiciary and should guarantee the competence, independence and non-removability of judges. The State party should eliminate all forms of interference by the other branches of government in the judicial branch. To this end, it should ensure prompt, thorough, independent and impartial investigations into all complaints of interference,

including complaints of corruption, and should try and punish those responsible, including any judges who are accomplices.

(23) The Committee is concerned about allegations of serious irregularities in the actions of the Public Prosecution Service, the judiciary and the security forces in relation to the police raid in Curuguaty in June 2012. In particular, the Committee is concerned about reports of a lack of impartiality and independence in the investigations into the events (arts. 6, 7 and 14).

The State party should institute an immediate, independent and impartial investigation into the deaths of 17 people during the police raid in Curuguaty on 15 June 2012, and also into all the related incidents reported by the victims, particularly torture, arbitrary detention, extrajudicial executions and possible violations of due process, including in the case of the young person who was convicted and the two heavily pregnant women held in pretrial detention.

(24) The Committee is concerned about the procedures followed to impeach former President Fernando Lugo in June 2012 in pursuance of article 225 of the Constitution, particularly the time allowed for the preparation and presentation of a defence. This represents a serious challenge to the principles of articles 14 and 25 of the Covenant (arts. 14 and 25).

By means including a regulation on article 225 of the Constitution, the State party should ensure that impeachment proceedings are always carried out in accordance with the basic principles of due process and the principles set out in article 25 of the Covenant, as these guarantee the functioning of every democratic society.

(25) The Committee is concerned about the criminalization of defamation, which discourages the media from publishing critical information on matters of pubic interest, and which is a threat to freedom of expression and access to information of all kinds (art. 19).

The State party should guarantee freedom of expression and freedom of the press, as enshrined in article 19 of the Covenant and developed at length in the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression. The State party should therefore protect the pluralist nature of the news media. It should also consider decriminalizing defamation and should in any case restrict the application of criminal law to the most serious cases, bearing in mind that imprisonment is never an appropriate punishment in such cases.

(26) The Committee takes note of the efforts by the State party to register all births, but regrets that a large proportion of children are still not registered, especially in rural areas and in indigenous communities (arts. 16, 24 and 27).

The State party should continue its efforts to ensure that all children born in its territory are registered and receive an official birth certificate. Accordingly, it should amend its legislation to allow teenage mothers to register their children without the need for a court order. It should also carry out campaigns to encourage the registration of all adults who have not yet been registered.

(27) The Committee regrets the allegations that the National Institute for Indigenous Affairs (INDI) facilitated the sale of ancestral indigenous lands to private companies, in violation of the right of indigenous peoples to be consulted by the State party about decisions that affect their rights (arts. 2, 26 and 27).

The State party should strengthen the National Institute for Indigenous Affairs and ensure that its activities guarantee the full protection and promotion of the rights of indigenous communities, including the right to prior, informed consultation. At the same time, the State party should legally recognize the right to prior, informed

consultation and should take due account of the decisions of indigenous peoples during the consultation process.

(28) The State party should widely disseminate the Covenant, the third periodic report, its written replies to the list of issues drawn up by the Committee, and the present concluding observations in order to increase awareness among the judicial, legislative and administrative authorities, civil society and the non-governmental organizations operating in the country, as well as the general public. The Committee also suggests that the report and the concluding observations be translated into the other official languages of the State party. In addition, it requests the State party to consult widely with civil society and non-governmental organizations when it prepares its fourth periodic report.

(29) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations in paragraphs 8, 14 and 23 of these concluding observations.

(30) The Committee requests the State party to provide in its next periodic report, which it is scheduled to submit by 30 March 2017, updated factual information on the other recommendations made and on the Covenant as a whole.

121. **Peru**

(1) The Committee considered the fifth periodic submitted by Peru (CCPR/C/PER/5) at its 2964th and 2965th meetings (CCPR/C/SR.2964 and 2965), held on 19 and 20 March 2013. At its 2975th meeting (CCPR/C/SR.2975), held on 27 March 2013, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the submission of the fifth periodic report of Peru and the information presented therein. It expresses appreciation for the constructive dialogue with the State party's high-level delegation on the measures that the State party has taken during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies (CCPR/C/PER/Q/5/Add.1) to the list of issues (CCPR/C/PER/Q/5), which were supplemented by the oral responses provided by the delegation, and for the supplementary information provided to it in writing.

B. Positive aspects

(3) The Committee welcomes the State party's ratification of or accession to the following international instruments:

(a) The International Convention for the Protection of All Persons from Enforced Disappearance, on 26 September 2012;

(b) The Convention on the Rights of Persons with Disabilities and its Optional Protocol, on 30 January 2008;

(c) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, on 14 September 2006;

(d) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, on 14 September 2005.

(4) The Committee also welcomes the following legislative and other steps taken by the State party:

(a) The adoption of the General Law on Persons with Disabilities (No. 29973), on 13 December 2012;

(b) The adoption of the Law on Equal Opportunities for Men and Women (No. 28983), on 12 March 2007;

(c) The adoption of the Comprehensive Reparations Plan (Law No. 28592), on 20 July 2005;

(d) The establishment of a Vice-Ministry for Human Rights and Access to Justice within the Ministry of Justice and Human Rights by Law No. 29809, from 5 December 2011.

C. Principal matters of concern and recommendations

(5) While taking note of the improvements in the framework for follow-up and the measures taken by the State party in relation to the Views adopted by the Committee under its individual complaints procedure, the Committee is concerned at the present inadequate degree of implementation of the said Views (art. 2).

The Committee calls upon the State party to intensify its efforts to give full effect to all the recommendations contained in the Views in which the Committee has found violations of the Covenant by the State party under the Optional Protocol. The Committee also encourages the State party to continue engaging with its Special Rapporteur for follow-up on Views.

(6) The Committee takes note of the information provided by the State party's delegation concerning the draft National Human Rights Plan, but regrets that the plan is still under review (art. 2).

The State party should expedite the adoption of a comprehensive National Human Rights Plan and ensure that it adequately and effectively addresses the issues raised by civil society, the Committee itself and other human rights mechanisms. The State party should also ensure that, once adopted, the plan is effectively implemented through, inter alia, the allocation of sufficient human and material resources, as well as the establishment of monitoring and accountability mechanisms, involving representatives of all sectors of civil society.

(7) While taking note of the measures adopted by the State Party to combat racial discrimination, the Committee, is concerned that indigenous peoples and Afro-descendants continue to be the victims of discrimination (arts. 2, 26 and 27).

The State party should strengthen its efforts to prevent and eradicate discrimination against indigenous and Afro-descendent persons by, inter alia, carrying out broad education and awareness-raising campaigns that promote tolerance and respect for diversity. The State party should ensure the effective implementation of the legal provisions that reflect the State party's obligations under the Covenant with regard to the principle of non-discrimination. It should also take appropriate measures to ensure that such acts of discrimination are investigated, and that the victims receive reparation.

(8) The Committee is concerned at reports of discrimination and acts of violence suffered by lesbian, gay, bisexual and transgender (LGBT) persons on the basis of their sexual orientation or gender identity (arts. 2, 3, 6, 7 and 26).

The State party should state clearly and officially that it does not tolerate any form of social stigmatization of homosexuality, bisexuality or transexuality, or discrimination or violence against persons because of their sexual orientation or gender identity. It should also amend its laws with a view to prohibiting discrimination on the basis of sexual orientation and gender identity. The State party should provide effective protection to LGBT individuals and ensure the investigation, prosecution and

punishment of any act of violence motivated by the victim's sexual orientation or gender identity.

(9) While noting the steps taken by the State party to promote equality between women and men, and the progress made, the Committee is concerned that women are underrepresented in decision-making positions in the public sector (arts. 2, 3, 25 and 26).

The State party should strengthen its efforts to ensure effective equality between women and men in all parts of the country, if necessary through appropriate temporary special measures. In particular, it should take concrete steps to increase the representation of women in decision-making positions in the public sector. The State party should also develop strategies to combat stereotypes on the role of women, including by sensitizing its population on the need to ensure the enjoyment by women of their rights.

(10) The Committee takes note of the measures taken to prevent and combat violence against women, but is nonetheless concerned about the persistence of this phenomenon (arts. 3, 6 and 7 of the Covenant).

The State party should strengthen its efforts to prevent and combat all forms of violence against women, including by ensuring the effective implementation of the existing relevant legal and policy frameworks. The State party should adopt legislation criminalizing all forms of domestic violence. The State party should also facilitate complaints from victims; ensure that all reports of violence are investigated and perpetrators brought to justice; and ensure that victims have access to effective means of protection, including an adequate number of shelters available in all parts of the country.

(11) While acknowledging the efforts made by the State party to investigate the human rights violations committed during the armed conflict between 1980 and 2000, and the obstacles experienced by the State party in this regard, the Committee is concerned about:

(a) The low number of convictions and high number of acquittals;

(b) The difficulties faced by female victims of sexual violence during the conflict to report cases, as well as the low number of investigations and lack of sentences in that respect;

(c) The slow progress of the process of exhumations, identification and return of remains to the next of kin of the victims;

(d) The requirement set by the National Criminal Court that evidence for violations should be direct and documented, thus omitting testimonies of victims and their relatives;

(e) Reports of lack of full cooperation from the Ministry of Defence and the Armed Forces;

(f) The information provided by the delegation that, at the time of the conflict, the units of the security forces engaged in armed actions were not required to report on how they conducted such actions; the Committee is concerned that this may have been intended to ensure impunity for violations of human rights (arts. 2, 6 and 7).

The State party should redouble its efforts to ensure that the serious human rights violations perpetrated during the armed conflict between 1980 and 2000, including those involving sexual violence, do not go unpunished. The State party should take appropriate measures to expedite the judicial investigations and the process of exhuming, identifying and returning remains to the next of kin of the victims. Furthermore, the Committee invites the State party to revisit the criteria to be used

with regard to evidence of violations, and urges the State party to ensure that the Ministry of Defence and the Armed Forces fully cooperate with the investigations and provide all available information to the requesting authorities without delay. The State party should also establish any legal responsibility for the practice of non-reporting at the time of the conflict.

(12) The Committee notes with appreciation the efforts of the State party with regard to reparations related to the armed conflict between 1980 and 2000, in particular the establishment of the Comprehensive Reparations Plan. However, the Committee is concerned at delays in the implementation of the Plan; and that not all victims of torture or sexual abuse are covered by the economic reparations programme. The Committee is also concerned at the closure, on 31 December 2011, of the process for determining and identifying the beneficiaries of the Economic Reparations Program following the implementation of Supreme Decree No. 051-2011-PCM (art. 2).

The State party should intensify its efforts to ensure that all victims of the armed conflict between 1980 and 2000, including all victims of torture and sexual abuse, receive reparation. The State party should also ensure that reparations are adequate and that the process for determining and identifying the beneficiaries of the Economic Reparations Program is reopened so that all victims of the conflict may receive economic reparation.

(13) While welcoming the reopening in 2012 of the investigations concerning more than 2,000 women who were subjected to forced sterilization between 1996 and 2000, the Committee is concerned that, despite the significant number of years that have passed, the victims have not yet received reparation and the perpetrators have not yet been punished (arts. 2, 3 and 7).

The Committee urges the State party to expedite the investigation; allocate sufficient economic, human and technical resources to the organs responsible for the investigation; ensure that the perpetrators are brought to justice and adequately sanctioned; and that all victims receive adequate forms of reparation, without any further delay.

(14) Recalling its previous concluding observations (CCPR/CO/70/PER, para. 20), The Committee expresses concern at the high percentage of abortion-related maternal deaths; that abortion resulting from rape or incest is still criminalized and at the lack of a national protocol regularizing the practice of therapeutic abortions. The Committee is further concerned about the high rates of maternal mortality in rural areas and of adolescent pregnancies. Furthermore, the Committee regrets the decision adopted by the Constitutional Court prohibiting the free distribution of emergency oral contraceptives (arts. 2, 3, 6, 17 and 26).

The Committee recommends that the State party:

(a) Review its legislation on abortion and provide for additional exceptions in cases of pregnancy resulting from rape or incest;

(b) Swiftly adopt a national protocol regulating the practice of therapeutic abortion;

(c) Increase its efforts to reduce adolescent pregnancy and maternal mortality, in particular in rural areas, and ensure that adequate sexual and reproductive health services, which include emergency oral contraceptives, are accessible in all regions of the country;

(d) Increase and ensure the effective implementation of educational and awareness-raising programmes at the formal (schools and colleges) and informal

(mass media) levels on the importance of contraceptive use and on sexual and reproductive health rights.

(15) The Committee notes with concern the frequency with which the State party has declared states of emergency and derogated from the rights enshrined in the Covenant, even in relation to social protests, although derogations should occur only in truly exceptional situations. The Committee also notes with concern the allegations of serious human rights violations during the states of emergency, such as arbitrary detentions, killings and torture. In this connection, it regrets the lack of concrete information from the State party on the specific measures taken pursuant to such derogations (arts. 4, 6, 7 and 9).

The State party should limit the use of states of emergency and ensure strict respect for the human rights enshrined in the Covenant and systematic compliance with all the conditions set out in article 4 of the Covenant. The State party should also ensure that reports of serious human rights violations committed during the states of emergency are promptly and effectively investigated, and that those responsible are brought to justice.

(16) The Committee is concerned about reports of excessive and disproportionate use of force, including the use of lethal weapons, by law enforcement officials and members of the security forces in the context of social protests, which in some instances resulted in loss of lives (arts. 6 and 7).

The State party should continue to take steps to effectively prevent and eradicate the excessive use of force by law enforcement officials and members of the security forces, including by intensifying and providing regular human rights training with special emphasis on alternatives to the use of force and firearms. It should also ensure that all allegations of excessive use of force are promptly, impartially and effectively investigated, and those responsible brought to justice.

(17) While welcoming the assertion by the State party that investigations concerning human rights violations, crimes against humanity and other international crimes always fall under the jurisdiction of civil courts, the Committee is concerned at reports indicating that Legislative Decree No. 1095 may have the effect of extending military jurisdiction with regard to cases of excessive use of force or human rights violations. The Committee is further concerned at the broad definition of "hostile group" provided for in Legislative Decrees No. 1094 and No. 1095, which could be potentially interpreted so as to include individuals taking part in demonstrations or social movements, and therefore have detrimental and deterrent effects on the enjoyment of the human rights enshrined in articles 19 and 21 of the Covenant (arts. 2, 6, 7, 19 and 21).

The Committee recommends that the State party review Legislative Decrees No. 1094 and No. 1095 so as to bring them into line with its human rights obligations as contained in the Covenant and to ensure that, as explained by the State party, human rights violations remain outside the jurisdiction of military courts.

(18) The Committee is concerned by the absence of a legal framework for the protection of migrants who do not satisfy the international refugee definition, but who face a real risk of death, torture or ill-treatment if expelled from the territory of the State party (arts. 6 and 7).

The State party should adopt and implement laws guaranteeing respect for the principle of non-refoulement in cases involving risk of death, torture or ill-treatment not covered by the refugee definition, as well as ensure appropriate training for officials engaged in migration control, especially in the northern border region.

(19) The Committee is concerned that there are still allegations of torture and ill-treatment by State officials, and that acts of torture are sometimes investigated as other

offences such as "causing injury." While taking note of the draft laws empowering the Ombudsman's Office to act as the National Preventive Mechanism (NPM) for the purposes of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Committee regrets that this mechanism has not yet been established (art. 7).

The State party should intensify its efforts to prevent and eradicate torture and ill-treatment, including by intensifying human rights training for law enforcement and security officials. It should also ensure that all allegations of torture or ill-treatment are promptly, thoroughly and independently investigated; that perpetrators are brought to justice; and that victims receive adequate reparation, including health and rehabilitation services. Furthermore, the State party should ensure that judges, prosecutors, health and other relevant professionals involved in the documentation and investigation of cases of torture and other ill-treatment are adequately trained on the Istanbul Protocol and on the international standards concerning torture and ill-treatment, with special emphasis on how to adequately classify incidents of torture. The State party should also expedite the adoption of the necessary legal measures for the establishment of an independent NPM, as provided for in the Optional Protocol to the Convention against Torture, and ensure that it is provided with adequate human and financial resources so as to function efficiently.

(20) While taking note of the measures taken by the State party to combat trafficking in persons, forced labour and domestic servitude, as well as the commitment expressed by the State party's delegation to comply with the recommendations made by the Special Rapporteur on contemporary forms of slavery, including its causes and consequences (A/HRC/18/30/Add.2), the Committee is concerned about the persistence of such practices in the State party (art. 8).

The State party should increase its efforts to prevent and eradicate trafficking in persons, forced labour and domestic servitude, including by ensuring the effective implementation of the existing relevant legal and policy frameworks. It should also take appropriate legislative measures to ensure that forced labour and domestic servitude are prohibited and punished in accordance with article 8 of the Covenant. The Committee further recommends that the State party ensure that allegations of these practices are thoroughly investigated, that those responsible are brought to justice, and that victims receive adequate care, free legal assistance and reparations, including rehabilitation.

(21) The Committee is concerned that, despite the measures taken and planned, the level of overcrowding in places of detention is still very high and that conditions of detention, in particular with regard to security and access to medical care, remain poor. Recalling its previous concluding observations (CCPR/CO/70/PER, para. 14), the Committee remains concerned at the conditions in the Yanamayo and, particularly, Challapalca prisons (art. 10).

The State party should expedite its efforts to reduce overcrowding in places of detention, including by resorting to alternatives to imprisonment, and improve conditions of detention, particularly with regard to security and medical care, in accordance with the Covenant and the Standard Minimum Rules for the Treatment of Prisoners. Recalling its previous concluding observations, the Committee recommends that the State party consider closing the Yanamayo and Challapalca prisons.

(22) The Committee is concerned at reports of acts of violence perpetrated against human rights defenders and journalists. The Committee is also concerned that defamation remains a crime under national law, which represents a threat to the exercise of freedom of expression and access to plurality of information (arts. 9, 14 and 19).

Recalling its general comment No. 34 (2011) on freedoms of opinion and expression, as well as its previous concluding observations (CCPR/CO/70/PER, para. 16), the Committee recommends that the State party fully guarantee the right to freedom of opinion or expression in all its forms. It also recommends that the State party conduct effective investigations of reports concerning attacks or violence perpetrated against human rights defenders and journalists, and bring those responsible to justice. It urges the State party to consider adopting legislation decriminalizing defamation, as has been proposed in Parliament.

(23) The Committee is concerned that the rate of child labour in the country remains high (arts. 8 and 24).

The State party should strengthen its efforts to ensure the effective implementation in all parts of the country of the existing policies and laws that are designed to prohibit child labour. The State party should ensure violations of these laws are effectively investigated, prosecuted and punished, and should keep reliable statistics on this phenomenon.

(24) The Committee welcomes the adoption of the Law on the Right of Indigenous or Original Peoples to Prior Consultation (No. 29785). However, it remains uncertain about which indigenous communities will be entitled to be consulted. While noting that Law No. 29785 requires prior consent before indigenous peoples are transferred from their lands and before storage or handling of dangerous materials occurs, the Committee is concerned that legislation in force does not provide for free, prior and informed consent of indigenous communities concerning all measures which substantially compromise or interfere with their culturally significant economic activities (art. 27).

The State party should ensure that the existing legal framework providing for informed prior consultations with indigenous communities for decisions relating to projects that affect their rights is implemented in a manner compliant with article 27 of the Covenant, including by ensuring that all affected indigenous communities are involved in the relevant consultation processes and that their views are duly taken into account. The State party should also ensure that free, prior and informed consent of indigenous communities is obtained before adopting measures which substantially compromise or interfere with their culturally significant economic activities.

(25) The State party should widely disseminate the Covenant, the Optional Protocol to the Covenant, the text of the fifth periodic report, the written replies it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations so as to increase awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public. The Committee also suggests that the report and the concluding observations be translated into all the official languages of the State party. The Committee also requests the State party, when preparing its sixth periodic report, to broadly consult with civil society and non-governmental organizations.

(26) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 11, 16 and 20 above.

(27) The Committee requests the State party, in its next periodic report, due to be submitted on 28 March 2018, to provide, specific, up-to-date information on all its recommendations and on the Covenant as a whole.

122. **Belize**

(1) In the absence of a report by the State party, the Human Rights Committee considered the situation of civil and political rights under the International Covenant on

Civil and Political Rights in Belize at its 2960th meeting (CCPR/C/SR. 2960), held in a public session on 15 March 2013. In accordance with rule 70, paragraph 1, of the Committee's rules of procedure, the failure of a State party to submit its report under article 40 of the Covenant may lead to an examination in a public session of the measures taken by the State party to give effect to the rights recognized in the Covenant and to adopt concluding observations.

(2) At its 2974th meeting (CCPR/C/SR.2974), held on 26 March 2013, the Human Rights Committee adopted the following concluding observations, pending submission of the State party's initial report and the Committee's examination of that report.

A. Introduction

(3) The Covenant came into force for Belize on 9 September 1996. The State party was under an obligation to submit its initial report by 9 October 1997 under article 40, paragraph 1 (a), of the Covenant. The Committee regrets that the State party has failed to honour its reporting obligations under article 40 of the Covenant and that, despite numerous reminders, the State party has not submitted the initial report. This amounts to a breach by the State party of its core obligation under article 40 of the Covenant.

(4) The Committee regrets that the State party did not send a delegation, which prevented it from engaging in a constructive dialogue with the authorities of the State party. The Committee is, however, grateful to the State party for sending replies to the Committee's list of issues, which provided some clarification on a number of issues, albeit scanty in their coverage of the issues raised by the Committee.

B. Positive aspects

(5) The Committee welcomes the ratification by the State party of the following treaties:

(a) The Convention on the Rights of Persons with Disabilities, on 2 June 2011;

(b) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, on 14 November 2001;

(c) International Convention on the Elimination of All Forms of Racial Discrimination, on 14 November 2001;

(d) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 1 December 2003;

(e) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 1 December 2003;

(f) The Optional Protocol to the Convention on the Elimination of Discrimination against Women, on 9 December 2002.

C. Principal subjects of concern and observations

(6) The Committee notes that the State party maintains a reservation to article 12, paragraph 2 on the ground that national interests justify the statutory provision requiring persons intending to travel abroad to furnish Tax Clearance Certificates (arts. 2 and 12).

The State party should consider withdrawing its reservation to article 12, paragraph 2.

(7) The Committee regrets that the State party continues to maintain a reservation to article 14, paragraph 3(d) of the Covenant because the State party cannot fully guarantee the implementation of the right to free legal assistance. The Committee is concerned that the lack of free legal assistance affects the delivery of justice particularly the juvenile justice system (arts. 2, 14 and 24).

The Committee recalls its general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, and reiterates that "article 14, paragraph 3 (d) guarantees the right to have legal assistance assigned to accused persons whenever the interests of justice so require". The Committee notes that a blanket reservation to article 14, paragraph 3(d) has the effect of depriving accused persons of the minimum guarantees set thereunder when the interests of justice may require that such persons be provided with legal assistance The State party should consider withdrawing its reservation. In the meantime, the State party should give urgent priority to providing legal representation to juveniles facing imprisonment in order to meet its obligations under article 24.

(8) The Committee regrets that although the State party claims that it accepts the principle of compensation for wrongful imprisonment contained in paragraph 6 of article 14 of the Covenant, it maintains a reservation to this article arguing that problems with the implementation of this right compel it not to apply this principle (art. 2).

The Committee recalls its general comment No. 32 (2007) and reiterates that "it is necessary that States parties enact legislation ensuring that compensation as required by this provision [article 14, paragraph 6] can in fact be paid and that the payment is made within a reasonable period of time". The State party should consider withdrawing its reservation to article 14, paragraph 6.

(9) While welcoming the appointment of an Ombudsperson in December 2012, the Committee is concerned at reports that the Office of the Ombudsperson lacks sufficient human and financial resources. The Committee is concerned that the State party has not yet established a national human rights institution (NHRI) in line with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) (art. 2).

The State party should provide the Office of the Ombudsman with sufficient financial and human resources. Furthermore, it should report on the measures that it has taken, since its review by the Human Rights Council under the universal periodic review mechanism, to establish a NHRI in accordance with the Paris Principles.

(10) While noting the State party's replies to the list of issues that the provisions of the Covenant can be invoked in the courts, the Committee regrets the lack of information on instances when provisions of the Covenant have been invoked or referred to in national courts. The Committee notes that the State party has not enacted enabling legislation to put into effect the provisions of the Covenant, and that there is no specific training for judges, lawyers and law enforcement personnel on the Covenant (art. 2).

The State party should provide in its initial report information on instances of when and how domestic courts have referred to provisions of the Covenant. It should also undertake specific programmes aimed at providing training and raising awareness of the Covenant among judges, lawyers and prosecutors to ensure that its provisions are taken into account, where appropriate, by national courts.

(11) The Committee regrets the lack of information regarding the extent to which the State party's legislation prohibits discrimination on the basis of language, religion, opinion, social origin, property, birth or other status as provided for in article 2 of the Covenant (arts. 2 and 26).

The State party should provide such information and, if necessary, bring its legislation in line with the scope of articles 2 and 26 of the Covenant.

(12) The Committee regrets the persisting wage gaps between women and men. The Committee also regrets the lack of information on whether temporary special measures to improve the participation of women in politics will be undertaken despite the

recommendations by the Political Reform Commission made in 2000 not to support temporary special measures such as quotas. The Committee also expresses concern about the lack of information on measures to promote women's representation in decision-making positions, particularly in the private and public sector (arts. 3 and 26).

The Committee urges the State party to adopt a comprehensive and integrated approach to its policies to ensure that gender mainstreaming is practised at all levels. In this regard, the State party should take concrete measures to close the wage gap between men and women. It should further improve the participation of women in public and political life as well as decision-making positions in all spheres of life through, inter alia, the introduction of temporary special measures.

(13) The Committee takes note that certain individuals in the State party have instituted proceedings challenging the constitutionality of section 53 of the Criminal Code, which prohibits same sex relations, and of section 5(1)(e) of the Immigrations Act, which includes homosexuals on the list of prohibited persons for purposes of immigration. The Committee further notes that as such these matters are sub-judice. However, it is concerned that the State party lacks any constitutional or statutory provision expressly prohibiting discrimination on grounds of sexual orientation or gender identity. The Committee is further concerned at reports of violence against lesbian, gay, bisexual, and transgender (LGBT) persons (arts. 2, 12 and 26).

The State party should review its Constitution and legislation to ensure that discrimination on grounds of sexual orientation and gender identity are prohibited. The Committee further urges the State party to include in its initial report information on the outcome of the case challenging the constitutionality of section 53 of the Criminal Code and section 5(1)(e) of the Immigration Act. The State party should also ensure that cases of violence against LGBT persons are thoroughly investigated and that the perpetrators are prosecuted, and if convicted, punished with appropriate sanctions, and that the victims are adequately compensated.

(14) The Committee notes the State party's explanation in its replies to the list of issues that since provisions on the right to life, the prohibition of torture and freedom of thought, conscience and religion are not listed in article 18(10) of the Constitution as derogable rights in a state of emergency, it follows that these rights are non-derogable in a state of emergency. However, the Committee is concerned at the lack of a clear provision in the Constitution and legislation to dispel any doubts that other rights made non-derogable under the Covenant, including rights protected under articles 8, paragraphs 1 and 2; 11; 15 and 16 of the Covenant, cannot be derogated from during a state of emergency (arts. 2 and 4). The Committee recalls its general comment No. 29 (2001) and notes with concern that section 18(10) of the Constitution of Belize only requires that a derogation is reasonably justifiable in the circumstances of emergency.

The Committee reiterates its general comment No. 29 (2001) and urges the State party to ensure clarity in its Constitution and legislation governing states of emergency so that all rights protected under article 4 of the Covenant are not derogated from during a state of emergency, and to ensure that the requirements of such derogations are consistent with the Covenant. In this regard the State party should ensure that legislation provides that measures derogating from the State party's obligations under the Covenant may be taken to the extent strictly required by the exigencies of the situation provided that such measures are not inconsistent with the State party's other obligations under international law and do not involve discrimination, solely on the ground of race, colour, sex, language, religion or social origin.

(15) While taking note of the efforts by the State party to combat violence against women including domestic violence such as the enactment of the Domestic Violence Act which

came into force in 2007, and the establishment of a Family Violence Unit, the Committee notes with concern the continuing reports of violence against women. The Committee also regrets the lack of information and statistical data on all types of violence against women and of the steps taken to assess the effectiveness of measures undertaken to combat violence against women including domestic violence (arts. 3 and 7).

The State party should adopt a comprehensive approach to preventing and addressing gender-based violence in all its forms and manifestations. In this regard, the State party should continue to improve its research and data collection methods and systems, such as the Gender-Based Violence Surveillance System, in order to establish the extent of the problem, its causes and consequences on women. The State party should ensure that cases of domestic violence and marital rape are thoroughly investigated and that the perpetrators are prosecuted, and if convicted, punished with appropriate sanctions, and the victims adequately compensated.

(16) The Committee is concerned at reports that the Eligibility Committee that was mandated to conduct refugee status determination (RSD) is non-operational and that the last RSD exercise was conducted in 1997. The Committee is concerned that as a result of the non-existence of an asylum screening system and the alleged reluctance by authorities of the State party to consider claims for protection, persons facing a real risk of treatment inconsistent with articles 6 and 7 of the Covenant are in danger of refoulement (arts. 6, 7 and 13).

The State party should re-establish a mechanism for refugee status determination. The State party should observe its obligation to respect the principle of non-refoulement.

(17) While welcoming the enactment of the Trafficking in Persons Prohibition Act of 2013, which repealed the Trafficking Persons Prohibition Act of 2009, with a view to introducing stiffer penalties for trafficking in persons and related offences, the Committee remains concerned at the prevalence of trafficking in persons and that the State party remains both a country of destination and transit. The Committee is also concerned at the lack of disaggregated data on the progress made to combat trafficking in persons, and the lack of information on training programmes for judicial officers and law enforcement personnel on trafficking in persons since the Covenant came in force for the State party (art. 8).

The State party should provide data on the magnitude of the problem of human trafficking in the State party which should be disaggregated by age, sex and ethnic origin, and should also focus on trafficking flows from, to and in transit through its territory. The State party should train its police officers, border personnel, judges, lawyers and other relevant personnel in order to raise awareness of this phenomenon and the rights of victims. Furthermore, the State party should ensure that all perpetrators of trafficking in persons are investigated, prosecuted, and if convicted, adequately sanctioned, and should guarantee that adequate protection, reparation and compensation are provided to the victims.

(18) While welcoming the enactment of the Education and Training Act of 2010, which prohibits corporal punishment in schools, the Committee remains concerned that corporal punishment remains lawful under the Criminal Code. The Committee regrets the State party's response in the replies to the list of issues, that there has never been an initiative to repeal the provision in the Criminal Code which permits corporal punishment (arts. 7 and 24).

The State party should take practical steps to put an end to corporal punishment in all settings. In this regard, the State party should repeal the provisions of the Criminal Code, which permit the use of corporal punishment. The State party should act

vigorously to prevent any use of corporal punishment under the Criminal Code as a form of punishment for criminal offences until it repeals the provisions in the Criminal Code.

(19) The Committee is concerned at reports that excessive use of force by law enforcement officers is widespread in the State party. The Committee notes the existence of the Professional Standards Branch which is mandated under section 24(i) of the Police Act to investigate complaints from aggrieved citizens who allege unlawful conduct and violations by law enforcement personnel. However, the Committee is concerned at reports that the Professional Standards Branch lacks adequate resources and that it refuses to investigate cases that come to its attention without an official complaint by the victim. The Committee is also concerned at reports that the Independent Complaints Commission is not functional. The Committee is further concerned at the lack of information on allegations of torture and/or ill-treatment in places of deprivation of liberty, particularly committed in juvenile facilities (arts. 2, 7 and 9).

The State party should take concrete steps to prevent the excessive use of force by law enforcement officers by ensuring that they comply with the 1990 United Nations' Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. It should also take appropriate measures to ensure that the Independent Complaints Commission is functional, and that the Professional Standards Branch is adequately resourced to ensure that they effectively carry out investigations of alleged misconduct by police officers. In this connection, the State party should ensure that law enforcement personnel continue to receive training on the prevention of torture and ill-treatment by integrating the 1990 Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) in all training programmes for law enforcement officials. The State party should also ensure that allegations of torture and ill-treatment are effectively investigated and that alleged perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that the victims are adequately compensated. The State party should also provide information on allegations of use of torture and/or ill-treatment in places of deprivation of liberty, including juvenile detention facilities.

(20) The Committee is concerned at reports of inordinate delays in the delivery of justice and the acknowledgment by the State party's judiciary that delays are attributable to lack of adequate resources provided to the judiciary (art. 14).

The State party should provide adequate resources to the judiciary to ensure that the delivery of justice is expedited. Furthermore, the State party should provide information in its initial report on the efficiency of the measures taken by the State party to deal with delays in the delivery of justice particularly those related to management of cases and ensuring efficiency in the Registries of the State party's courts.

(21) While noting that section 12(1) of the State party's Constitution protects freedom of expression, the Committee regrets the lack of information on the impact of the State party's libel laws on the freedom of expression (art. 19).

The State party should provide information in its initial report on the impact of its libel laws on freedom of expression.

(22) While taking note of the efforts by the State party to improve birth registration such as the establishment of points of registration at major hospitals, the Committee remains concerned at reports of shortcomings and cumbersome steps for birth registration such that most children in the State party remain without birth registration certificates. The

Committee is concerned at the lack of information on how the failure to register and obtain birth certificates affects claims for nationality and social benefits (art. 24).

The State party should strengthen its efforts to realize birth registration and the provision of birth certificates for all children, particularly in the rural areas, through appropriate interventions such as awareness-raising programmes on the need to register births and to simplify procedures for registration. The State party should provide information in its initial report on the impact of the lack of birth certificates on claims to nationality and access to social benefits.

(23) The Committee is concerned at the high dropout rates of pregnant teenage girls from school and the poor return rates after pregnancy. The Committee is concerned at the lack of data on the State party's efforts to improve this situation (art. 24).

The State party should enhance its efforts to raise awareness on the importance of women and girls' education. In this regard, the State party should adopt specific measures aimed at reducing the school dropout rates of teenage pregnant girls and at encouraging pregnant teenage girls to continue school after giving birth. The State party should also provide statistical data on this phenomenon in its initial report, particularly focusing on efforts undertaken to improve the situation at the primary and secondary levels of the education system.

(24) The Committee is concerned that persons found to be suffering from mental disabilities under any law in force in the State party are disqualified from voting and registering to vote (arts. 25 and 26).

The State party should revise its legislation to ensure that it does not discriminate against persons with mental intellectual or psychosocial disabilities by denying them the right to vote on bases that are disproportionate or that have no reasonable and objective relationship to their ability to vote, taking account of article 25 of the Covenant, and article 29 of the Convention on the Rights of Persons with Disabilities.

(25) The Committee is concerned at reports regarding the refusal by the State party to comply with court orders following the decision of the Inter- American Human Rights Commission of 12 October 2004 and the decisions of the Supreme Court of Belize of 18 October 2007 and 28 June 2010 restraining the State party from issuing concessions for resource exploitation and parcelling for private leasing of Mayan land. The Committee regrets reports that the State party continues to grant concessions to companies involved in logging, oil drilling, seismic surveys and road infrastructure projects in Mayan territories thereby affecting the rights of the Mayan peoples to practice their culture on their traditional lands (arts. 14 and 27).

The State party should provide information on allegations that it has not been complying with decisions of the Supreme Court with regard to Mayan land. The State party should desist from issuing new concessions for logging, parcelling for private leasing, oil drilling, seismic surveys and road infrastructure projects in Mayan territories without the free, prior, and informed consent of the relevant Mayan community.

(26) The Committee reminds the State party of the possibility of soliciting technical cooperation from the appropriate United Nations organs/agencies as well as the Office of the United Nations High Commissioner for Human Rights, to assist it in developing its capacity to meet its reporting obligations under the Covenant.

(27) The State party should widely disseminate the Covenant and the present concluding observations so as to increase awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as

well as the general public. The Committee also requests the State party, when preparing its initial report, to broadly consult with civil society and non-governmental organizations.

(28) The Committee requests the State party to submit its initial report by 28 March 2015.

V. Consideration of communications under the Optional Protocol

123. Individuals who claim that any of their rights under the International Covenant on Civil and Political Rights have been violated by a State party, and who have exhausted all available domestic remedies, may submit written communications to the Human Rights Committee for consideration under the Optional Protocol. No communication can be considered unless it concerns a State party to the Covenant that has recognized the competence of the Committee by becoming a party to the Optional Protocol. Of the 167 States that have ratified, acceded to or succeeded to the Covenant, 114 have accepted the Committee's competence to deal with individual complaints by becoming parties to the Optional Protocol (see annex I, sect. B).

124. Consideration of communications under the Optional Protocol is confidential and takes place in closed meetings (art. 5, para. 3, of the Optional Protocol). Under rule 102 of the Committee's rules of procedure, all working documents issued for the Committee are confidential unless the Committee decides otherwise. However, the author of a communication and the State party concerned may make public any submissions or information bearing on the proceedings, unless the Committee has requested the parties to respect confidentiality. The Committee's final decisions (Views, decisions declaring a communication inadmissible, decisions to discontinue the consideration of a communication) are made public; the names of the authors are disclosed, unless the Committee decides otherwise at the request of the authors.

125. An overview of the States parties' obligations under the Optional Protocol is contained in the Committee's general comment No. 33 (2008).[20]

A. Progress of work

126. The Committee started its work under the Optional Protocol at its second session, in 1977. Since then, 2,239 communications concerning 88 States parties have been registered for consideration by the Committee, including 95 registered during the period covered by the present report. At present, the status of the 2,239 communications registered is as follows:

(a) Consideration concluded by the adoption of Views under article 5, paragraph 4, of the Optional Protocol: 964, including 809 in which violations of the Covenant were found;

(b) Declared inadmissible: 608;

(c) Discontinued or withdrawn: 317;

(d) Not yet concluded: 329.

127. A high number of communications are received per year in respect of which complainants are advised that further information would be needed before their communications could be registered for consideration by the Committee, or that their cases cannot be dealt with by the Committee, for example because they fall clearly outside the

[20] *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 40*, vol. I (A/64/40 (Vol. I)), annex V.

scope of application of the Covenant or of the Optional Protocol. A record of this correspondence is kept by the secretariat of OHCHR.

128. At its105th, 106th and 107th sessions, the Committee adopted Views on 48 cases. These Views are reproduced in annex IX (Vol. II).

129. The Committee also concluded the consideration of 26 cases by declaring them inadmissible. These decisions are reproduced in annex X (Vol. II).

130. Under the Committee's rules of procedure, the Committee will normally decide on the admissibility and merits of a communication together. Only in exceptional circumstances will the Committee address admissibility separately. A State party which has received a request for information on admissibility and merits may, within two months, object to admissibility and apply for separate consideration of admissibility. Such a request will not, however, release the State party from the requirement to submit information on the merits within six months, unless the Committee, its Working Group on Communications or its designated special rapporteur decides to extend the time for submission of information on the merits until after the Committee has ruled on admissibility.

131. The Committee decided to discontinue the consideration of 18 communications for reasons such as withdrawal by the author, or because the author or counsel failed to respond to the Committee despite repeated reminders, or because the authors, who had expulsion orders pending against them, were allowed to stay in the countries concerned.

B. Committee's caseload under the Optional Protocol

132. The table below sets out the pattern of the Committee's work on communications over the last five years, to 31 December 2012.

Communications dealt with from 2008 to 2012

Year	*New cases registered*	*Cases concluded*[a]	*Pending cases at 31 December*
2012	102	99	355
2011	106	188	352
2010	96	94	434
2009	68	84	432
2008	112	87	448

[a] Total number of cases decided (by the adoption of Views, inadmissibility decisions and decisions to discontinue consideration).

133. By the date of adoption of the present report, some 174 communications were ready for the Committee's decision on admissibility and/or merits. The Committee is concerned that due to the Secretariat's limited resources, the Committee is not in a position to examine these communications in a more expeditious manner.

C. Approaches to considering communications under the Optional Protocol

1. Special Rapporteur on new communications

134. At its thirty-fifth session, in March 1989, the Committee decided to designate a special rapporteur authorized to process new communications and requests for interim measures as they were received, i.e. between sessions of the Committee. At the

Committee's 107th session, in March 2013, Mr. Walter Kälin was designated Special Rapporteur. In the period covered by the present report, 93 new communications were transmitted to States parties under rule 97 of the Committee's rules of procedure, requesting information or observations relevant to the questions of admissibility and merits. In 11 cases, the Special Rapporteur issued requests for interim measures pursuant to rule 92 of the Committee's rules of procedure.

2. Competence of the Working Group on Communications

135. At its thirty-sixth session, in July 1989, the Committee decided to authorize the Working Group on Communications to adopt decisions declaring communications admissible when all members of the Working Group so agreed. Failing such agreement, the Working Group refers the matter to the Committee. It also does so whenever it believes that the Committee itself should decide the question of admissibility. During the period under review, two communications were declared admissible by the Working Group on Communications. The Working Group can also adopt decisions declaring communications inadmissible if all members so agree. However, the decision will be transmitted to the Committee plenary, which may confirm it without formal discussion or examine it at the request of any Committee member.

3. Ways and means to expedite the examination of communications

136. At its 104th session, the Committee considered ways and means to deal with the current backlog of communications ready for a decision on admissibility and/or merits. The Committee expressed its willingness to establish two working groups in order to examine a higher number of communications per session. However, this could only be feasible if the Secretariat resources were increased. Reference is made in this regard to the request addressed to the General Assembly, contained in annex VI to the present report.

D. Individual opinions

137. In its work under the Optional Protocol, the Committee seeks to adopt decisions by consensus. However, pursuant to rule 104 of the Committee's rules of procedure, members can add their individual opinions (concurring or dissenting) to the Committee's Views. Under this rule, members can also append their individual opinions to the Committee's decisions declaring communications admissible or inadmissible.

138. During the period under review, individual opinions were appended to the Committee's Views concerning cases No. 1226/2003 (*Korneenko v. Belarus*), No. 1753/2008 (*Guezout et al. v. Algeria*), No. 1779/2008 (*Mezine v. Algeria*), No. 1785/2008 (*Olechkevitch v. Belarus*), No. 1786/2008 (*Kim et al. v. Republic of Korea*), No. 1787/2008 (*Kovsh v. Belarus*), No. 1791/2008 (*Boudjemai v. Algeria*), No. 1804/2008 (*Il Khwildy v. Libya*), No. 1805/2008 (*Benali v. Libya*), 1806/2008 (*Saadoun v. Algeria*), 1807/2008 (*Mechani v. Algeria*), 1857/2008 (*A.P. v. Russian Federation*), No. 1912/2009 (*Thuraisamy v. Canada*), No. 1945/2010 (*Achabal v. Spain*) and Nos. 1917/2009, 1918/2009, 1925/2009 and 1953/2010 (*Prutina et al. v. Bosnia and Herzegovina*).

E. Cooperation by the States parties in the examination of communications

139. In several cases decided during the period under review, the Committee noted that the State party had failed to cooperate in the procedure by not providing observations on the admissibility and merits of the authors' allegations. The States parties in question are Libya

(in three communications) and Belarus (in seven of the communications examined against this country). The Committee deplored that situation and recalled that it was implicit in the Optional Protocol that States parties should transmit to the Committee all information at their disposal. In the absence of a reply, due weight has to be given to the author's allegations, to the extent that they have been properly substantiated.

140. In case No. 1753/2008 (*Guezout v. Algeria*), the Committee noted that the State party had not replied to the authors' claims concerning the merits of the case. It emphasized that the burden of proof should not rest solely on the authors of a communication, especially given that the authors and the State party do not always have the same degree of access to evidence, and that often only the State party holds the necessary information. It is implicit in article 4, paragraph 2, of the Optional Protocol that the State party has the duty to investigate in good faith all allegations of violations of the Covenant made against it and its representatives and to provide the Committee with the information available to it. The Committee made a similar statement in case No. 1779/2008 (*Mezine v. Algeria*).

141. In case No. 1226/2003 (*Korneenko v. Belarus*), the Committee noted the State party's assertion that there were no legal grounds for the consideration of the author's communication, insofar as it had been registered in violation of the provisions of the Optional Protocol; that the State party had no obligations on the recognition of the Committee's rules of procedure and its interpretation of the Protocol's provisions, which could only be efficient when done in accordance with the Vienna Convention on the Law of Treaties; that references to the Committee's longstanding practice, methods of work, case law were not subject of the Optional Protocol; and that any communication registered in violation of the provisions of the Optional Protocol would be viewed by the State party as incompatible with the Protocol and rejected without comments on the admissibility or merits. Accordingly, decisions taken by the Committee on such communications would be considered by the State party's authorities as "invalid".

142. The Committee replied to these observations by recalling that article 39, paragraph 2, of the Covenant authorizes it to establish its own rules of procedure, which the States parties have agreed to recognize. The Committee further observed that, by adhering to the Optional Protocol, a State party to the Covenant recognizes the competence of the Human Rights Committee to receive and consider communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant (preamble and art. 1). Implicit in a State's adherence to the Protocol is an undertaking to cooperate with the Committee in good faith so as to permit and enable it to consider such communications, and after examination to forward its views to the State party and to the individual (art. 5, paras. 1 and 4). It is incompatible with these obligations for a State party to take any action that would prevent or frustrate the Committee in its consideration and examination of the communication, and in the expression of its Views. It is for the Committee to determine whether a communication should be registered. By failing to accept the competence of the Committee to determine whether a communication shall be registered and by declaring beforehand that it would not accept the determination of the Committee on the admissibility and on the merits of the communications, the State party violates its obligations under article 1 of the Optional Protocol to the Covenant.

143. Similar observations from the State and response from the Committee were made with respect to cases Nos. 1867/2009, 1936, 1975, 1977–1981 and 2010/2010 (*Levinov v. Belarus*) and No. 2120/2011 (*Kovaleva et al. v. Belarus*).

F. Issues considered by the Committee

144. A review of the Committee's work under the Optional Protocol from its second session in 1977 to its 104th session in March 2012 can be found in the Committee's annual

reports for 1984 to 2012, which contain summaries of the procedural and substantive issues considered by the Committee and of the decisions taken. The full texts of the Views adopted by the Committee and of its decisions declaring communications inadmissible under the Optional Protocol are reproduced in annexes to the Committee's annual reports to the General Assembly. The texts of the Views and decisions are also available in the treaty body database on the OHCHR website (www.ohchr.org).

145. Nine volumes of *Selected Decisions of the Human Rights Committee under the Optional Protocol*, from the second to the sixteenth sessions (1977–1982), from the seventeenth to the thirty-second sessions (1982–1988), from the thirty-third to the thirty-ninth sessions (1988–1990), from the fortieth to the forty-sixth sessions (1990–1992), from the forty-seventh to the fifty-fifth sessions (1993–1995), from the fifty-sixth to the sixty-fifth sessions (March 1996 to April 1999), from the sixty-sixth to the seventy-fourth sessions (July 1999 to March 2002), from the seventy-fifth to the eighty-fourth sessions (July 2002 to July 2005) and from the eighty-fifth to the ninety-first sessions (October 2005 to October 2007) have been published. Some volumes are available in English, French, Russian and Spanish, while others are currently available in only one or two languages, which is most regrettable. As domestic courts increasingly apply the standards contained in the International Covenant on Civil and Political Rights, it is imperative that the Committee's decisions can be consulted worldwide in a properly compiled and indexed volume, available in all the official languages of the United Nations.

146. The following summary reflects developments concerning issues considered during the period covered by the present report.

1. Procedural issues

(a) Inadmissibility for lack of standing (Optional Protocol, art. 1)

147. In case No. 2120/2011 *(Kovaleva et al. v. Belarus*), the State party argued that the communication was inadmissible since it was submitted to the Committee by third parties and not by the alleged victim himself. The Committee recalled that rule 96 (b) of its rules of procedure provides that a communication should normally be submitted by the individual personally or by that individual's representative, but that a communication submitted on behalf of an alleged victim may, however, be accepted when it appears that the individual in question is unable to submit the communication personally. In the present case, the alleged victim was being detained on death row at the time of submission of the communication. Although he prepared and signed a power of attorney authorizing his mother to act on his behalf, the administration of the SIZO failed to authenticate it, despite several complaints being lodged with relevant domestic authorities. In the circumstances, the failure to provide a power of attorney could not be attributable to the alleged victim or to his relatives. Where it is impossible for the victim to authorize the submission of the communication, the Committee has considered a close personal relationship to the alleged victim, such as family ties, as a sufficient link to justify an author acting on behalf of the alleged victim. In the present case, the communication was submitted on behalf of the alleged victim by his mother and his sister, who presented a duly signed power of attorney for the counsel to represent them before the Committee. The Committee therefore considered that the authors were justified by reason of close family connection in acting on behalf of Mr. Kovalev. Accordingly, the Committee was not precluded by article 1 of the Optional Protocol from examining the communication.

(b) Inadmissibility "ratione temporis" (Optional Protocol, art. 1)

148. In case No. 2027/2011 (*Kusherbaev v. Kazakhstan*), a journalist found guilty of defamation and ordered to pay an important defamation award, complained of violations of

article 14, paragraph 1 and article 19 of the Covenant. The Committee observed that the publication of the author's article, the institution of a civil action against him for defamation, as well as the court's judgment ordering him to pay damages to the aggrieved party were completed prior to the entry into force of the Optional Protocol for the State party. The Committee considered that the mere fact that the author continued to pay off the defamation award after the entry into force of the Optional Protocol for the State party, and continued to suffer financially after that date, neither constituted an affirmation of a prior violation nor did it amount per se to continuing effects which themselves constituted a violation of any of the author's rights under the Covenant. The Committee therefore considered that the original judgment had no continuing effects that in themselves constituted a violation of the author's rights under the Covenant and declared the communication inadmissible *ratione temporis* under article 1 of the Optional Protocol.

(c) Claims not substantiated (Optional Protocol, art. 2)

149. In case No. 1827/2008 (*S.V. v. Canada*), the author, a Romanian and Moldovan national, claimed that his removal from Canada to Romania would expose him and his family to re-deportation to Republic of Moldova, where he was previously persecuted and tortured because of his anti-communist and human rights activities. The author argued in this respect that article 24 of Romania Law No. 302/2004 on international judicial cooperation in criminal matters allowed Romania to deport persons with dual nationality, to a country of their permanent residence if there is an extradition request from that country. The Committee noted the observations of Canada that the material submitted by the author did not support the conclusion that the necessary and foreseeable consequence of the deportation to Romania would be that the author and his family would then be deported from Romania to the Republic of Moldova where they would be persecuted. The Committee observed that the author had not provided any indication that he was wanted or might be wanted on any criminal charges in the Republic of Moldova. The Committee therefore concluded that the author had not substantiated his claim regarding the risk of removal from Romania to Moldova and declared the communication inadmissible for lack of substantiation.

150. In case No. 1834/2008 (*A.P. v. Ukraine*), the author claimed that the court based his conviction on his confession obtained under torture. However, the Committee noted that the court did not establish the author's guilt solely on the basis of his own testimony, but also based on the confrontation with the co-accused, statements made by the latter, witness testimonies, the crime scene reconstruction report, conclusions of forensic expert examinations and other evidence. Thus, the Committee considered the author's claim to be insufficiently substantiated and inadmissible under article 2.

151. In case No. 1857/2008 (*A.P. v. Russian Federation*), the Committee noted the author's claims under article 25, paragraphs (a) and (b), of the Covenant to the effect that he could not take part in the conduct of public affairs or to be elected at genuine periodic elections, because the State party's federal electoral system, at the time, did not allow him to stand as an independent candidate in the Duma elections other than by passing through a list of a political party registered for the elections in question. The author claimed that he did not want his name to be associated with any of the existing parties, as he did not subscribe to any of their ideologies, without, however, providing further details thereon. The State party explained that for independent candidates, it was possible to be listed for the federal elections through one of the lists of parties registered for such elections; and that if one of the registered parties refused to place an independent candidate on its list, the individual concerned could have complained about this in court. However, the author could not apply to court, as he had not made any attempt whatsoever to try to have his name placed as an independent candidate through the existing parties' lists. The Committee examined these arguments and considered that the information before it did not permit it to

verify whether the restrictions imposed on the author, as an independent candidate, in federal parliamentary elections through the requirements of the electoral system in place at the time, were in compliance with the provisions contained in article 25 of the Covenant. It recalled that authors must provide sufficiently detailed information to allow the Committee to make a well-founded decision on the merits of their claim. Accordingly, the Committee considered the communication inadmissible under article 2, of the Optional Protocol.

152. In case No. 1891/2009 (*J.A.B.G. v. Spain*), the author claimed that he was denied the right to appeal and to have his conviction and sentence reviewed by a higher tribunal, since he had access only to the remedy of cassation before the Supreme Court, which in practice implied a denial of the right to appeal against the National High Court's conviction. The Committee observed that the Supreme Court examined very closely the grounds for cassation argued by the author, and did not limit itself to the formal aspects of the first instance judgement. The Supreme Court increased the sentence because of a miscalculation by the High Court and it did not change the essential characterization of the offence but merely reflected the Supreme Court's assessment that the seriousness of the circumstances of the offence merited a higher penalty. Thus, the Committee considered that the claims under article 14, paragraph 5, of the Covenant had been insufficiently substantiated for the purposes of admissibility and concluded that they were inadmissible under article 2 of the Optional Protocol. The Committee reached a similar conclusion in case No. 1892/2009 (*J.J.U.B. v. Spain*).

153. Claims declared inadmissible for lack of substantiation were included in cases No. 1303/2004 (*Chiti v. Zambia*), No. 1500/2006 (*M.N. et al. v. Tajikistan*), No. 1787/2008 (*Kovsh v. Belarus*), No. 1788/2008 (*B.W.M.Z. v. the Netherlands*), Nos. 1835&1837/2008 (*Yasinovich and Shevchenko v. Belarus*), No. 1861/2009 (*Bakurov v. Russian Federation*), No. 1886/2009 (*X. v. The Netherlands*), No. 1904/2009 (*D.T.T. v. Colombia*), No. 1911/2009 (*T.J. v. Lithuania*), No. 1912/2009 (*Thuraisamy v. Canada*), Nos. 1867/2009, 1936, 1975, 1977–1981 and 2010/2010 (*Levinov v. Belarus*), No. 1940/2010 (*Cedeño v. Bolivarian Republic of Venezuela*), No. 1957/2010 (*Lin v. Australia*), No. 2073/2011 (*Naidenova et al. v. Bulgaria*), No. 2120/2011 (*Kovaleva et al. v. Belarus*) and No. 2169/2012 (*S.K. v. Belarus*).

(d) Competence of the Committee with respect to the evaluation of facts and evidence (Optional Protocol, art. 2)

154. A specific form of lack of substantiation is represented by cases where the author invites the Committee to re-evaluate issues of fact and evidence addressed by domestic courts. The Committee has repeatedly recalled its jurisprudence that it is not for it to substitute its views for the judgement of the domestic courts on the evaluation of facts and evidence in a case, unless the evaluation is manifestly arbitrary or amounts to a denial of justice. If a jury or court reaches a reasonable conclusion on a particular matter of fact in the light of the evidence available, the decision cannot be held to be manifestly arbitrary or to amount to a denial of justice. Claims involving the re-evaluation of facts and evidence have thus been declared inadmissible under article 2 of the Optional Protocol. This was true for cases No. 1628/2007 (*Pavlyuchenkov v. Russian Federation*), No. 1821/2008 (*Weiss v. Austria*), No. 1834/2008 (*A.P. v. Ukraine*), No. 1904/2009 (*D.T.T. v. Colombia*) and No. 1943/2010 (*H.P.N. v. Spain*).

(e) Inadmissibility for abuse of the right to submit a communication (Optional Protocol, art. 3)

155. Under article 3 of the Optional Protocol, the Committee can declare inadmissible any communication which it considers to be an abuse of the right to submit communications. During the period under consideration, the question of abuse was raised in connection with a number of cases where several years had elapsed between the exhaustion

of domestic remedies and the submission of the communication to the Committee. The Committee recalled that the Optional Protocol establishes no time limit for the submission of communications and that the passage of time, other than in exceptional cases, does not in itself constitute an abuse of the right to submit a communication.

156. At its 100th session, the Committee decided to amend rule 96 of its rules of procedure, which describes the admissibility criteria, in order to define the situations where the delay could constitute an abuse of the right to submit a communication. Rule 96 (c), which simply indicated that the Committee should ascertain "that the communication does not constitute an abuse of the right of submission", was completed as follows:

> An abuse of the right of submission is not, in principle, a basis of a decision of inadmissibility ratione temporis on grounds of delay in submission. However, a communication may constitute an abuse of the right of submission, when it is submitted after 5 years from the exhaustion of domestic remedies by the author of the communication, or, where applicable, after 3 years from the conclusion of another procedure of international investigation or settlement, unless there are reasons justifying the delay taking into account all the circumstances of the communication (CCPR/C/3/Rev.10).

157. This rule, in its amended form, applies to communications received by the Committee after 1 January 2012.

158. In case No. 1844/2008 (*B.K. v. Czech Republic*), the Committee considered that the author had not provided any reasonable justification for the delay in submitting her communication, almost nine years after the date of the relevant decision by a national court. Accordingly, the Committee declared the communication inadmissible under article 3 of the Optional Protocol. A similar conclusion was reached in cases No. 1848/2008 (*D.V. and H.V. v. Czech Republic*) and No. 1849/2008 (*M.B. v. Czech Republic*), where the respective authors had approached the Committee almost 11 years after the Act they contested had stopped operating.

(f) Inadmissibility because the same matter has been or is being examined under another procedure of international investigation or settlement (Optional Protocol, art. 5, para. 2 (a))

159. In case No. 1526/2006 (*V.A. v. Russian Federation*), submitted on 3 March 2006, the Committee noted that the author submitted a similar complaint to the European Court of Human Rights which was declared inadmissible on 20 February 2004. The Committee also noted that, upon accession to the Optional Protocol, the State party made a declaration which, however, does not preclude the Committee from considering communications where the same matter has been the subject of another international procedure. Accordingly, the Committee considered that it was not precluded by article 5, paragraph 2 (a), of the Optional Protocol from examining the communication.

160. In cases No. 1806/2008 (*Saadoun v. Algeria*) and No. 1807/2008 (*Mechani v. Algeria*), the Committee noted that the disappearance of the respective victims was reported to the Working Group on Enforced or Involuntary Disappearances in 2003. However, it recalled that extra-conventional procedures or mechanisms established by the Commission on Human Rights or the Human Rights Council, and whose mandates are to examine and report publicly on human rights situations in specific countries or territories, or cases of widespread human rights violations worldwide, do not generally constitute an international procedure of investigation or settlement within the meaning of article 5, paragraph 2 (a), of the Optional Protocol.

161. In case No. 1940/2010 (*Cedeño v. Bolivarian Republic of Venezuela*), the Committee noted that in its Opinion No. 10/2009, adopted in 2009, the Working Group on

Arbitrary Detention had found the detention of the author to be arbitrary. The Committee recalled its jurisprudence to the effect that article 5, paragraph 2 (a), of the Optional Protocol applied only when the same matter that is before the Committee is being examined under another procedure of international investigation or settlement. As the Working Group on Arbitrary Detention had already concluded its consideration of the case before the present communication was submitted to the Committee, the Committee did not address the issue of whether consideration of a case by the Working Group is "another procedure of international investigation or settlement" under article 5, paragraph 2 (a), of the Optional Protocol. Consequently, the Committee considered that there were no obstacles to the admissibility of the communication under article 5, paragraph 2 (b), of the Optional Protocol.

162. In case No. 1945/2010 (*Achabal v. Spain*), the Committee observed that the author presented an application on the same facts before the European Court of Human Rights. As a result, she was informed by the Court that a committee of three judges had decided to declare the case inadmissible, since it did not observe any apparent violation of the rights and freedoms guaranteed by the Convention or its Protocols. The Committee recalled that, in ratifying the Optional Protocol, Spain introduced a reservation excluding the competence of the Committee in relation to cases that had been or were being examined under another procedure of international investigation or settlement. The Committee recalled its case law relating to article 5, paragraph 2 (a), of the Optional Protocol to the effect that, when the European Court bases a declaration of inadmissibility not solely on procedural grounds but also on reasons that include a certain consideration of the merits of the case, then the same matter should be deemed to have been "examined" within the meaning of some State parties' reservations to article 5, paragraph 2 (a) of the Optional Protocol. Furthermore, it must be considered that the European Court went well beyond the examination of the purely formal criteria of admissibility when it declared a case inadmissible because "it does not reveal any violation of the rights and freedoms established in the Convention or its Protocols". However, in the particular circumstances of this case, the limited reasoning contained in the succinct terms of the letter sent to the author by the Court, did not allow the Committee to assume that the examination included sufficient consideration of the merits, taking into consideration the information provided to the Committee by both the author and the State party. Consequently, the Committee considered that there was no obstacle to its examining the communication under article 5, paragraph 2 (a), of the Optional Protocol.

(g) The requirement of exhaustion of domestic remedies (Optional Protocol, art. 5, para. 2 (b))

163. Pursuant to article 5, paragraph 2 (b), of the Optional Protocol, the Committee shall not consider any communication unless it has ascertained that the author has exhausted all available domestic remedies. However, it is the Committee's constant jurisprudence that the rule of exhaustion applies only to the extent that those remedies are effective and available. The State party is required to give details of the remedies which it submitted had been made available to the author in the circumstances of his or her case, together with evidence that there would be a reasonable prospect that such remedies would be effective. Furthermore, the Committee has held that authors must exercise due diligence in the pursuit of available remedies. Mere doubts or assumptions about their effectiveness do not absolve the authors from exhausting them.

164. In case No. 1303/2004 (*Chiti v. Zambia*), concerning inter alia allegations of torture, the Committee noted that the case had been pending before the domestic courts for almost 16 years and that the State party had limited itself to propose to the author a sum of money in the context of a friendly settlement. Moreover, with regard to the claims other than those related to torture, the State party had not provided information to the Committee on the judicial remedies de facto available to the author. Thus, the Committee considered that the

application of the remedies had been unreasonably prolonged within the meaning of article 5, paragraph 2 (b), of the Optional Protocol.

165. In case No. 1526/2006 (*V.A. v. Russian Federation*), the Committee took note of the State party's argument on the author's failure to file within the statutory deadlines a cassation appeal against the decision of the Regional Court with regard to the refusal of the administrative authorities to grant his son Russian citizenship. Since the author did not advanced reasons for his failure the Committee concluded that domestic remedies had not been exhausted.

166. In case No. 1779/2008 (*Mezine v. Algeria*), the Committee recalled that the State party has a duty not only to carry out thorough investigations of alleged violations of human rights brought to the attention of its authorities, particularly enforced disappearances or violations of the right to life, but also to prosecute, try and punish anyone held to be responsible for such violations. Although the victim's family repeatedly contacted the competent authorities concerning his disappearance, the State party failed to conduct a thorough and effective investigation, despite the fact that serious allegations of enforced disappearance were involved. The State party also failed to provide sufficient evidence that an effective remedy is de facto available, since Ordinance No. 06-01 of 27 February 2006 continues to be applicable despite the Committee's recommendations that it should be brought into line with the Covenant. Reiterating its previous jurisprudence, the Committee considered that to sue for damages for offences as serious as those alleged in the case cannot be considered a substitute for the charges that should be brought by the public prosecutor. Moreover, given the vague wording of articles 45 and 46 of the Ordinance and, in the absence of satisfactory information from the State party about their interpretation and actual enforcement, the author's fears regarding the possible consequences of filing a complaint were reasonable. The Committee thus concluded that article 5, paragraph 2 (b), of the Optional Protocol was not an obstacle to the admissibility of the communication. The Committee reached a similar conclusion in cases No. 1753/2008 (*Guezout v. Algeria*), No. 1791/2008 (*Boudjemai v. Algeria*), No. 1806/2008 (*Saadoun v. Algeria*) and No. 1807/2008 (*Mechani v. Algeria*).

167. In communications Nos. 1822–1826/2008 (*J.B.R. et al v. Colombia*), the Committee recalled that in addition to ordinary judicial and administrative appeals, the authors should also avail themselves of all other judicial remedies in so far as such remedies appeared to be effective in the given case and de facto available to the authors. In the absence of an explanation from the authors to demonstrate that, in their case, injunction (*tutela*) or *amparo* proceedings was not available or effective the Committee concluded that there had been no exhaustion of domestic remedies.

168. In case No. 1834/2008 (*A.P. v. Ukraine*), the Committee noted the author's claim that he was not allowed to retain a lawyer of his choice, that the lawyer did not provide him with adequate legal assistance and acted contrary to his interests by assisting the prosecution in the fabrication of evidence against him and that he was not allowed to familiarize himself with the case file, but signed a report that he had actually done so under threat of torture. Based on the materials before it, the Committee observed that the author did not appear to have raised any of these claims at any point during domestic proceedings. Therefore, the Committee declared the claims inadmissible for failure to exhaust domestic remedies.

169. In case No. 1840/2008 (*X.J. v. the Netherlands*), concerning an unaccompanied minor claiming asylum, the Committee noted that the author had invoked her rights in her appeal after having been denied a residence permit as an unaccompanied minor alien. However, she did not invoke these rights through the application for a regular residence permit on grounds of exceptional personal circumstances. The author had a legal representative assigned by a Dutch guardian institute and a lawyer who represented her in

the proceedings under Aliens Law. Therefore, she was in a position to be sufficiently advised on the remedies she was expected to exhaust to claim her rights under the Covenant, which included the application for a residence permit on grounds of exceptional personal circumstances. For this reason, the Committee considered that the communication was inadmissible for non-exhaustion of domestic remedies.

170. In case No. 1226/2003 (*Korneenko v. Belarus*), the Committee recalled its jurisprudence according to which the supervisory review procedure against court decisions which have entered into force constitutes an extraordinary means of appeal which is dependent on the discretionary power of a judge or prosecutor and is limited to issues of law only. In the circumstances, the Committee considered, despite the State party's argument that the author had not applied for a supervisory review, that it was not precluded by article 5, paragraph 2 (b), of the Optional Protocol, from examining the communication. A similar conclusion was reached in case No. 1784/2008 (*Schumilin v. Belarus*), No. 1785/2008 (*Olechkevitch v. Belarus*), No. 1790/2008 (*Govsha et al. v. Belarus*), No. 1830/2008 (*Pivonos v. Belarus*), No. 1836/2008 (*Katsora v. Belarus*) and No. 1932/2010 (*Fedotova v. Russian Federation*).

171. The Committee applied the same jurisprudence in cases Nos. 1835&1837/2008 (*Yasinovich and Shevchenko v. Belarus*), where it further noted that the authors had appealed to the Chairperson of the Supreme Court with the request to initiate a supervisory review of the decisions of the Novopolotsk City Court and the rulings of the Vitebsk Regional Court, and that these appeals were rejected. Thus, the Committee considered that it was not precluded by article 5, paragraph 2 (b), of the Optional Protocol, from examining the communications.

172. In case No. 2120/2011 (*Kovaleva et al. v. Belarus*), the Committee held that supervisory review was a discretionary review process and presidential pardon an extraordinary remedy. As such, none of them constituted an effective remedy for the purposes of article 5, paragraph 2 (b).

173. In case No. 1921/2009 (*K.S. v. Australia*), where the author claimed that he did not seek leave to appeal because of financial considerations, the Committee recalled its jurisprudence that financial considerations do not, in general, absolve an author from exhausting domestic remedies. The case was thus declared inadmissible under article 5, paragraph 2 (b) of the Optional Protocol.

174. Some other communications or specific claims were declared inadmissible for failure to exhaust domestic remedies, including in cases No. 1628/2007 (*Pavlyuchenkov v. Russian Federation*), 1744/2007 (*Narrain et al. v. Mauritius*), 1788/2008 (*B.W.M.Z. v. the Netherlands*), 1852/2008 (*Singh v. France*), No. 1861/2009 (*Bakurov v. Russian Federation*), No. 1911/2009 (*T.J. v. Lithuania*), 1938/2010 (*Q.H.L. v. Australia*), 1943/2010 (*H.P.N. v. Spain*) and 1962/2010 (*S.N.A. v. Cameroon*).

(h) Interim measures under rule 92 of the Committee's rules of procedure

175. Under rule 92 of its rules of procedure, the Committee may, after receipt of a communication and before adopting its Views, request a State party to take interim measures in order to avoid irreparable damage to the victim of the alleged violations. The Committee continues to apply this rule on appropriate occasions, mostly in cases submitted by or on behalf of persons who have been sentenced to death and are awaiting execution and who claim that they were denied a fair trial. In view of the urgency of such communications, the Committee has requested the States parties concerned not to carry out the death sentences while the cases are under consideration. Stays of execution have specifically been granted in this connection. Rule 92 has also been applied in other circumstances, for instance in cases of imminent deportation or extradition which may

involve or expose the author to a real risk of violation of rights protected under the Covenant.

176. In connection with the communications decided during the period under review, requests for the adoption of interim measures were made in cases No. 1791/2008 (*Boudjemai v. Algeria*), No. 1805/2008 (*Benali v. Libya*), No. 1912/2009 (*Thuraisamy v. Canada*), No. 1957/2010 (*Lin v. Australia*), No. 2120/2011 (*Kovaleva et al. v. Belarus*) and No. 2073/2011 (*Naidenova et al. v. Bulgaria*).

177. When transmitting to the State party communication No. 2120/2011 (*Kovaleva et al. v. Belarus*), the alleged victim, Mr. Kovalev was on death row. On 15 December 2011, the Committee transmitted to the State party a request not to carry out the execution while the case was under consideration. This request for interim measures was reiterated several times. On 19 March 2012, the authors notified the Committee that Mr. Kovalev's execution had been carried out and later provided a copy of the death certificate which indicated 15 March 2012 as the date of his death, but not the cause of his death. The Committee noted that it was uncontested that the execution in question took place despite the fact that a request for interim measures of protection had been duly addressed to the State party and reiterated several times.

178. Apart from any violation of the Covenant found against a State party in a communication, a State party commits grave breaches of its obligations under the Optional Protocol if it acts to prevent or to frustrate consideration by the Committee of a communication alleging a violation of the Covenant, or to render examination by the Committee moot and the expression of its Views nugatory and futile. In the present case, having been notified of the communication and the Committee's request for interim measures, the State party breached its obligations under the Protocol by executing the alleged victim before the Committee concluded its consideration of the communication. Interim measures under rule 92 of its rules of procedure, adopted in conformity with article 39 of the Covenant, are essential to the Committee's role under the Protocol. Flouting of the rule, especially by irreversible measures such as, as in the present case, undermines the protection of Covenant rights through the Optional Protocol.

2. Substantive issues

(a) The right to an effective remedy (Covenant, art. 2, para. 3)

179. In case No. 1548/2007 (*Kholodova v. Russian Federation*), the author alleged that the State party's authorities failed to conduct an effective and timely investigation into the exact circumstances of her son's death and to have those responsible prosecuted and tried. Her son was a journalist who was killed in the explosion of a briefcase in the premises of the newspaper where he worked. The Committee held that in a democratic State where the rule of law must prevail, military criminal jurisdictions should have a restrictive and exceptional scope. In this connection, the Committee referred to principle 9 of the draft Principles governing the administration of justice through military tribunals, which states: "in all circumstances, the jurisdiction of military courts should be set aside in favour of the jurisdiction of the ordinary courts to conduct inquiries into serious human rights violations such as extrajudicial executions, enforced disappearances and torture, and to prosecute and try persons accused of such crimes." In the present case, while five of the six accused tried by the Moscow Regional Military Court were indeed military personnel, they were manifestly and uncontestedly not engaged in official duties. The State party did not attempt to give an explanation, beyond citation of its own law, as to why military justice was the appropriate jurisdiction to try military personnel accused of this grave crime. Consequently, the author's right to reparation for herself as well as in the name of her son, was seriously compromised. Accordingly, the Committee concluded that the author's rights under article

2, paragraph 3 (a), in conjunction with article 6, paragraph 1, of the Covenant had been violated.

180. In cases (joint) Nos. 1917/2009, 1918/2009, 1925/2009 and 1953/2010 (*Prutina et al. v. Bosnia and Herzegovina*), the authors claimed that their relatives had been victims of enforced disappearance since their illegal arrest on 16 June 1992 and that, despite their numerous efforts, no prompt, impartial, thorough and independent investigation has been carried out to clarify their fate and whereabouts and to bring the perpetrators to justice. In this respect, the Committee recalled its general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, according to which the failure by a State party to investigate allegations of violations and bring to justice perpetrators of certain violations (notably, torture and similar cruel, inhuman and degrading treatment, summary and arbitrary killings and enforced disappearances) could in and of itself give rise to a separate breach of the Covenant. The Committee held that the obligation to investigate allegations of enforced disappearances and to bring the culprits to justice is not an obligation of result, but of means, and that it must be interpreted in a way which does not impose an impossible or disproportionate burden on the authorities. Therefore, while acknowledging the gravity of the disappearances and the suffering of the authors because the fate or whereabouts of their missing relatives had not yet been clarified and the culprits had not yet been brought to justice, this in itself was not sufficient to find a breach of article 2 paragraph 3 of the Covenant in the particular circumstances of this communication. That being said, the authors also claimed that they had learned about certain important steps taken by the authorities in their case, such as the fact that target identification of mortal remains were carried out in locations belonging to Vogosca and neighbouring municipalities, only during the proceedings before the Committee. In this respect the Committee considered that information on the investigation of enforced disappearances must be promptly accessible to the families. Furthermore, the Committee noted that the social allowance provided to the authors depended upon their acceptance to recognize their missing relatives as dead. In that regard, the Committee considered that for a State which is investigating disappearances conducted on its territory, to oblige families of disappeared persons to have the family member declared dead in order to be eligible for compensation, while the investigation is continuing, is in breach of article 2, paragraph 3, read in conjunction with articles 6, 7 and 9, in that it makes the availability of compensation dependent on the family's willingness to have the family member declared dead. On all those grounds, the Committee found a breach of article 2, paragraph 3, of the Covenant, read in conjunction with articles 6, 7 and 9, with regard to the authors and their disappeared relatives.

181. Violations of article 2, paragraph 3, in conjunction with other provisions of the Covenant were also found in cases of enforced disappearances No. 1753/2008 (*Guezout v. Algeria*), No. 1779/2008 (*Mezine v. Algeria*), No. 1791/2008 (*Boudjemai v. Algeria*), No. 1804/2008 (*Il Khwildy v. Libya*), 1805/2008 (*Benali v. Libya*), No. 1806/2008 (*Saadoun v. Algeria*), No. 1807/2008 (*Mechani v. Algeria*) and No. 1913/2009 (*Abushaala v. Libya*).

(b) Right to life (Covenant, art. 6)

182. In case No. 1303/2004 (*Chiti v. Zambia*), the author claimed that her husband was tortured at the Lusaka police headquarters for nine days, following his arrest on 28 October 1997; that as a consequence of the torture inflicted, he was transferred to a military hospital where he was diagnosed with an eardrum perforation; that while imprisoned, her husband was diagnosed with prostate cancer but could not afford the prescribed drugs; that the prison in which he was serving his sentence failed to provide him with these drugs, nor was he provided with the high-protein diet recommended for the purposes of slowing down the spread of cancer; that despite being HIV-positive he was detained in inhuman conditions, denied adequate food and a clean environment, which led to his premature death. The

Committee noted that, in the light of his cancer and his HIV-positive condition, the denial of the necessary drugs and the torture and inhuman conditions of detention to which he was subjected, this claim seems plausible. It also noted that the State party limited itself to denying the causal link established by the author between the conditions of detention of her husband and his death, without providing further explanation. In the absence of rebuttal from the State party, the Committee concluded that the State party had failed to protect the life of Mr. Chiti, in violation of article 6 of the Covenant.

183. In case No. 1753/2008 (*Guezout v. Algeria*), the Committee noted that, according to the authors, the victim was arrested on 6 May 1996 and was last seen by his wife and her sister at the Police Training Centre in Châteauneuf 35 days after his arrest, and that the prosecutor at the court in Boudouaou had acknowledged that the victim had been arrested by members of the security services and taken to the Algiers police station. Despite repeated requests from the family, the Algerian authorities never provided information on the victim's fate. The State party acknowledged its involvement in the victim's arrest but had been unable to explain what has happened to him since then. The Committee recalled that, in cases of enforced disappearance, the deprivation of liberty, followed by a refusal to acknowledge that fact or by concealment of the fate or whereabouts of the disappeared persons, removes such persons from the protection of the law and places their lives at serious and constant risk, for which the State is accountable. In the case at hand, the Committee noted that the State party had produced no evidence to indicate that it had fulfilled its obligation to protect the victim's life. The Committee therefore concluded that the State party has failed in its duty to protect the victim's life, in violation of article 6, paragraph 1, of the Covenant. A similar conclusion was reached in cases No. 1791/2008 (*Boudjemai v. Algeria*) and No.1779/2008 (*Mezine v. Algeria*).

184. In case No. 1804/2008 (*Il Khwildy v. Libya*), the Committee noted that on two occasions the author's brother was held by the State party's authorities for prolonged periods of time, at a location unknown to his family and without the possibility of communicating with the outside world. The Committee recalled that in cases of enforced disappearance the deprivation of liberty, followed by a refusal to acknowledge that fact or by concealment of the fate or whereabouts of the disappeared persons, places such persons outside the protection of the law and puts their lives in substantial and ongoing danger for which the State is accountable. In the present case, the State party had produced no evidence to indicate that it fulfilled its obligation to protect the victim's life. Indeed, the Committee, through previous cases, was also aware that other persons held in circumstances such as those endured by the victim had been found to have been killed or failed to reappear alive. The Committee therefore concluded that the State party failed in its duty to protect the victim's life, in violation of article 6, paragraph 1, of the Covenant. The Committee reached a similar conclusion in cases No. 1805/2008 (*Benali v. Libya*) and No. 1913/2009 (*Abushaala v. Libya*).

185. In case No. 2120/2011 (*Kovaleva et al. v. Belarus*), the Committee reiterated its jurisprudence that the imposition of a sentence of death upon conclusion of a trial in which the provisions of article 14 of the Covenant have not been respected, constitutes a violation of article 6 of the Covenant. In the light of the Committee's findings of a violation of article 14, paragraphs 1, 2, 3 (b) and (g), and 5, of the Covenant, it concluded that the final sentence of death in respect of Mr. Kovalev was passed without having met the requirements of article 14, and that as a result article 6 of the Covenant had been violated.

(c) Right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment (Covenant, art. 7)

186. In case No. 1303/2004 (*Chiti v. Zambia*), the Committee concluded that the torture inflicted on the author's husband, his poor conditions of detention with no adequate access

to health care, the anguish he remained in for seven years before his sentence to death was quashed as well as the absence of a prompt, thorough and impartial investigation of the facts constituted a violation of article 7, alone and read in conjunction with article 2, paragraph 3, of the Covenant. Furthermore, the anguish and distress caused by the arrest, allegations of torture, poor conditions of the author's husband and the eviction from their home constituted a violation of article 7 with regard to the author and her family.

187. In case No. 1558/2007 (*Katsaris v. Greece*), where the author, of Romani ethnic origin, complained of ill-treatment by the police, the Committee concluded that the State party had failed in its duty to promptly, thoroughly and impartially investigate the author's claims and found a violation of article 2, paragraph 3, read in conjunction with article 7; and articles 2, paragraph 1, and 26 of the Covenant. The Committee took this decision in the light of the multiple, unexplained and serious shortcomings of the preliminary investigations, including: (a) the fact that the author's complaint was ignored by the Prosecutor of First Instance; (b) the absence of any forensic examination; (c) the discrepancies with regard to the arresting officers which cast doubts on the thoroughness and impartiality of the investigations; (d) the alleged use of discriminatory language by investigating authorities to refer to the author or his way of life; and (e) the length of the preliminary investigations.

188. In case No. 1821/2008 (*Weiss v. Austria*), the author claimed that his extradition from Austria to the United States, where he faced a real risk of life imprisonment without the prospect of parole for a property crime, constituted inhuman and degrading treatment and punishment under article 7 of the Covenant. The Committee noted that the Austrian Regional Upper Court considered in its judgement of 8 May 2002 that while the jurisprudence of the European Court of Human Rights admitted that extradition to a country where a person faces a life sentence could raise issues under article 3 of the European Convention on Human Rights, it had never come to the conclusion that a life sentence without parole was in itself a violation of article 3 of the Convention; article 3 of the Convention is similar to article 7 of the Covenant. The Committee further noted that in the author's case, the Austrian Court based its ruling that his extradition to the United States of America would not constitute cruel, inhuman or degrading treatment or punishment, on the interpretation of the assurances received from the United States Department of Justice that the author had various possibilities to appeal his sentence. While acknowledging that deporting a person to a country where the person will serve what is, for all practical purposes, a life sentence without parole, such as that imposed on the author, may raise issues under article 7 of the Covenant, in the light of the objectives of punishment as enshrined in article 10, paragraph 3, of the Covenant, the Committee considered that the decision of the State party to extradite the author to the United States had to be assessed in the light of the legal developments at the time when the alleged violation took place. In this regard, the information provided to the Committee by both parties appeared to indicate that the State party based its decision to extradite the author on the careful examination of his claim by the Austrian Upper Regional Court in the light of the facts of the case and the applicable law at the time. Accordingly, the Committee considered that by extraditing the author, the State party did not violate his rights under article 7 of the Covenant.

189. In case No. 1912/2009 (*Thuraisamy v. Canada*), the author, an ethnic Tamil from the North of Sri Lanka who had been denied asylum in Canada, claimed to have been detained on several occasions and tortured by the Sri Lankan army, as evidenced by the scars he retained on his chest, and to face a real risk of being subjected to treatment contrary to article 7 of the Covenant if returned. The Committee recalled its general comment No. 31 in which it refers to the obligation of States parties not to extradite, deport, expel or otherwise remove a person from their territory where there are substantial grounds for believing that there is a risk of irreparable harm. The Committee also recalled that, generally speaking, it is for the organs of States parties to the Covenant to review or

evaluate facts and evidence in order to determine whether such risk exists. However, in the circumstances of this case, the Committee found that insufficient weight was given by the State party to the author's allegations of a real risk of being tortured if deported to his country of origin, given the high prevalence of torture in Sri Lanka. Contrary to the State party's assumption that the author did not support his claim of having been tortured by the army after 1989, the author pointed to scars on his chest as evidence of recent torture. This physical evidence should have been enough for the State party authorities to request an independent expertise on the possible causes for those scars and their age. The State party failed to direct an expert opinion as to the causes and age of the scars observed on the author's chest and based its decision to reject the author's asylum claim merely on inconsistencies that are not central to the general allegation faced by the author as an ethnic Tamil from the North of Sri Lanka. Accordingly, the material before the Committee suggested that insufficient weight was given to the author' allegations of torture and the real risk he might face if deported, in the light of the documented prevalence of torture in Sri Lanka. Notwithstanding the deference given to the immigration authorities to appreciate the evidence before them, the Committee considered that further analysis should have been carried out in this case. The Committee therefore concluded that the removal order issued against the author would constitute a violation of article 7 of the Covenant if it were enforced.

190. In case No. 1957/2010 (*Lin v. Australia*), concerning the deportation of the author, a Falun Gong practitioner, to China, while noting the reports of serious human rights violations in China for those identified as Falun Gong practitioners the Committee held that the information before it did not show that the author would face a real risk of treatment contrary to article 7 of the Covenant, if removed to China.

191. In case No. 2120/2011 (*Kovaleva et al. v. Belarus*), the Committee noted the authors' claim that they were victims of a violation of article 7 of the Covenant in view of the severe mental suffering and stress they suffered as a result of the authorities' refusal to reveal any detail about the situation of their son and brother, Mr. Kovalev, or his whereabouts from 13 March 2012 (rejection of his application for pardon) to 17 March 2012 (when they were informed that his death sentence had been carried out); also, their failure to inform them beforehand of the date, time and place of the execution, to release the body for burial and to disclose the location of his burial site. These allegations remained unchallenged by the State party. The Committee noted that the law in force prescribes that the family of an individual under sentence of death is not informed in advance of the date of the execution, the body is not handed over to them and the location of the burial site of the executed prisoner is not disclosed. The Committee understood the continued anguish and mental stress caused to the authors, as the mother and sister of the condemned prisoner, by the persisting uncertainty of the circumstances that led to his execution, as well as the location of his grave. The complete secrecy surrounding the date of the execution and the place of burial, as well as the refusal to hand over the body for burial in accordance with the religious beliefs and practices of the executed prisoner's family, have the effect of intimidating or punishing the family by intentionally leaving it in a state of uncertainty and mental distress. The Committee therefore concluded that these elements, cumulatively, and the State party's subsequent persistent failure to notify the authors of the location of Mr. Kovalev's grave, amounted to inhuman treatment of the authors, in violation of article 7 of the Covenant.

192. In case No. 1945/2010 (*Achabal v. Spain*), the author claimed that she was tortured while being held incommunicado from 7 to 9 June 1996, during which period she did not have the right to be assisted by a lawyer of her choice or to communicate with her family. The Committee took note of the author's detailed and consistent description of the events surrounding her arrest and detention, as well as of the medical reports she submitted, in particular the reports from psychiatrists who had treated her and diagnosed the existence of

chronic post-traumatic stress disorder. The Committee considered that the closure of the case at the examination stage, which prevented the holding of the trial (*juicio oral*), did not meet the requirements or thoroughness that should be applied to all reports of acts of torture, and that the only inquiries conducted at the examination stage were not sufficient to examine the facts with the rigour required by the severity of the author's illness and the reports of the doctors who treated and diagnosed her. Given the difficulty of proving the existence of torture and ill-treatment when these do not leave physical marks, as in the case of the author, the investigation of such acts should be exhaustive. Furthermore, all physical or psychological damage inflicted on a person in detention — and particularly under the incommunicado regime — gives rise to an important presumption of fact, since the burden of proof must not rest on the presumed victim. In those circumstances, the Committee considered that the investigation conducted by the domestic courts had not been sufficient to guarantee the author her right to an effective remedy and that the facts before it constituted a violation of article 7, read independently and in conjunction with article 2, paragraph 3, of the Covenant.

193. Other communications in which the Committee found violations of article 7 include cases No. 1753/2008 (*Guezout v. Algeria*), No. 1779/2008 (*Mezine v. Algeria*), No. 1791/2008 (*Boudjemai v. Algeria*), No. 1804/2008 (*Il Khwildy v. Libya*), No. 1805/2008 (*Benali v. Libya*), No. 1806/2008 (*Saadoun v. Algeria*), No. 1807/2008 (*Mechani v. Algeria*), No. 1913/2009 (*Abushaala v. Libya*), and No. 1863/2009 (*Maharjan v. Nepal*).

(d) Liberty and security of person (Covenant, art. 9)

194. In case No. 2120/2011 (*Kovaleva el al. v. Belarus*), the Committee recalled that, while the meaning of the term "promptly" in article 9, paragraph 3, must be determined on a case-by-case basis, general comment No. 8 (1982) on the right to liberty and security of persons and the Committee's jurisprudence, maintain that delays should not exceed a few days. The Committee therefore considered the delay of five months before bringing the victim before a judge to be incompatible with the requirement of promptness set forth in article 9, paragraph 3.

195. In case No. 1940/2010 (*Cedeño v. Bolivarian Republic of Venezuela*), the Committee recalled that pretrial detention should be the exception and as short as possible. Also, pretrial detention must not only be lawful but also reasonable and necessary in all circumstances, for example to prevent flight, interference with the evidence or repetition of the crime. In the light of the information provided, the Committee considered that the State party had not given sufficient reasons, other than the mere assumption that he would try to abscond, to justify the initial pretrial detention of the author or its subsequent extension; nor had it explained why it could not take other measures to prevent his possible flight or why the detention order was not extended until months after the expiry of the 2-year maximum legal period of pretrial detention. Although it was true that in the end the author fled the country in spite of a new arrest warrant issued by Court No. 31, the Committee noted that it was the irregularities in the proceedings that prompted his flight. The Committee therefore concluded that the pretrial detention of the author violated article 9 of the Covenant.

196. In case No. 1804/2008 (*Il Khwildy v. Libya*), the victim was twice arrested without a warrant by agents of the State and held in incommunicado detention on each occasion, first for five years and, after that, for 20 months, without access to defence counsel, without being informed of the grounds for his arrest and without being brought before a judicial authority. During these periods, the victim was unable to challenge the legality of his detention or its arbitrary character. In the absence of any explanation from the State party, the Committee concluded that these facts constituted a violation of article 9 of the Covenant.

197. Other communications in which the Committee found violations of article 9 include cases of enforced disappearance No. 1753/2008 (*Guezout v. Algeria*), No. 1779/2008 (*Mezine v. Algeria*), No. 1791/2008 (*Boudjemai v. Algeria*), No. 1805/2008 (*Benali v. Libya*), No. 1806/2008 (*Saadoun v. Algeria*), No. 1807/2008 (*Mechani v. Algeria*), No. 1863/2009 (*Maharjan v. Nepal*) and No. 1913/2009 (*Abushaala v. Libya*).

(e) Right to be brought promptly before a judge (Covenant, art. 9, para. 3)

198. In case No. 1787/2008 (*Kovsh v. Belarus*), the Committee recalled that pretrial detention should be an exception and should be as short as possible. To ensure that this limitation is observed, article 9 requires that the detention be brought promptly under judicial control. Prompt initiation of judicial oversight also constitutes an important safeguard against the risk of ill-treatment of the detained person. This judicial control of detention must be automatic and cannot be made to depend on a previous application by the detained person. The period for evaluating promptness begins at the time of arrest and not at the time when the person arrives in a place of detention. While the meaning of the term "promptly" in article 9, paragraph 3, of the Covenant must be determined on a case-by-case basis, delays should not exceed a few days. The Committee has recommended on numerous occasions, in the context of consideration of the States parties' reports submitted under article 40 of the Covenant, that the period of police custody before a detained person is brought before a judge should not exceed 48 hours. Any longer period of delay would require special justification to be compatible with article 9, paragraph 3, of the Covenant. In the present communication, the Committee noted that the State party had failed to provide explanations as to the necessity of detaining the author in a temporary detention ward of the Directorate of Internal Affairs for 61 and 72 hours without bringing her before a judge, other than the fact that she did not initiate a complaint. The inactivity of a detained person is not a valid reason to delay bringing her before a judge. In the circumstances of the present communication, the Committee considered that the detentions of the author were incompatible with article 9, paragraph 3, of the Covenant.

(f) Treatment during imprisonment (Covenant, art. 10)

199. In case No. 1628/2007 (*Pavlyuchenkov v. Russian Federation*), the Committee noted the information received from the author regarding the conditions of detention in the facility where he was held, in particular, that the facility did not have a functioning ventilation system, adequate food or proper hygiene; that he remained inside his cell at all times, with no opportunity for outdoor exercise; and that he had to eat his meals and use the toilet in cramped conditions in one room. The Committee further noted that the State party simply referred to the conformity with national standards, without providing detailed explanations regarding the conditions of the author's detention, or the measures taken by the State party to investigate these conditions and provide the necessary remedies. Accordingly, the Committee found that holding the author in the conditions described entailed a violation of his rights under article 10, paragraph 1, of the Covenant. A violation of article 10 was also found in case No. 1863/2009 (*Maharjan v. Nepal*).

200. In case No. 1753/2008 (*Guezout v. Algeria*), the Committee reiterated that persons deprived of their liberty may not be subjected to any hardship or constraint other than that resulting from the deprivation of liberty and that they must be treated with humanity and respect for their dignity. In view of the victim's incommunicado detention and the absence of information provided by the State party in that regard, the Committee found a violation of article 10, paragraph 1, of the Covenant. A similar conclusion was reached in cases of enforced disappearance No. 1779/2008 (*Mezine v. Algeria*), No. 1791/2008 (*Boudjemai v. Algeria*), No. 1807/2008 (*Mechani v. Algeria*) and No. 1913/2009 (*Abushaala v. Libya*).

(g) Right to fair trial (Covenant, art. 14)

201. In case No. 1940/2010 (*Cedeño v. Bolivarian Republic of Venezuela*), the Committee recalled that States should take specific measures to guarantee the independence of the judiciary, protect judges from any form of political influence and establish clear procedures and objective criteria for the appointment, remuneration, tenure, promotion, suspension and dismissal of the members of the judiciary and for disciplinary sanctions against them. A situation where the functions and competencies of the judiciary and the executive branch are not clearly distinguishable or where the latter is able to control or direct the former is incompatible with the notion of an independent tribunal. In the present case, the Committee concluded that the arrest of the judge presiding over Court No. 31 immediately after she ordered the release of the author from pretrial detention, together with the provisional nature of the judicial authorities involved in the proceedings against the author, violated the independence of the judicial bodies involved and article 14, paragraph 1, of the Covenant.

202. In case No. 1804/2008 (*Il Khwildy v. Libya*), the Committee noted that almost 22 months after his second arrest the victim was sentenced to two years' imprisonment by a special tribunal. Although a lawyer was assigned by the judge, the victim was not able to meet with him outside the courtroom. All hearings were held in secret and even close relatives could not attend. In the absence of information from the State party, the Committee concluded that the trial and sentencing of the victim, in the circumstances described, disclosed a violation of article 14, paragraphs 1 and 3 (b) and 3 (c), of the Covenant.

203. In case No. 1807/2008 (*Mechani v. Algeria*), the Committee noted that the victim was tried in absentia and sentenced by Bab-el-Oued Special Court after an unfair trial held in the absence of his family and without his lawyer being able to speak on his behalf, as she had never been able to see her client. The Committee recalled its general comment No. 32 on article 14 of the Covenant, in which it noted that the proceedings of special tribunals of "faceless judges" are often irregular, not only because the identity and status of the judges are not made known to the accused persons, but often also because of irregularities in the procedure. In this case, the victim was sentenced to life imprisonment in absentia after a closed trial, by a court of special jurisdiction made up of anonymous judges, without ever being heard, as he had been a victim of enforced disappearance since his arrest a year previously and without any investigation being conducted to establish his fate. In these circumstances, and in the absence of information from the State party, the Committee concluded that the trial and conviction of the victim were inherently unfair and disclosed a violation of article 14, paragraph 1 of the Covenant.

(h) Right to the presumption of innocence (Covenant, art. 14, para. 2)

204. In case No. 1940/2010 (*Cedeño v. Bolivarian Republic of Venezuela*), the Committee noted that, after the author's release had been ordered, the President of the Republic called him a "bandit" on national radio and television and insinuated that his release had been illegally coordinated by his lawyers and the judge presiding over Court No. 31. The Committee received no refutation or explanation of the President's statements from the State party. The Committee recalled that public authorities have a duty to refrain from prejudging the outcome of a trial, e.g. by abstaining from making public statements affirming the guilt of the accused. Consequently, as no judgement had been made as to the criminal liability of the author, the Committee considered that the direct reference to the author's case by the President of the Republic, and the form it took, violated the principle of the presumption of innocence.

205. In case No. 2120/2011 (*Kovaleva et al. v. Belarus*), the Committee noted the authors' allegations that several State officials made public statements about Mr. Kovalev's

guilt before his conviction by the court, and mass media made available to the public at large materials of the preliminary investigation before the consideration of his case by the court. Moreover, he was kept in a metal cage throughout the court proceedings and the photographs of him behind metal bars in the court room were published in local print media. The Committee recalled its jurisprudence as reflected in its general comment No. 32 and concluded, in the absence of any pertinent information from the State party, that the presumption of innocence of Mr. Kovalev guaranteed under article 14, paragraph 2, of the Covenant has been violated.

(i) Right to communicate with counsel (Covenant, art. 14, para. 3 (b))

206. In case No. 2120/2011 (*Kovaleva et al. v. Belarus*), the authors claimed that the victim was visited by his lawyer only once during the pretrial investigation, that the confidentiality of their meetings was not respected, that they did not have adequate time to prepare the defence and that the lawyer was denied access to him on several occasions. In the absence of any information by the State party to refute the authors' specific allegations and in the absence of any other pertinent information on file, the Committee considered that the information before it revealed a violation of the victim's rights under article 14, paragraph 3 (b), of the Covenant.

(j) Right to be tried without undue delay (Covenant, art. 14, para. 3 (c))

207. In case No. 1940/2010 (*Cedeño v. Bolivarian Republic of Venezuela*), the Committee recalled that the reasonableness of the delay in a trial has to be assessed in the circumstances of each case, taking into account the complexity of the case, the conduct of the accused and the manner in which the matter was dealt with by the administrative and judicial authorities. In the circumstances of this case, the Committee was of the view that the State party's observations did not adequately explain how the delays in the proceedings could be attributed to the conduct of the author or the complexity of the case. Consequently, the Committee concluded that the proceedings against the author suffered from undue delay.

(k) Right not to be compelled to testify against oneself or to confess guilt (Covenant, art. 14, para. 3 (g)

208. In case No. 1303/2004 (*Chiti v. Zambia*), the author alleged that her husband was taken to the police station, tortured for nine days and forced to make a written statement implicating certain politicians in a coup. The State party did not refute this claim. The Committee recalled its general comment No. 32 on article 14 in which it states, inter alia, that domestic law must ensure that statements or confessions obtained in violation of article 7 of the Covenant are excluded from the evidence, except if such material is used as evidence that torture or other treatment prohibited by this provision occurred, and that in such cases the burden is on the State to prove that statements made by the accused have been given of their own free will. In the light of the information before it, the Committee concluded to a violation of article 14, paragraph 3 (g), of the Covenant.

209. In case No. 2120/2011 (*Kovaleva et al. v. Belarus*), the Committee noted the authors' claims under articles 7 and 14, paragraph 3 (g), of the Covenant that Mr. Kovalev was subjected to physical and psychological pressure with the purpose of eliciting a confession of guilt and that, although he retracted his self-incriminating statements during court proceedings, his confession served as a basis for his conviction. The Supreme Court considered that Mr. Kovalev changed his statements in order to mitigate his punishment, stating that the confessions of the accused and other evidence were obtained in strict compliance with the criminal procedure norms and were thus admissible as evidence. However, the State party had not presented any information to demonstrate that it

conducted any investigation into these allegations. In these circumstances, due weight had to be given to the authors' claims and the Committee concluded that the facts before it disclosed a violation of Mr. Kovalev's rights under articles 7 and 14, paragraph 3 (g), of the Covenant.

(l) Right to have one's conviction and sentence being reviewed by a higher tribunal (Covenant, art. 14, para. 5)

210. In case No. 2120/2011 (*Kovaleva et al. v. Belarus*), the authors claimed that Mr. Kovalev's right to have his sentence and conviction reviewed by a higher tribunal was violated in view of the fact that he was sentenced to death in first instance by the Supreme Court with no possibility to appeal. Although Mr. Kovalev availed himself of the supervisory review mechanism, the Committee noted that such review only applies to already executory decisions and thus constitutes an extraordinary means of appeal which is dependent on the discretionary power of judge or prosecutor. When such review takes place, it is limited to issues of law only and does not permit any review of facts and evidence. It therefore cannot be characterized as an "appeal", for the purposes of article 14, paragraph 5. The Committee recalled in this respect that the right to appeal under article 14, paragraph 5 imposes on the State party a duty to review substantively, both on the basis of sufficiency of the evidence and of the law, the conviction and sentence, such that the procedure allows for due consideration of the nature of the case. In the absence of any explanation from the State party, the Committee concluded that the absence of a possibility to appeal the judgment of the Supreme Court passed at first instance to a higher judicial instance was inconsistent with the requirements of article 14, paragraph 5.

(m) Right to recognition as a person before the law (Covenant, art. 16)

211. In case No. 1753/2008 (*Guezout v. Algeria*), the Committee reiterated its established jurisprudence, according to which the intentional removal of a person from the protection of the law for a prolonged period of time may be deemed to constitute a refusal to recognize that person as a person before the law if the victim was in the hands of the State authorities when last seen and if the efforts of his or her relatives to obtain access to potentially effective remedies, including judicial remedies, have been systematically impeded. In this case, the Committee noted that the State party had not furnished adequate explanations concerning the authors' allegations that they had had no news of the victim. The Committee concluded that the victim's enforced disappearance for the past 16 years had denied him the protection of the law and deprived him of his right to recognition as a person before the law, in violation of article 16 of the Covenant. A similar conclusion was reached in cases of enforced disappearance No. 1779/2008 (*Mezine v. Algeria*), No. 1791/2008 (*Boudjemai v. Algeria*), No. 1804/2008 (*Il Khwildy v. Libya*), No. 1806/2008 (*Saadoun v. Algeria*), No. 1807/2008 (*Mechani v. Algeria*) and No. 1913/2009 (*Abushaala v. Libya*).

212. In case No. 1805/2008 (*Benali v. Libya*), the Committee noted the author's unrefuted allegation that the victim was kept in incommunicado detention in undisclosed locations from the time of his first arrest in August 1995 until September 2000, and from the time of his second arrest in February 2005 until May 2006. During these periods, he was kept in isolation, prevented from any contact with family or legal counsel, and tortured. His family had no means of protecting him, and feared retaliation if they questioned the authority of his captors. From September 2000 until his release in October 2002 and from May 2006 until October 2006, the authorities informed his family of his whereabouts and allowed them occasional visits. From October 2006 until March 2007, he was once again held incommunicado, apparently in Abu Slim prison, from which he reportedly disappeared in March 2007; his family was finally informed regarding his whereabouts and allowed to visit him in April 2009. Thus, for major portions of his years of incarceration, his detention had the character of an enforced disappearance. The Committee found that the enforced

disappearance and incommunicado detention of the victim deprived him of the protection of the law during the relevant periods, in violation of article 16 of the Covenant.

(n) Right not to be subjected to interference with one's privacy, family and home (Covenant, art. 17)

213. In case No. 1803/2008 (*Bulgakov v. Ukraine*), the author claimed that the imposition of a Ukrainian spelling for his first name and patronymic in his identity documents resulted in him being subjected to frequent mockery and generated a feeling of deprivation and arbitrariness, since it sounded ridiculous to Russian speakers. The Committee recalled that the notion of privacy refers to the sphere of a person's life in which he or she can freely express his or her identity, be it by entering into relationships with others or alone. The Committee further recalled that a person's surname constitutes an important component of one's identity, and that the protection against arbitrary or unlawful interference with one's privacy includes the protection against arbitrary or unlawful interference with the right to choose and change one's own name. The Committee noted the State party's submission that in Ukraine names and patronymics when translated from one language into another are not transcribed, but are "replaced by the corresponding, historically established, equivalent" and that the author's name was modified so as to comply with the Ukrainian naming tradition.

214. The Committee further observed that the legal basis for the modification of the author's name and patronymic remained unclear and that the State party had not disputed the author's claim that such modification actually violated the domestic laws of the State. The Committee therefore found that the interference at stake was unlawful. The Committee took account of its previous jurisprudence where it held that the protection offered by article 17 encompassed the right to choose and change one's own name and considered that that provision a fortiori protected persons from having a name change being imposed upon them by the State party. In the present case the State party went beyond transcribing the name and patronymic of the author and actually changed them on the basis of the rules contained in a Ukrainian grammar book. The Committee therefore considered that the State party's unilateral modification of the author's name and patronymic on official documents was not reasonable, and amounted to unlawful and arbitrary interference with his privacy, in violation of article 17 of the Covenant.

215. Case No. 2073/2011 (*Naidenova et al. v. Bulgaria*) concerned the eviction of the authors from their houses situated in the Dobri Jeliazkov community, which had existed for over seventy years with the acquiescence of the authorities, although the authors were not the lawful owners of the plot of land on which the houses had been constructed. In the light of the long history of the authors' undisturbed presence in the community the Committee considered that, by not giving due consideration to the consequences of the authors' eviction, such as the risk of their becoming homeless, in a situation in which satisfactory replacement housing was not immediately available to them, the State party would interfere arbitrarily with the authors' homes, and thereby violate the authors' rights under article 17 of the Covenant.

216. A violation of articles 17 and 23, paragraph 1, read alone and in conjunction with article 2, paragraph 3 was found in case No. 1303/2004 (*Chiti v. Zambia*). A violation of article 17 was also found in cases of enforced disappearance No. 1779/2008 (*Mezine v. Algeria*) and No. 1791/2008 (*Boudjemai v. Algeria*).

(o) Freedom of thought, conscience and religion (Covenant, art. 18)

217. In case No. 1786/2008 (*Kim et al. v. Republic of Korea*), the authors were 388 Jehovah's Witnesses who had been sentenced to 18 months of imprisonment each for refusing to perform compulsory military service due to their religious beliefs. They claimed

that the absence of an alternative to compulsory military service in the State party amounted to a violation of their rights under article 18, paragraph 1, of the Covenant. The Committee recalled its general comment No. 22 (1993), in which it considers that the fundamental character of the freedoms enshrined in article 18, paragraph 1, of the Covenant is reflected in the fact that this provision cannot be derogated from, even in time of public emergency, as stated in article 4, paragraph 2, of the Covenant. Although the Covenant does not explicitly refer to a right of conscientious objection, the Committee reaffirmed its view that such a right derives from article 18, inasmuch as the obligation to be involved in the use of lethal force may seriously conflict with the freedom of conscience. The Committee further noted that freedom of thought, conscience and religion embraces the right not to declare, as well as the right to declare, one's conscientiously held beliefs. Compulsory military service without possibility of alternative civilian service implies that a person may be put in a position in which he or she is deprived of the right to choose whether or not to declare his or her conscientiously held beliefs by being under a legal obligation, either to break the law or to act against those beliefs within a context in which it may be necessary to deprive another human being of life.

218. The Committee therefore reiterated that the right to conscientious objection to military service is inherent to the right to freedom of thought, conscience and religion. It entitles any individual to exemption from compulsory military service if the latter cannot be reconciled with the individual's religion or beliefs. The right must not be impaired by coercion. A State party may, if it wishes, compel the objector to undertake a civilian alternative to military service, outside of the military sphere and not under military command. The alternative service must not be of a punitive nature, but must rather be a real service to the community and compatible with respect for human rights. In the present case, the Committee considered that the authors' refusal to be drafted for compulsory military service derived from their religious beliefs which, it was uncontested, were genuinely held, and that the authors' subsequent conviction and sentence amounted to an infringement of their freedom of conscience, in breach of article 18, paragraph 1, of the Covenant. Repression of the refusal to be drafted for compulsory military service, exercised against persons whose conscience or religion prohibit the use of arms, was incompatible with article 18, paragraph 1, of the Covenant.

219. In case No. 1852/2008 (*Singh v. France*), the author, aged 17 at the time the facts occurred, claimed that his expulsion from a public secondary school for wearing a *keski*, was an infringement of his right to freedom of religion, and in particular, his right under article 18 of the Covenant to manifest his religion. The expulsion was decided in application of Act No. 2004-228, which forbids the wearing of symbols or clothing by which pupils in primary and secondary schools manifest their religious affiliation in a conspicuous manner.

220. The Committee recalled, with reference to its general comment No. 22 concerning article 18 of the Covenant, that the freedom to manifest a religion encompasses the wearing of distinctive clothing or head coverings. It considered that the author's use of a turban or a *keski* was a religiously motivated act, so that the prohibition to wear it under Act No. 2004-228 constituted a restriction in the exercise of the right to freedom of religion. The Committee reaffirmed that the State may restrict the freedom to manifest a religion if the exercise thereof is detrimental to the aim of protecting public safety, order, health or morals or the fundamental rights and freedoms of others. It recognized that the principle of secularism (*laïcité*) is itself a means by which a State party may seek to protect the religious freedom of all its population, and that the adoption of Act No. 2004-228 responded to actual incidents of interference with the religious freedom of pupils and sometimes even threats to their physical safety. The Committee therefore considered that Act No. 2004-228 served purposes related to protecting the rights and freedoms of others, public order and safety.

221. The Committee noted the State party's explanation that the prohibition of wearing religious symbols affects only symbols and clothing which conspicuously display religious affiliation, does not extend to discreet religious symbols and the Council of State takes decisions in this regard on a case-by-case basis. However, the Committee was of the view that the State party had not furnished compelling evidence that, by wearing his *keski*, the author would have posed a threat to the rights and freedoms of other pupils or to order at the school. The Committee was also of the view that the penalty of the pupil's permanent expulsion from the public school was disproportionate and led to serious effects on the education to which the author, like any person of his age, was entitled in the State party. The Committee was not convinced that expulsion was necessary and that the dialogue between the school authorities and the author truly took into consideration his particular interests and circumstances. Moreover, the State party imposed this harmful sanction on the author, not because his personal conduct created any concrete risk, but solely because of his inclusion in a broad category of persons defined by their religious conduct. In this regard, the Committee noted the State party's assertion that the broad extension of the category of persons forbidden to comply with their religious duties simplifies the administration of the restrictive policy. However, in the Committee's view, the State party had not shown how the sacrifice of those persons' rights was either necessary or proportionate to the benefits achieved. For all these reasons, the Committee concluded that the expulsion of the author from his lycée was not necessary under article 18, paragraph 3, infringed his right to manifest his religion and constituted a violation of article 18 of the Covenant.

(p) Freedom of opinion and expression (Covenant, art. 19)

222. In case No. 1784/2008 (*Schumilin v. Belarus*), the issue before the Committee was whether the fine imposed on the author, for having distributed leaflets concerning two meetings of the Gomel population with a political opponent for which authorization had not been given, violated his rights under article 19, paragraph 2, of the Covenant. The Committee noted the State party's explanation that under its law on mass events, no information concerning possible meetings can be disseminated before the official authorization of the said meeting by the competent authorities, and that the author's action constituted an administrative offence. The State party had also acknowledged that the right to freedom of expression may only be limited in line with the requirements set up in article 19, paragraph 3, of the Covenant, without explaining, however, how in this particular case the author's actions affected the respect of the rights or reputations of others, or posed a threat to the protection of national security or of public order (*ordre public*), or of public health or morals. The Committee recalled that it is for the State party to show that the restrictions on the author's right under article 19 are necessary and that even if a State party may introduce a system aiming to strike a balance between an individual's freedom to impart information and the general interest in maintaining public order in a certain area, such a system must not operate in a way that is incompatible with article 19. In light of the refusal of the Gomel Regional Court to examine the issue on whether the restriction of the author's right to impart information was necessary, and in the absence of any other pertinent information on file to justify the national authorities' decisions under article 19, paragraph 3, the Committee considered that the limitations of the author's rights were incompatible with the requirements of this provision of the Covenant. It therefore concluded that the author's rights under article 19, paragraph 2, had been violated. The Committee reached a similar conclusion in case No. 1785/2008 (*Olechkevitch v. Belarus*), concerning the same events.

223. In case No. 1790/2008 (*Govsha et al. v. Belarus*), the authors claimed that their rights to freedom of expression under article 19 and to freedom of assembly under article 21 of the Covenant were violated, since they were denied an authorization to organize a peaceful assembly aimed at the exchange of views and information on the development of

Belarus and its society. The Committee noted that article 19 of the Covenant was applicable because the restrictions on the authors' right to freedom of assembly were closely linked to the subject matter of the meeting for which they had sought an authorization. The Committee further noted the State party's assertion that the restrictions were in accordance with the Law on Mass Events and the decision of the Baranovichi City Executive Committee No. 4. General comment No. 34, although referring to article 19 of the Covenant, also provides guidance with regard to elements of article 21 of the Covenant. The Committee observed that the State party had failed to demonstrate, despite having been given an opportunity to do so, why the restrictions imposed on the authors' rights of freedom of expression and assembly, even if based on a law and a municipal decision, were necessary, for one of the legitimate purposes of article 19, paragraph 3, and the second sentence of article 21 of the Covenant. Accordingly, the Committee concluded that the facts as submitted revealed a violation, by the State party, of the authors' rights under articles 19 and 21 of the Covenant.

224. In case No. 1835 & 1837/2008 (*Yasinovich and Shevchenko v. Belarus*), the authors claimed that the administrative fines imposed on them for having collected signatures to a collective appeal containing the following text: "We are protesting against the abolition of the benefits and we are supporting the recall of those deputies elected to represent Novopolotsk, who had voted for this anti-popular law", and subsequent transmittal of this collective appeal to the Presidential Administration, constituted an unjustified restriction on their right to freedom of expression. The Committee considered that, even if the collection of signatures by the authors was subject to the procedure established by articles 130–137 of the Electoral Code, the State party did not advance any argument as to why the administrative sanction imposed on the authors was necessary for one of the legitimate purposes set out in article 19, paragraph 3, of the Covenant, and what dangers would have been created by the authors' gathering opinions of their fellow citizens and expressing their own opinions in relation to the abolition of social benefits by the parliament, as well as the deputies who had voted for the said changes in law. The Committee concluded that in the absence of any pertinent explanations from the State party, the restriction on the exercise of the authors' right to freedom of expression could not be deemed as provided by law and necessary for the protection of national security or of public order (*ordre public*) or for respect for the rights or reputations of others. It therefore found that the authors' rights under article 19, paragraph 2, of the Covenant had been violated.

225. In case No. 1836/2008 (*Katsora v. Belarus*), the Committee held that the imposition of sanctions on the author for the distribution of leaflets by himself and others informing the population about a planned, albeit not yet authorized, mass meeting without indicating time and location and announcing a forthcoming debate by a former presidential candidate cannot be considered as restrictions of the exercise of the author's freedom to seek, receive and impart information and ideas that could be deemed necessary for the protection of national security or of public order (*ordre public*) or for respect of the rights or reputations of others. Accordingly, the Committee concluded that, in the circumstances of the case, the author's rights under article 19, paragraph 2, of the Covenant had been violated.

226. In case No. 1932/2010 (*Fedotova v. Russian Federation*), the author was fined for having displayed posters that declared "Homosexuality is normal" and "I am proud of my homosexuality" near a secondary school building in Ryazan, under section 3.10 of the Ryazan Region Law on Administrative Offences. Under this provision, public actions aimed at propaganda of homosexuality among minors shall be punished. The author claimed that her action was intended to promote tolerance towards gay and lesbian individuals in the Russian Federation and that the fine was contrary to article 19 of the Covenant. While the Committee recognized the role of the State party's authorities in protecting the welfare of minors, it observed that the State failed to demonstrate why in this particular case it was necessary, for one of the legitimate purposes of article 19, paragraph

3, of the Covenant, to restrict the author's right to freedom of expression on the basis of section 3.10 of the Ryazan Region Law. Accordingly, the Committee concluded that the author's conviction on the basis of the ambiguous and discriminatory section 3.10 of the Ryazan Region Law, amounted to a violation of her rights under article 19, paragraph 2, read in conjunction with article 26 of the Covenant.

227. Other cases in which the Committee found violations of article 19 include No. 1830/2008 (*Pivonos v. Belarus*) and (joint) Nos. 1867/2009, 1936, 1975, 1977-1981 and 2010/2010 (*Levinov v. Belarus*).

(q) Right to freedom of association (Covenant, art. 22)

228. In case No. 1226/2003 (*Korneenko v. Belarus*), the Committee examined whether the imposition of a fine on the author for the use by Civil Initiatives, the association he chaired, of computer equipment received as untied foreign aid, for the preparation for and monitoring of the elections, as well as the confiscation of the computer equipment in question, amounted to a restriction of the author's right to freedom of association. According to the author, the computer equipment seized was a key part of the elections monitoring process carried out by Civil Initiatives and the evidence obtained from the information saved on the computer equipment served as a basis for the subsequent dissolution of Civil Initiatives by court order. In this regard, the Committee observed that the right to freedom of association relates not only to the right to form an association, but also guarantees the right of its members freely to carry out statutory activities of the association. The protection afforded by article 22 of the Covenant extends to all such activities, and any restrictions placed on the exercise of this right must satisfy the requirements of paragraph 2 of that provision. In the light of the fact that the seizure of the computer equipment and the imposition of a fine on the author effectively resulted in the termination of elections monitoring by Civil Initiatives, the Committee considered that they amounted to a restriction of the author's right to freedom of association. Furthermore, the Committee noted that the State party had not advanced any arguments, despite having been given an opportunity to do so, as to why it would be *necessary*, for purposes of article 22, paragraph 2, to prohibit and penalize the use of such computer activities, as well as the confiscation of the computer equipment in question. It therefore concluded that the facts revealed a violation of the author's rights under article 22, paragraph 1, read in conjunction with article 19, paragraph 2, and also in conjunction with article 25, paragraph (a), of the Covenant.

(r) Right to stand for election (Covenant, art. 25 (b))

229. In case No. 1744/2007 (*Narrain et al. v. Mauritius*), the authors claimed that the national legislation, to the extent that it invalidates the nomination of a candidate to a general election who does not declare to which of the Hindu, Muslim, Sino-Mauritian or General Population communities he allegedly belongs, violates article 25 of the Covenant. They also claimed that the criterion of a person's way of life, which is the basis of the four-fold classification of the State party's population, is not only vague and undetermined but also totally unacceptable in a democratic political system. The Committee took note, inter alia, of the State party's explanation that the rationale behind the complex election system is to guarantee the representation of all ethnic communities. It observed that the right to stand for election is regulated in the Constitution and in the First Schedule to the Constitution, and that the First Schedule refers to the 1972 official census regarding the number of members in the four communities.

230. With regard to the alleged violation of the authors' right to stand for election, the Committee recalled its jurisprudence and general comment, namely that any conditions which apply to the exercise of the rights protected by article 25 should be based on

objective and reasonable criteria. Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation. It noted the State party's argument that the category General Population is the residual category comprising those who neither are Hindus, Muslims or Sino-Mauritians. According to the First Schedule to the Constitution, the additional eight seats under the Best Loser System are allocated giving regard to the "appropriate community", with reliance on population figures of the 1972 census. However, the Committee noted that community affiliation has not been the subject of a census since 1972. The Committee therefore found, taking into account the State party's failure to provide an adequate justification in this regard and without expressing a view as to the appropriate form of the State party's or any other electoral system, that the continued maintenance of the requirement of mandatory classification of a candidate for general elections, without the corresponding updated figures of the community affiliation of the population in general, would appear to be arbitrary and therefore violates article 25 (b) of the Covenant.

(s) Right to equality before the law and the prohibition of discrimination (Covenant, art. 26)

231. In case No. 1861/2009 (*Bakurov v. Russian Federation*), the author claimed a violation of his rights under article 26 of the Covenant in that he was denied a trial by a jury while jury trials were granted to some other accused persons in courts in other regions of the Russian Federation. The Committee recalled its jurisprudence to the effect that, while the Covenant contains no provision establishing a right to a jury trial in criminal cases, if such a right is provided under domestic law and is granted to some persons charged with crimes, it must be granted to others similarly situated on an equal basis. If distinctions are made, they must be based on objective and reasonable grounds. The Committee noted that there was no federal law regarding availability of a jury trial. The fact that a federal State permits differences among the federal units in respect of jury trial does not in itself constitute a violation of article 26 of the Covenant. Since the author had not provided any information to the effect that jury trials had been held in capital cases in Krasnoyarsk region so as to substantiate a difference in treatment between him and other accused, the Committee could not conclude to a violation of his rights under article 26 of the Covenant.

G. Remedies called for under the Committee's Views

232. After the Committee has made a finding of a violation of a provision of the Covenant in its Views under article 5, paragraph 4, of the Optional Protocol, it proceeds to ask the State party to take appropriate steps to remedy the violation. Often, it also reminds the State party of its obligation to prevent similar violations in the future. When pronouncing a remedy, the Committee observes that:

> 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 there has been a violation of the Covenant or not 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 in case a violation has been established, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to the Committee's Views. The State party is also requested to publish the Committee's Views.

233. During the period under review the Committee took the following decisions regarding remedies.

234. In case No. 1558/2007 (*Katsaris v. Greece*), involving violations, inter alia, of article 2, paragraph 3, read in conjunction with article 7 with respect to the shortcomings in the investigation of the author's allegations of ill-treatment, the State party was requested to provide the author with an effective remedy, including adequate compensation.

235. In case No. 1548/2007 (*Kholodova v. Russian Federation*), involving the violation of article 2, paragraph 3 (a) in conjunction with article 6, paragraph 1 of the Covenant,[21] the State party was requested to provide the author with an effective remedy and take all possible measures to ensure that those responsible for the death of her son are brought to justice.

236. In cases (joint) Nos. 1917/2009, 1918/2009, 1925/2009 and 1953/2010 (*Prutina et al. v. Bosnia and Herzegovina*), concerning the lack of effective remedy regarding the enforced disappearance of the authors' relatives, the State party was requested to provide the authors with an effective remedy, including (i) the continuation of efforts to establish the fate or whereabouts of their relatives, as required by the Missing Persons Act 2004; (ii) the continuation of efforts to bring to justice those responsible for their disappearance and to do so by the end of 2015, as required by the National War Crimes Strategy; (iii) the abolition of the obligation for family members to declare their missing relatives dead to benefit from social allowances or any other forms of compensation; and (iv) ensuring adequate compensation. The State party is also under an obligation to prevent similar violations in the future and ensure, in particular, that investigations into allegations of enforced disappearances are accessible to the missing persons' families.

237. In case No. 2120/2011 (*Kovaleva et al. v. Belarus*), the Committee held that the death sentence in respect of the author's son and brother was passed without having met the requirements of article 14 and that, as a result, article 6 of the Covenant had been violated. Violations of articles 7 and 9, paragraph 3 were also found with respect to the main victim, as well as under article 7 in relation to the authors in view of their severe mental suffering and distress. Accordingly, the Committee held that the State party was under an obligation to provide the authors with an effective remedy, including appropriate compensation for the anguish suffered, and disclosure of the burial site of the authors' son and brother. The State party was also under an obligation to prevent similar violations in the future, including by amending article 175, paragraph 5 of the Criminal Execution Code (according to which relatives are not informed in advance of the date of execution, the body is not handed over and the place of burial is not disclosed), so as to bring it in line with the State party's obligations under article 7 of the Covenant.

238. In cases No. 1753/2008 (*Guezout v. Algeria*) and 1779/2008 (*Mezine v. Algeria*), the Committee concluded that the enforced disappearance of the main victims disclosed violations by the State party of articles 6, paragraph 1; 7; 9; 10, paragraph 1; 16; and 2, paragraph 3, read in conjunction with articles 6, paragraph 1; 7; 9; 10, paragraph 1; and 16 of the Covenant with respect to the main victim. It also concluded that the suffering of the authors, as family members, constituted a violation of article 7, read alone and in conjunction with article 2, paragraph 3, of the Covenant. As a result, the Committee held that the State party was under an obligation to provide the authors with an effective remedy by, inter alia: (a) conducting a thorough and effective investigation into the disappearance; (b) providing the authors with detailed information about the results of the investigation; (c) releasing him immediately if he is still being detained incommunicado; (d) in the event that the victim is deceased, handing over his remains to his family; (e) prosecuting, trying and punishing those responsible for the violations committed; and (f) providing adequate compensation to the authors for the violations suffered and to the victim, if he is still alive.

[21] See para. 179 above.

The Committee also indicated that, Ordinance No. 06-01 notwithstanding, the State should further ensure that it does not hinder victims of crimes such as torture, extrajudicial killings and enforced disappearances from exercising their right to an effective remedy. Similar requests to those under (a) to (f) were made in cases No. 1791/2008 (*Boudjemai v. Algeria*), No. 1805/2008 (*Benali v. Libya*), No. 1806/2008 (*Saadoun v. Algeria*), 1807/2008 (*Mechani v. Algeria*) and No. 1913/2009 (*Abushaala v. Libya*).

239. In case No. 1804/2008 (*Il Khwildy v. Libya*), the Committee concluded that as a result of his enforced disappearance on two occasions for prolonged periods of time, the main victim had been subjected to violations of his rights under articles 6; 7; 9, paragraphs 1–4; 10, paragraph 1; 14, paragraphs 1 and 3 (b) and (c); 16 and article 2, paragraph 3 in connection with the previously mentioned articles. The Committee further found that the State party acted in violation of article 7, read alone and in conjunction with article 2, paragraph 3, of the Covenant with regard to the author, because of the suffering involved in the disappearance of his brother. Accordingly, the Committee held that the State party was under an obligation to provide the author with an effective remedy, including (a) a thorough and effective investigation into the disappearance of the author's brother and any ill-treatment that he suffered in detention; (b) providing the author and his brother with detailed information on the results of the investigations; (c) prosecuting, trying and punishing those responsible for the disappearance or other ill-treatment; and (d) appropriate compensation to the author and his brother for the violations suffered.

240. In case No. 1303/2004 (*Chiti v. Zambia*), involving violations of articles 6; article 7 alone and read in conjunction with article 2, paragraph 3; article 14, paragraph 3 g); and articles 17 and 23, paragraph 1, read alone and in conjunction with article 2, paragraph 3 of the Covenant, the Committee considered that the State party was under an obligation to provide the author with an effective remedy, including (a) a thorough and effective investigation into her husband's torture suffered in detention; (b) providing the author with detailed information on the results of the investigations; (c) prosecuting, trying, and punishing those responsible for the torture; and (d) appropriate compensation for all the violations of the author's rights as well as the rights of her husband.

241. In case No. 1912/2009 (*Thuraisamy v. Canada*), the Committee concluded that the removal order issued against the author would constitute a violation of article 7 of the Covenant if it were enforced. Accordingly, the Committee requested the State party to provide the author with an effective remedy, including a full reconsideration of his claim regarding the risk of treatment contrary to article 7, should he be returned to Sri Lanka.

242. In case No. 1945/2010 (*Achabal v. Spain*), the Committee concluded that the treatment of the author while in incommunicado detention and the ensuing investigation involved violations of article 7, read alone and in conjunction with article 2, paragraph 3 of the Covenant. As a result, the State party was requested to provide the author with an effective remedy which should include: (a) an impartial, effective and thorough investigation of the facts and the prosecution and punishment of those responsible; (b) full reparation, including appropriate compensation; (c) provision of free, specialized medical assistance. The State party was also under an obligation to prevent similar violations in the future. In that connection, the Committee recalled the recommendation made on the occasion of the Committee's consideration of the fifth periodic report of Spain that it should take the necessary measures, including legislative ones, to definitively put an end to the practice of incommunicado detention and to guarantee that all detainees have the right to freely choose a lawyer who can be consulted in complete confidentiality and who can be present at interrogations.

243. In case No. 1863/2009 (*Maharjan v. Nepal*), the Committee found that the arbitrary arrest, incommunicado detention and torture of a former teacher constituted a violation of articles 7, 9 and 10, paragraph 1, read alone and in conjunction with article 2, paragraph 3

of the Covenant regarding the author, as well as of article 7 read in conjunction with article 2, paragraph 3 with regard to the author's wife and his parents. The Committee requested the State party to provide the author and his family with an effective remedy, by (a) ensuring a thorough and diligent investigation into the torture and ill-treatment suffered by the author; (b) the prosecution and punishment of those responsible; (c) providing the author and his family with adequate compensation for all the violations suffered; and (d) amending its legislation so as to bring it into conformity with the Covenant, including the amendment and extension of the 35-day statutory limitation from the event of torture or the date of release for bringing claims under the Compensation relating to Torture Act; the enactment of legislation defining and criminalizing torture; and the repealing of all laws granting impunity to alleged perpetrators of acts of torture and enforced disappearance. In doing so, the State party should ensure that the author and his family were protected from acts of reprisals or intimidation.

244. In case No. 1787/2008 (*Kovsh v. Belarus*), where the Committee concluded that the detentions of the author were incompatible with article 9, paragraph 3 of the Covenant, the State party was requested to provide the author with an effective remedy, including reimbursement of any legal costs incurred by her, as well as adequate compensation. The State party was also under an obligation to take steps to prevent similar violations in the future. In this connection, the State party should review its legislation, in particular the Criminal Procedure Code, to ensure its conformity with the requirements of article 9, paragraph 3.

245. In case No. 1940/2010 (*Cedeño v. Bolivarian Republic of Venezuela*), where the Committee found that the detention and trial of the author had resulted in violations of articles 9 and 14, paragraphs 1, 2 and 3 (c), the State party was requested to provide the author with an effective remedy, including by: (a) if the author faced trial, ensuring the trial afforded all the judicial guarantees provided for in article 14 of the Covenant; (b) assuring him that he would not be held in arbitrary detention for the duration of the proceedings; and (c) providing the author with redress, particularly in the form of appropriate compensation.

246. In case No. 1628/2007 (*Pavlyuchenkov v. Russian Federation*), where the Committee found that the conditions of detention in which the author was held amounted to a violation of article 10, the Committee requested the State party to provide the author with an effective remedy, including appropriate compensation. The State party was also requested to take appropriate and sufficient measures to prevent similar violations in the future by bringing its prison conditions into compliance with its obligations under the Covenant, taking account of the United Nations Standard Minimum Rules for the Treatment of Prisoners and other relevant international norms.

247. In case No. 1803/2008 (*Bulgakov v. Ukraine*), the Committee found that the State party's unilateral modification of the author's name and patronymic on official documents amounted to a violation of article 17 of the Covenant. The Committee requested the State party to provide the author with an effective remedy, including to restore the original phonetic form in his identity documents.

248. In case No. 2073/2011 (*Naidenova et al. v. Bulgaria*), the Committee held that the State party would violate the authors' rights under article 17 if it enforced the eviction order pending against them. Accordingly, the State party was requested to provide the authors with an effective remedy, including refraining from evicting the authors so long as satisfactory replacement housing was not immediately available to them.

249. In case No. 1786/2008 (*Kim et al. v. Republic of Korea*), the Committee found that the refusal to be drafted for compulsory military service, exercised against persons whose conscience or religion prohibit the use of arms, is incompatible with article 18, paragraph 1, of the Covenant. As a result, the Committee requested the State party to provide the authors

with an effective remedy, including expunging their criminal records and providing them with adequate compensation. The Committee also indicated that the State party was under an obligation to avoid similar violations of the Covenant in the future, which included the adoption of legislative measures guaranteeing the right to conscientious objection.

250. In case No. 1852/2008 (*Singh v. France*), where the Committee concluded that the expulsion of the author from his school infringed his right to manifest his religion and constituted a violation of article 18, the State party was requested to provide the author with an effective remedy, including appropriate compensation. The State party was also under an obligation to prevent similar violations in the future and should review Act No. 2004-228 in light of its obligations under the Covenant, in particular article 18.

251. In cases No. 1784/2008 (*Schumilin v. Belarus*), No. 1785/2008 (*Olechkevitch v. Belarus*) and 1835&1837/2008 (*Yasinovich & Shevchenko v. Belarus*), concerning violation of the right to freedom of expression, the State party was requested to provide the authors with an effective remedy, including the reimbursement of the present value of the fine imposed on the respective authors and any legal costs incurred by them, as well as compensation. The State party was also under an obligation to take steps to prevent similar violations in the future. In this connection, the State party should review its legislation, in particular the Law on Mass Events, and its application, to ensure its conformity with the requirements of article 19, of the Covenant. Similar requests were made in cases No. 1836/2008 (*Katsora v. Belarus*), Nos. 1867/2009, 1936/2010, 1975/2010, 1977-1981/2010 and 2010/2010 (*Levinov v. Belarus*); and in case No. 1790/2008 (*Govsha et al. v. Belarus*), where the Committee found violations of articles 19 and 21.

252. In case No. 1932/2010 (*Fedotova v. Russian Federation*), the Committee found a violation of article 19, paragraph 2, read in conjunction with article 26, in connection with the author's conviction of an administrative offence for "propaganda of homosexuality among minors". Accordingly, the State party was requested to provide the author with an effective remedy, including reimbursement of the value of the fine imposed on the author and any legal costs incurred, as well as compensation. The State party was also under an obligation to prevent similar violations in the future and should ensure that the relevant provisions of the domestic law are made compatible with articles 19 and 26 of the Covenant.

253. In case No. 1226/2003 (*Korneenko v. Belarus*), the Committee found violations of article 22, paragraph 1, read in conjunction with articles 19, paragraph 2 and 25 (a), with respect to the imposition of a fine and confiscation of computer equipment belonging to an association. The State party was requested to provide the author with an effective remedy, including reimbursement of the present value of the fine and any legal costs incurred by the author, return of the confiscated computer equipment or reimbursement of its present value, as well as compensation. The State party was also under an obligation to prevent similar violations in the future and should ensure that the impugned provisions of the Presidential Decree on the procedure for the acceptance and use of untied foreign aid are made compatible with the Covenant.

254. In case No. 1744/2007 (*Narrain et al. v. Mauritius*), the Committee found a violation of article 25 (b) in connection with the mandatory classification of candidates for general elections without the corresponding updated figures of the community affiliation. As a result, the State party was requested to provide the authors with an effective remedy, including compensation in the form of reimbursement of any legal expenses incurred in the litigation of the case, to update the 1972 census with regard to community affiliation and to reconsider whether the community-based electoral system was still necessary.

VI. Follow-up on individual communications under the Optional Protocol

255. 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. Up to the end of 2012, Mr. Krister Thelin was the Committee's Special Rapporteur on follow-up to Views. At present, Mr. Yuji Iwasawa is assuming this function (designated at the Committee's 107th session).

256. As indicated in the Committee's general comment No. 33 on the obligations of States parties under the Optional Protocol to the International Covenant on Civil and Political Rights,[22] the Special Rapporteur, through written representations, and frequently also through personal meetings with representatives of the State party concerned, urges compliance with the Committee's views and discusses factors that may be impeding their implementation.

257. It is to be noted, as also indicated in general comment No. 33 (para. 17), that failure by a State party to implement the Views of the Committee in a given case becomes a matter of public record through the publication of the Committee's decisions in, inter alia, its annual reports to the General Assembly. Some States parties, to which the Views of the Committee have been transmitted in relation to communications concerning them, have failed to accept the Committee's Views, in whole or in part, or have attempted to re-argue the case by providing new information. In such cases, the Committee recalls that under article 4, paragraph 2, of the Optional Protocol, when receiving a new communication registered by the Committee for consideration under the Optional Protocol, States parties are under an obligation to cooperate by submitting to it written explanations or statements clarifying the matter and indicating the measures, if any, that may have been taken to remedy the situation.

258. The Committee regards the dialogue between the Committee and States parties as on-going with a view to implementation of its recommendations in a large number of cases. The Committee has decided to have the follow-up dialogue in some cases suspended with a finding of a non-satisfactory implementation of its recommendations. Where States parties have fully complied with the Committee's recommendations, the Committee has decided to close the follow-up examination of a case with a finding of a full implementation of its recommendations. If States parties have only partly complied with the Committee's recommendations, the Committee has decided either to pursue the follow-up dialogue in an attempt of finding a full implementation, or to close the follow-up dialogue with the respective State party, with a conclusion of a partly satisfactory resolution of its recommendations. The Special Rapporteur for follow-up on Views conducts this dialogue, and regularly reports on progress to the Committee.

259. In 809 of the 964 Views adopted since 1979, the Committee concluded that there had been a violation of the Covenant. A comprehensive table recapitulating all Views with a conclusion of violation, by State, is included as annex VII to the present annual report (see Vol. II).

260. The present chapter sets out all information provided by States parties and authors or their counsel/representative since the previous annual report.[23] A table set forth in Annex

[22] *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 40*, vol. I (A/64/40 (Vol. I)), annex V, para. 16.

[23] Ibid., *Sixty-seventh Session, Supplement No. 40*, vol. I (A/67/40 (Vol. I)), chap. VI.

VII of Volume II of the present annual report displays a complete picture, disaggregated by country, of follow-up replies from States parties received up to the 107th session (11–28 March 2013), in relation to Views where the Committee concluded to a violation of the Covenant.

A. Follow-up information received since the previous annual report

State party	Algeria[24]
Case	***Aouabdia*, 1780/2008**
Views adopted on	22 March 2011
Violations	Article 6, read in conjunction with article 2, paragraph 3; article 7; article 9; article 10, paragraph 1; and article 16 of the Covenant with regard to Brahim Aouabdia. Article 7 alone and read in conjunction with article 2, paragraph 3, with regard to the author (the victim's wife) and their six children.

Remedy: An effective remedy, including by (i) conducting a thorough and effective investigation into the disappearance of Brahim Aouabdia; (ii) providing his family with detailed information about the results of the investigation; (iii) freeing him immediately if he is still being detained incommunicado; (iv) if he is dead, handing over his remains to his family; (v) prosecuting, trying and punishing those responsible for the violations committed; and (vi) providing adequate compensation for the author and her children for the violations suffered, and for Brahim Aouabdia if he is alive. The State party is also under an obligation to take steps to prevent similar violations in the future.

No previous follow-up information.

On 1 October 2012, the author's counsel noted more than 16 months after being notified of the Committee's Views, the State party had yet to investigate the act of enforced disappearance of Brahim Aouabdia since 30 May 1994. Counsel adds that even though they are easily identifiable, the persons responsible for the acts of torture against the victim have yet to be prosecuted. Counsel further informs the Committee that he has written to the General Prosecutor of Constantine, asking him to implement the Committee's Views, notably by undertaking a thorough, independent and impartial investigation on the case.

Counsel's submission was transmitted to the State party on 17 December 2012, along with a reminder to provide follow-up observations (one-month deadline).

On 26 February 2013, the State party's Permanent Mission referred the Committee to its memorandum on admissibility, as well as to its additional memorandum on the implementation of the Algerian Charter in peace and national reconciliation, submitted by the State party as part of its observations regarding the communication.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

[24] On 26 February 2013, the Permanent Mission of the State party to the United Nations Office at Geneva was contacted with a request for a meeting with the Special Rapporteur on follow-up to Views during the Committee's 107th session, to discuss this and other ongoing follow-up matters.

State party	Algeria
Case	***Ouaghlissi*, 1905/2009**
Views adopted on	26 March 2012
Violations	The author's disappearance has breached article 6, paragraph 1; article 7; article 9; article 10, paragraph 1; article 16; and article 2, paragraph 3, read in conjunction with article 6, paragraph 1; article 7; article 9; article 10, paragraph 1; and article 16 of the Covenant with regard to Maamar Ouaghlissi, and of article 7, read alone and in conjunction with article 2, paragraph 3, of the Covenant with regard to the author and her daughters.

Remedy: Effective remedy, including by (i) conducting a thorough and effective investigation into the disappearance of Maamar Ouaghlissi; (ii) providing the author with detailed information about the results of the investigation; (iii) freeing him immediately if he is still being detained incommunicado; (iv) if Maamar Ouaghlissi is dead, handing over his remains to his family; (v) prosecuting, trying and punishing those responsible for the violations committed; and (vi) providing adequate compensation for the author and her daughters for the violations suffered and for Maamar Ouaghlissi if he is alive.

No previous follow-up information.

On 16 October 2012, the author's counsel noted that more than six months after the adoption of the Committee's Views, the State party has not implemented the Committee's Views on this case of enforced disappearance, nor has it published the Views. Counsel asks the Committee to remind the State party of its obligations arising from its ratification of the Optional Protocol, and to implement the Committee's Views of 26 March 2012.

Counsel's submission was transmitted to the State party, for observations, on 29 October 2012 (one-month deadline).

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	Argentina
Case	***L.N.P.*, 1610/2007**
Views adopted on	18 July 2011
Violations	Articles 3; 7; 14, paragraph 1; 17; 24; and 26; and article 2, paragraph 3, in conjunction with all the aforementioned articles.

Remedy: Full implementation of the compensatory measures agreed upon between the author and the State party through the amicable settlement procedure.

No previous follow-up information.

On 30 January 2012, the State party submitted a request for an extension for submission of its observations, which was granted until 2 July 2012.

On 2 July 2012, the State party submitted a further request for extension, which was granted until 6 August 2012.

On 7 August 2012, the State party informed the Committee that the Governor of the Chaco Province had organized a symbolic reparation ceremony on 19 April 2009. The author also received US$ 53,000 as compensation and, since 24 June 2010, a monthly life pension.

The State party further informed the Committee that the Chaco Province granted the author a property, and built a house for her and her family. She also received a scholarship.

In addition, the doctor who intervened in the Rural/Basic Health Clinic "A" of El Espinillo was sanctioned. The State party also informs the Committee that it has implemented certain general measures, such as trainings in gender and violence, as well as amendments of its legislation in order to protect women in a more efficient manner.

The State party's submission was transmitted to the author's counsel, for comments, on 9 August 2012 (one-month deadline). On 20 March 2013, a reminder was transmitted to the author's counsel for observations (one-month deadline).

While welcoming the information submitted by the State party on the compensation offered to the author, the Committee will await receipt of further information from the author before finally deciding on the matter. The Committee considers the follow-up dialogue ongoing.

State party	**Australia**[25]
Case	***Fardon*, 1629/2007**
Views adopted on	18 March 2010
Violation	Article 9, paragraph 1, of the Covenant.

Remedy: An effective remedy, including termination of his detention under the Queensland Dangerous Prisoners (Sexual Offenders) Act 2003.

Previous follow up information: A/67/40

On 4 July 2012, the author's counsel rejected as inaccurate the State party's submission of 6 September 2011, according to which "there were no less restrictive means available" than post-sentence detention to achieve the objectives of rehabilitating the author and protecting the community. Counsel stresses that the reason why the necessary counselling and rehabilitation programmes he was required to undergo were only available in the prison environment is because the State of Queensland has failed to provide reintegration and rehabilitation services in the community. If the State party had invested in the provision of rehabilitation services within the community, it would have had a less restrictive means available than further incarceration. Counsel reiterates that the practice of re-incarcerating persons who have already served their prison sentences, under the guise of preventive detention is in breach of the State party's human rights obligations. The State party should acknowledge this, and make provision for community-based rehabilitation and reintegration services and supervision arrangements that are genuinely directed to the rehabilitation of offenders.

Counsel's submission was transmitted to the State party for observations on 27 July 2012 (one month deadline).

The Committee will await receipt of further information in order to finally decide on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

[25] As requested by the Committee at its 105th session, a meeting took place on 31 October 2012 between the Special Rapporteur on follow-up to Views and the State party's Permanent Mission to the United Nations Office at Geneva, on which the Special Rapporteur reported to the Committee during its 106th session, when discussing follow-up matters.

State party	Australia
Case	***Nystrom et al.*, 1557/2007**
Views adopted on	18 July 2011
Violations	The author's deportation to Sweden has violated the author's rights under articles 12, paragraph 4; 17 and 23, paragraph 1, of the Covenant.

Remedy: Effective remedy, including allowing and materially facilitating the author's return to Australia.

No previous follow-up information.

By note verbale of 13 April 2012, the State party explained that it had given careful consideration to the Committee's Views. With reference to the Committee's conclusions in *Stewart v. Canada*, communication No 538/1993, *Canepa v. Canada*, communication No. 558/1993, and *Madafferi v. Canada*, communication No. 1011/2001, the State party disagrees with the finding of a violation of article 12 of the Covenant in the present case. In particular, the State party endorses the content of the individual opinion — dissenting — in the present case (by Mr. Iwasawa and Mr. Neuman), and stresses that its Migration Act 1958 permits expulsion of non-Australian citizens with substantial criminal records, and this is does not contradicts the provisions, aims or objectives of the Covenant.

The State party also disagrees with the Committee's conclusions of a violation of articles 17 and 23 in this case. It notes that the dissenting opinion in this case (prepared by Mr. Neuman and Mr Iwasawa) stressed that neither the Committee's prior views nor the jurisprudence of the regional human rights courts would support the conclusion that deportation of an adult in similar family situation with similar criminal record represents a disproportionate interference with family life; until now, the Committee has given greater weight to the interest of States in preventing crimes than it does on this occasion.

With reference to the Views in *Stewart v. Canada* and *Canepa v. Canada*, the State party notes that the Committee has decided there that the expulsion of a non-citizen on the basis of his/her criminal record did not constitute an arbitrary interference with the family, despite the existence of family ties in the country of immigration.

The State party adds that, when deciding on the cancellation of Mr. Nystrom's visa, the Minister of Immigration took into consideration Australia's obligations under articles 17 and 23 of the Covenant and the disruption of Mr. Nystrom's family life. The decision was made in accordance with the legitimate State interest of protecting the Australian community from threats to the fundamental rights to life, liberty and security of persons, and was not determined arbitrarily.

As to the Committee's recommendation to allow and facilitate Mr. Nystrom's return to Australia, the State party contends that it is unable to agree, in the light of its previous explanations.

On the issue of non-repetition of similar violations, the State party notes that, although it does not consider that the decision concerning Mr. Nystrom's case was taken in violation of the Covenant, it has implemented measures to enhance consideration of relevant factors in decisions involving other persons to a similar situation to that of the author. Thus, Direction No 41 — Visa Refusal and Cancellation — under section 501 was issued on 3 June 2009, and it replaced Direction No. 21, valid when Mr. Nystrom's case was examined. The cancelling of a visa under section 501 must be considered in the context of wide range of factors, including whether the person began living in Australia as a minor and the length of time the person resided in Australia. In some cases, it may be appropriate for the community to accept more risk where the person concerned has, in effect, become part of the Australian community owing to their having spent their formative years, or a major portion of their life, in

Australia. Length of a person's residence in Australia is now given greater weight in decisions involving visa cancellation.

The author's counsel presented her comments on 23 May 2012. Counsel explains that the State party's refusal to accept Mr. Nystrom's return to Australia has a significant, detrimental, ongoing impact on the author. Mr. Nystrom's health had deteriorated significantly after his removal in 2006, and he had spent time in homelessness, correctional and psychiatric facilities in Sweden. The author wishes to visit his family in Australia, but he is not eligible for a visa and is effectively barred from re-entering the country. Thus, according to counsel, the violation of Mr. Nystrom's rights under articles 12 and 17 of the Covenant would be ongoing until the authorities allow his return.

As to the need to avoid similar violations in the future, counsel explains that decisions made under Direction No 41 can be overridden by the Minister of Immigration and would not prevent deportation for persons in similar situation. According to counsel, Directive No 41 provides no effective remedy to persons who have been or who may be expelled in violation of their rights under the Covenant.

Counsel further notes that, in the past, the State party had already disagreed with the Committee's interpretation of the Covenant and had refused to comply with the Committee's recommendations; out of 26 cases with a finding of a violation by the Committee, only two, arguably three, received satisfactory response by the State party's authorities. With reference to the Committee's concluding observations, document CCPR/C/AUS/CO/5, 2009, counsel notes that the State party has failed to give effect to the following recommendation: "The State party should review its position in relation to Views adopted by the Committee under the First Optional protocol and establish appropriate procedures to implement them, in order to comply with article 2, paragraph 3, of the Covenant which guarantees a right to an effective remedy and reparation when there has been a violation of the Covenant". With reference to the Committee's general comment on the obligations of States parties to the Optional Protocol, counsel concludes that the State party's reply in this case mirrors an approach which is inconsistent with the State party's obligations both under the Covenant and the Optional Protocol.

On 3 July 2012, the State party refers to its previous submission and assures the Committee that it had given very careful consideration to the Committee's Views, in good faith, before drawing its conclusions. It points out that it recognizes the competence of the Committee to receive and consider communications under the Optional Protocol to the Covenant submitted by individuals under the jurisdiction of Australia, who claim a violation of their rights, and it actively cooperates with the Committee in the consideration of the communications. The State party assures the Committee of its continued cooperation and engagement in this connection.

The State party concludes that it does not believe that further consideration of the matter would be fruitful or constructive.

On 3 July 2012, the State party, referring to the author's comments of 23 May 2012, submits that its response of 13 April 2012 to the Committee's Views made clear its legal position on the Views. It adds that it gave very careful consideration to the Committee's Views, in good faith, before reaching this position, but maintains that it is unable to agree from a legal perspective with the conclusions reached by the majority of the Committee, for the reasons set out in its response. While renewing its continued cooperation and engagement vis-à-vis the Committee, the State party stresses that further consideration of this matter would not be fruitful or constructive.

On 31 October 2012, during its 106th session, the Committee decided to suspend the dialogue on the case, with a finding of unsatisfactory implementation of its recommendation.

State party	Australia
Case	***Tillman*, 1635/2007**
Views adopted on	18 March 2010
Violation	Article 9, paragraph 1, of the Covenant.

Remedy: An effective remedy, including termination of his detention under the Crimes (Serious Sex Offenders) Act 2006 (New South Wales) (CSSOA).

Previous follow-up information: A/67/40

On 15 June 2012, the author's counsel responded to the State party's submission of 6 September 2011 (A/67/40), rejecting the State party's assertion that there were no less restrictive means available to achieve the objectives of rehabilitating the author and protecting the community. According to the author's counsel, the State of New South Wales did not have to return the author to prison for further rehabilitation. If further rehabilitative services were required, they could have been provided in a purpose-designed facility. The author's counsel reiterated that the practice of re-incarcerating people having already served their prison sentence, under the guise of preventive detention, was found to be in breach of the State party's obligations under the Covenant by the Committee. According to the author's counsel, the State party should make provision for civil commitment facilities and supervision arrangements that are genuinely directed to the rehabilitation of offenders.

The submission from the author's counsel was transmitted to the State party, for observations, on 26 June 2012 (one-month deadline).

The Committee will await receipt of further information in order to finally decide on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	Azerbaijan
Case	***Avadanov*, 1633/2007**
Views adopted on	25 October 2010
Violation	Article 7, read in conjunction with article 2, paragraph 3, of the Covenant.

Remedy: An effective remedy in the form, inter alia, of an impartial investigation of the author's claim under article 7, prosecution of those responsible and appropriate compensation. The State party is also under an obligation to prevent similar violations in the future.

Previous follow-up information: A/66/40

The author provided his comments on 19 June and 27 November 2012, in which he noted that he had not received any information regarding steps taken by the Committee in relation to the implementation of remedies by the State party.

The author's submissions were transmitted to the State party, for observations, respectively on 21 June 2012 and 5 February 2013 (one-month deadline).

The Committee will await receipt of further information in order to finally decide on the matter.

At its 105th session, the Committee decided to consider the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	Belarus
Case	***Gryb*, 1316/2004**
Views adopted on	26 October 2011
Violations	Articles 19, paragraph 2, and 21 of the Covenant.

Remedy: An effective remedy, which should include the reissuance of the author's lawyer's licence, and reparation, including adequate compensation. The State party should also ensure that no similar violations occur in the future.

Previous follow-up information: A/67/40

On 14 November 2012, the author noted that the State party was ignoring the Committee's Views. Within the past year, he has approached the following institutions with a request to enforce the remedy recommended by the Committee: the Ministry of Foreign Affairs (responsible for implementation of international treaties), the Ministry of Justice and the Prime Minister. The author points out that the State party does not deny that his rights under the Covenant have been violated; however it has not taken any steps in order to implement the Committee's Views.

The author's submission was transmitted to the State party, for observations, on 19 December 2012 (one-month deadline).

The Committee will await receipt of further information in order to finally decide on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	Belarus
Case	***Krasovskaya*, 1820/2008**
Views adopted on	26 March 2012
Violations	Article 2, paragraph 3, read in conjunction with articles 6 and 7.

Remedy: An effective remedy, which should include a thorough and diligent investigation of the facts, the prosecution and punishment of the perpetrators, adequate information about the results of its inquiries, and adequate compensation to the authors. The State party should also take measures to ensure that such violations do not recur in the future.

No previous follow-up information (No response from the State party).

On 25 May 2012, the author's counsel expressed concern over the non-implementation of the Committee's Views by the State party, considering its previous practice of non-compliance therewith, and urged the Committee to ensure such action as appropriate or the implementation of the Committee's Views in the case.

On 20 November 2012, counsel reiterated his concerns regarding the State party's failure to implement the Committee's Views. According to counsel, through its inaction, the State party has revealed its unwillingness to provide the author with an effective remedy. Counsel reiterated its call upon the Committee to take any action as necessary to ensure implementation of its Views by the State party.

This submission was transmitted to the State party for observations on 5 February 2013 (one-month deadline).

The Committee will await receipt of further information in order to finally decide on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Cameroon**[26]
Case	***Engo*, 1397/2005**
Views adopted on	22 July 2009
Violations	Article 9, paragraphs 2 and 3, article 10, paragraph 1, and article 14, paragraphs 2 and 3 (a), (b), (c) and (d), of the Covenant.

Remedy: An effective remedy leading to his immediate release and the provision of adequate ophthalmological treatment.

Previous follow-up information: A/67/40

On 13 August 1012, the State party recalls that the author had been sentenced to 25 years of prison term without parole, following his trial of 19 March 2012. Referring to the remedy sought by the Committee, the State party recalls that five more criminal procedures remain pending against the author (for issuing worthless cheques; embezzlement; favouritism and corruption; attempt of embezzlement, suppression and fabrication of evidence, forgery and use of forgery; and spreading false news and press defamation).

The State party reiterates its commitment to the promotion and protection of all human rights for all, notably the right to a fair trial, and the right to be tried in conformity with the law. If delays happen in legal proceedings, they are to be imputed to lack of material and human resources in the judicial sector, and to the unavoidable delays inherent to any judicial proceedings. The State party also annexes a medical certificate dated 8 August 2012, attesting that the author was last examined by a doctor on 30 January 2012, and is in good health condition.

The State party affirms its readiness to implement the Views of the Committee, in conformity with the principle of separation of powers and the independence of judges, reflected in national and international law.

On 27 August 2012, the State party added that, according to information from its Ministry of Justice, the Government has still not decided on the measures to take in order to give effect to the Committee's Views in this case and that, thus, any further observation would be inappropriate.

On 20 September 2012, the author's counsel provided comments to the State party observations of 13 August 2012, and notes that the State party has failed to provide the author with an effective and enforceable remedy, as requested by the Committee. The author remains imprisoned, and has multiplied judicial procedures pending against him on the same facts presented to the Committee, and on the basis of which the Committee found a violation of the Covenant. Counsel adds that the State party continues to deny the author specialized medical care which he needs, and urged the Committee to sanction this continuing violation with an order for the immediate release of the author. Regarding the penitentiary medical report submitted by the State party, counsel submits that this does not meet the specific ophthalmologist concerns of the author.

[26] On 26 February 2013, a request for meeting with the Special Rapporteur on follow-up to Views with representatives of the State party during the Committee's 107th session was transmitted to the State party's Permanent Mission to the United Nations Office at Geneva.

Counsel informs the Committee that it has petitioned the State party's President and the Presiding Judge of the High Court, in an attempt to seek enforcement of the Committee's Views.

Counsel reiterates that the State party has ignored the Committee's Views and instead proceeded to retry and jail the author on the same allegations, three years after the decision of the Committee, so as to justify maintaining the author in prolonged detention. Counsel urges the Committee to hold the State party in continuing violation of its obligations, and to order his immediate release and compensation.

Counsel's submission was sent to the State party, for observations on 16 October 2012 (one-month deadline).

On 1 October 2012, the author provided further information, submitting that, following the adoption of the Committee's Views, violations of his rights intensified, as he was denied a hearing and determination of his complaints, including his application of recusal of a judge in his case, and was sentenced to 20 years' imprisonment, on allegations over which the Committee had found multiple violations of the Covenant. The author further draws the Committee's attention to his dire medical situation, requesting urgent and special measures from the State party in this regard.

On 10 October 2012, the author added that he was notified on 26 September 2012 that he would face a further trial before the Special Criminal Tribunal, a new jurisdiction of exception which was just created to hear matters of the kind.

On 12 November 2012, the author reiterated his previous submission.

The author's latest submissions were sent to the State party, for observations on 15 January 2013 and 5 February 2013, respectively (one-month deadline). The Committee will await receipt of further information in order to finally decide on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Cameroon**
Case	***Akwanga*, 1813/2008**
Views adopted on	22 March 2011
Violations	Articles 7; 10, paragraphs 1 and 2; 9, paragraphs 2, 3 and 4; and 14 of the Covenant.

Remedy: Effective remedy, which should include a review of the author's conviction with the guarantees enshrined in the Covenant, an investigation of the alleged torture/ill-treatment and prosecution of those responsible, as well as adequate reparation, including compensation.

Previous follow-up information: A/67/40

On 15 March 2012, counsel presented his comments on the State party's observations. Counsel further points out that the State party's observations refer to general remedies under national law, without providing information on specific measures to give effect to the Committee's Views.

Counsel notes that the State party has failed to have Mr. Akwanga's conviction reviewed and to explain why the author was tried before a military court. He further rejects as inappropriate the State party's contention that Mr. Akwanga must first return to Cameroon and be arrested there, in order to have his conviction reviewed. Counsel recalls that the arrest warrant against his client was issued in the framework of criminal proceedings for which the Committee had concluded not that they were not in

compliance with the fair trial guarantees. The review of the author's sentence should not, according to counsel, depend on Mr. Akwanga's presence.

With reference to the Committee's jurisprudence and its general comment No. 20 (1992) and other documents such as the Istanbul Protocol (Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment), and concerning the alleged need to have Mr. Akwanga present in Cameroon in order to take part in the investigation concerning the alleged acts of torture, counsel notes that such investigation should be carried out promptly and *ex officio*. If some specific information is needed, counsel is ready to transmit it to the author for a reply, if this would not delay the investigation.

According to counsel, the State party's authorities should investigate the torture allegations promptly, impartially and effectively with the aim of having the responsible identified and prosecuted.

On the issue of Mr. Akwanga's entitlement to adequate reparation including compensation, and with reference to the State party's reference to civil remedies, counsel notes that in the absence of an effective criminal investigation, such civil remedies are clearly illusory and cannot be considered effective.

Counsel believes that the authorities should make an offer to compensate Mr. Akwanga, and also to indicate what other forms of reparation, including rehabilitation, satisfaction and guarantees of non-repetition it intends to provide to the author with, in order to fulfil its obligations under article 2, paragraph 3, of the Covenant. This could include legislative changes so as to ensure that military courts have no jurisdiction over civilians. According to counsel, the State party could also adopt legislation which would lead to the implementation to the Committee's Views and also would entitle compensation to victims of torture irrespective to the outcome of criminal proceedings.

Counsel's submission was sent to the State party, for observations, in March 2012.

The State party presented its observations by note verbale of 12 June 2012. It recalls that it considered that the communication should have been declared inadmissible (on grounds of *lis pendens* and non-exhaustion of domestic remedies); it also considered that the communication was groundless on the merits as no violation of the Covenant had occurred.

On the Committee's request to have the author's conviction re-examined with the guarantees enshrined in the Covenant, the State party notes that the author's case was already examined on appeal, in the author's absence, by the Court of Appeal, on 15 December 2005. At present, the author can do an opposition, under article 427 of the Criminal Procedure Code, given that he was never personally notified of the sentence against him. However, given that the Court of Appeal had ordered the author's detention in 2005, the arrest warrant must be executed before making the opposition. In order to guarantee the rights of the person making the opposition, the tribunals have seven days to enrol the case concerning the opposition. If the case is not enrolled within this deadline, the person making the opposition is released (he/she can be assigned to residence, his visits may be limited, he may also be subjected to bail or guarantees, etc). In this case, an eventual opposition would be dealt with by the Court of Appeal, which is an ordinary and not a military jurisdiction.

On the issue to inquire into the author's torture allegations and to prosecute those responsible, the State party declares that such claims fall under the scope of articles 116 and following of the Criminal Procedure Code. Given that the investigation proceedings are contradictory and often imply confrontation of persons, the presence of the complainant is needed, and in addition, the issues here concern physical violence.

Regarding the Committee's last recommendation, i.e. to have the author provided with an appropriate reparation including compensation, the State party points out that the payment of

compensation to injured parties is subject to the conviction in a criminal trial of those responsible for the alleged violations.

The State party's submission was sent to the author, for comments, in June 2012.

On 23 July 2012, author's counsel, referring to the State party's submission of 12 June 2012, stressed that the State party's observations were identical to those previously submitted, and thus did not call for any further comments on their part.

On 5 December 2012, counsel adds that the State party has failed to submit any information about the measures taken to give effect to the Committee's Views, more than a year after the deadline required to do so. In particular, the State party has taken no steps to deal with the question of compensation. Counsel explains that he had sent a letter to the State party on 30 November 2012, regarding the quantum of compensation, claiming US $ 3,445,904 in compensation for the author. In arriving at the amount, counsel notes that they have taken into account all the circumstances of the case, including all evidence presented to the Committee, the Views themselves, subsequent developments and all other relevant circumstances. The amount includes compensation for pain and suffering, loss of earnings, medical and other expenses, future loss of earnings, and future medical expenses, thus comprising damages of both patrimonial and non-patrimonial loss. Pending a response from the State party, counsel requests the Committee to specifically address the issue of compensation with the State party.

On 19 February 2013, counsel refers to his previous submission of 5 December 2012, regarding the correspondence addressed by him to the authorities regarding the compensation of the author, and informs the Committee that he had received no reply to his letter to his request. He add that a letter from the State party's Minister of Justice, addressed to the Secretary General in the Presidency, dated 17 September 2012, states that in the author's case, "recommendations have not been implemented due to … the absence of interlocutors". Counsel expresses surprise at the State party's assertion, given that he has always represented the author before the Committee. He requests the Special Rapporteur on follow-up to Views to address the matter directly with the State party's representative.

The author's submission was transmitted to the State party, for observations, on 22 February 2013 (one-month deadline). The Committee will await receipt of further information in order to finally decide on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Canada**
Case	***Dumont*, 1467/2006**
Views adopted on	16 March 2010
Violation	Article 2, paragraph 3, read in conjunction with article 14, paragraph 6, of the Covenant.

Remedy: An effective remedy in the form of adequate compensation. The State party is also required to ensure that similar violations do not occur in the future.

Previous follow-up information: A/67/40

On 25 February 2013, the State party informed the Committee of recent developments regarding the civil action brought by the author, claiming that he was a victim of a judicial error, and seeking compensation for damages suffered, including loss of liberty.

Referring to its previous submissions (A/66/40; A/67/40), the State party informs the Committee that the Court of Appeal of Quebec delivered its judgment on the author's appeal against the decision of the Superior Court of Quebec (which rejected his action in civil liability against the Governments of Quebec and Canada) on 16 November 2012. The court rejected the author's appeal as it found that neither the Government of Quebec nor the Canadian Government has committed a fault, such as to trigger their civil liability. On 14 January 2013, the author sought leave to appeal before the Supreme Court of Canada, which is expected to render its decision in the coming months.

The State party notes that in the judgement of the Court of Appeal of Quebec (annexed to the State party's submission), it is indicated that the City of Boisbriand's insurers (which had been sued jointly and solidarily with the general Prosecutors of Quebec and Canada for one global amount) provided "substantial compensation" ("une indemnité substantielle") to the author and his spouse. This compensation was provided pursuant to an out-of-court settlement between the author, the City of Boisbriand and its insurers, for the damage alleged by the author as a result of his condemnation and imprisonment. Upon the request of the Court of Appeal of Quebec, the author revealed the amount received.

The State party recalls that, in his submission of 27 October 2011 to the Committee (A/67/40), the author confirmed that he would not reveal to the Committee the compensation amount he received, despite the agreement from the City of Boisbriand and its insurers that the amount be provided to the Committee confidentially.

The State party reiterates that the monetary compensation received by the author adequately remedies the violation of the Covenant as found by the Committee. Faced by the refusal of the author to inform the Committee of the amount of the compensation received, the Committee should suspend the follow-up procedure, as its request for "an effective remedy in the form of adequate compensation" has actually been provided to the author.

The State party's observations were transmitted to the author for comments on 26 February 2013 (one-month deadline). While noting the State party's current efforts to satisfactorily implement the Committee's recommendation, the Committee will await receipt of further information in order to finally decide on the matter.

The Committee considers the follow-up dialogue ongoing.

State party	**Canada**
Case	***Pillai et al.*, 1763/2008**
Views adopted on	25 March 2011
Violation	The authors' removal to Sri Lanka would, if implemented, violate their rights under article 7 of the Covenant.

Remedy: Effective remedy, including a full reconsideration of the authors' claim regarding the risk of torture, should they be returned to Sri Lanka.

Previous follow up information: A/67/40

On 6 June 2012, authors' counsel informed the Committee that the authors have received permanent residence on humanitarian and compassionate grounds in May 2012. The authors are thus satisfied with the remedy provided by the State party.

At its 105th session, the Committee decided to close the follow-up consideration of the case, with a note of a satisfactory implementation of its recommendation.

State party	Colombia
Case	***Suárez de Guerrero*, 45/1979**
Views adopted on	31 March 1982
Violation	Article 6, paragraph 1 of the Covenant.

Remedy: The State party should take the necessary measures to compensate the husband of the victim, and to ensure that the right to life is duly protected by amending the law.

Previous follow-up information: A/52/40

On 29 May 2012, the State party recalled that Article 2(1) of Act 288/1996 allows monetary compensation (including friendly settlement) to be paid to victims of human rights violations following a pronouncement by an international instance, which includes the Human Rights Committee. In the present case, the Council of Ministers issued a positive recommendation for compensation of the author. Since 2009 however, police efforts to locate the author proved unsuccessful, but the State party will pursue their attempts.

The submission was transmitted to the author, for comments, on 13 February 2013 (one-month deadline). While welcoming the efforts of the State party with a view to granting compensation to the author, the Committee will await receipt of further information in order to finally decide on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	Colombia
Case	***Salgar de Montejo*, 64/1979**
Views adopted on	24 March 1982
Violation	Article 14, paragraph 5, of the Covenant.

Remedy: Adequate remedies for the violation which the victim has suffered. The State Party should adjust its laws in order to give effect to the right set forth in article 14, paragraph 5, of the Covenant.

Previous follow-up information: A/52/40

On 29 May 2012, the State party, referring to Article 2(1) of Act 288/1996, submitted that, pursuant to decision 09 of 1996, the Council of Ministers rejected the author's claim for monetary compensation.

The State party's observations were sent to the author, for comments, on 13 February 2013 (one-month deadline). The Committee will await receipt of further information before finally deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	Colombia
Case	***Herrera Rubio*, 161/1983**
Views adopted on	2 November 1987

Violations Article 6, article 7 and article 10, paragraph 1 of the Covenant.

Remedy: Effective measures to remedy the violations suffered, to investigate the violations, to take action thereon as appropriate and to take steps to ensure that similar violations do not occur in the future.

Previous follow-up information: A/52/40

On 29 May 2012, the State party, referring to Article 2(1) of Act 288/1996, submitted that pursuant to decision 09 of 1996, the Council of Ministers issued a positive recommendation for the author's compensation. Nonetheless, despite several measures undertaken since November 2009, the State party's authorities were unsuccessful in their attempts to locate the author.

The State party's observations were sent to the author, for comments, on 13 February 2013 (one-month deadline).While welcoming the efforts of the State party with a view to granting compensation to the author, the Committee will await receipt of further information in order to finally decide on the matter.

The Committee considers the follow-up dialogue ongoing.

State party	**Colombia**
Case	***Arévalo Pérez*, 181/1984**
Views adopted on	3 November 1989
Violations	Article 6 and article 9 of the Covenant.

Remedy: The Committee said it would welcome information on any relevant measures taken by the State party in respect of the Committee's views and, in particular, invites the State party to inform the Committee of further developments in the investigation of the disappearance of the victims.

Previous follow-up information: A/52/40

On 29 May 2012, the State party, referring to Article 2(1) of Act 288/1996, submitted that in 1996, the Council of Ministers rejected the author's claim for monetary compensation (given the absence of a specific remedy recommended by the Committee).

The State party's observations were sent to the author, for comments, on 13 February 2013 (one-month deadline).The Committee will await receipt of further information before deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Colombia**
Case	***Delgado Páez*, 195/1985**
Views adopted on	12 July 1990
Violations	Article 9, paragraph 1, and article 25, paragraph (c), of the Covenant.

Remedy: Effective measures to remedy the violations suffered by the author, including the granting of appropriate compensation.

Previous follow-up information: A/52/40

On 29 May 2012, the State party, referring to Article 2(1) of Act 288/1996, submitted that, in 1996, the Council of Ministers decided to grant the author monetary compensation, and had referred the case for conciliation. However, despite two conciliation attempts undertaken in 2008 and 2009, no agreement was reached, and the case was referred back to the Council of State.

The State party's observations were sent to the author, for comments, on 13 February 2013 (one-month deadline).The Committee will await receipt of further information before deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Colombia**
Case	***Fei*, 514/1992**
Views adopted on	4 April 1995
Violations	Articles 14, paragraph 1, and 23, paragraph 4, in conjunction with article 17, paragraph 1, of the Covenant.

Remedy: An effective remedy. In the Committee's opinion, this entails guaranteeing the author's regular access to her daughters, and that the State party ensure that the terms of the judgements in the author's favour are complied with.

Previous follow-up information: A/52/40

On 29 May 2012, the State party, referring to Article 2(1) of Act 288/1996 (see above), submitted that in 1996, the Council of Ministers decided not to grant the author monetary compensation, since the Committee's Views did not recommend expressly that compensation be provided.

The State party's observations were sent to the author, for comments, on 13 February 2013 (one-month deadline). The Committee will await receipt of further information before deciding on the matter.

The Committee considers the follow-up dialogue ongoing.

State party	**Colombia**
Case	***Arhuacos*, 612/1995**
Views adopted on	29 July 1997
Violations	Articles 7 and 9 of the Covenant in the case of the Villafañe brothers and of articles 6, 7 and 9 of the Covenant in the case of the three leaders Luis Napoleón Torres Crespo, Angel María Torres Arroyo and Antonio Hugues Chaparro Torres.

Remedy: To ensure that Mr. José Vicente and Mr. Amado Villafañe and the families of the murdered indigenous leaders shall have an effective remedy, which includes compensation for loss and injury. The Committee […] urges the State party to expedite the criminal proceedings for the prompt prosecution and trial of the persons responsible for the abduction, torture and death of Mr. Luis Napoleón Torres Crespo, Mr. Angel María Torres Arroyo and Mr. Antonio Hugues Chaparro Torres and of the persons responsible for the abduction and torture of the Villafañe brothers.

Previous follow-up information: A/52/40

On 29 May 2012, the State party, referring to Article 2(1) of Act 288/1996, submitted that in 1997, the Council of Ministers decided to grant monetary compensation to José Vicente and Armando Villafañe Chaparro. On 8 April 2010, the Ministry of Defence's Group on Dispute Matters informed that a friendly settlement procedure was led by the Prosecutor 47 (*Procuraduria*) of Valledupar. The Council of Ministers decided not to grant compensation with regard to Mr Luis Napoleón Torres Crespo, Angel María Torres Arroyo and Antonio Hugues Chaparro Torres.

The State party's observations were sent to the author, for comments, on 13 February 2013 (one-month deadline).

While welcoming the decision adopted by the Committee of Ministers, deciding to grant monetary compensation to José Vicente and Armando Villafañe Chaparro, the Committee will await receipt of further information before deciding on the matter.

The Committee considers the follow-up dialogue ongoing.

State party	**Colombia**
Case	***Rojas García*, 687/1996**
Views adopted on	3 April 2001
Violations	Article 7 and article 17, paragraph 1.

Remedy: An effective remedy, which must include reparation.

Previous follow-up information: A/59/40

On 29 May 2012, the State party, referring to Article 2(1) of Act 288/1996, submitted that, in 2002, the Council of Ministers had decided to grant monetary compensation to the victim and his family. The author's representative requested a specific amount of money, and the issue is currently before the Council of State, which will decide on the matter in second instance.

The State party's observations were sent to the author, for comments, on 13 February 2013 (one-month deadline).

While welcoming the decision adopted by the Council of Ministers, deciding to grant monetary compensation to the author, the Committee will await receipt of further information in order to finally decide on the matter.

The Committee considers the follow-up dialogue ongoing.

State party	**Colombia**
Case	***Coronel et al.***, 778/1997
Views adopted on	24 October 2002
Violations	Article 6, paragraph 1; article 7 in respect of Gustavo Coronel Navarro, Nahún Elías Sánchez Vega, Luis Ernesto Ascanio Ascanio and Luis Honorio Quintero Ropero; article 9; and article 17 of the Covenant.

Remedy: An effective remedy to the victims' relatives, including compensation. The Committee also urged the State party to conclude without delay the investigations into the violation of articles 6 and 7, and to speed up the criminal proceedings against the perpetrators in the ordinary criminal courts.

Previous follow-up information: A/59/40

On 29 May 2012, the State party, referring to Article 2(1) of Act 288/1996, submitted that, based upon proceedings before relevant administrative tribunals between 1998 and 2011, the Council of Ministers had decided to grant compensation to Mr. Jesús Aurelio Quintero Sánchez (for the death of Ramón Emilio Quintero and Luis Onorio Quintero Ropero), and in favour of Mr Luis Ernesto Ascanio's and Ramón Antinio Villegas Tellez's parents, brothers and sisters.

The State party's observations were sent to the author, for comments, on 13 February 2013 (one-month deadline).

While welcoming the decision adopted by the Council of Ministers, deciding to grant monetary compensation to some of the victims' relatives, the Committee will await receipt of further information before deciding on the matter.

The Committee considers the follow-up dialogue ongoing.

State party	**Colombia**
Case	***Rodríguez Orejuela*, 848/1999**
Views adopted on	23 July 2002
Violation	Article 14 of the Covenant.

Remedy: An effective remedy.

Previous follow-up information: A/59/40

On 29 May 2012, the State party informed the Committee that, in 2005, the author was extradited to the United States of America under drug trafficking charges, following the authorization of the Supreme Court of Colombia.

The State party's observations were sent to the author, for comments, on 13 February 2013 (one-month deadline).The Committee will await receipt of further information before deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Colombia**
Case	***Jiménez Vaca*, 859/1999**
Views adopted on	25 March 2002
Violations	Article 6, paragraph 1, article 9, paragraph 1, and article 12, paragraphs 1 and 4, of the Covenant.

Remedy: Effective remedy, including compensation, and to take appropriate measures to protect his security of person and his life so as to allow him to return to the country. The Committee also urged the State party to carry out an independent inquiry into the attempt on his life and to expedite the criminal proceedings against those responsible for it.

Previous follow-up information: A/61/40

On 29 May 2012, the State party, referring to Article 2(1) of Act 288/1996, informed the Committee that, in 2002, the Council of Ministers decided not to grant compensation to the author. According to information received in 2006 by the Ministry of Defence, the author's appeal against the Council of Ministers' decision is pending before the Administrative Tribunal of Antioquia.

The State party's observations were sent to the author, for comments, on 13 February 2013 (one-month deadline). The Committee will await receipt of further information before deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Colombia**
Case	***Becerra Barney*, 1298/2004**
Views adopted on	11 July 2006
Violation	Article 14 of the Covenant.

Remedy: An effective and appropriate remedy.

Previous follow-up information: A/62/40

On 29 May 2012, the State party, referring to Article 2(1) of Act 288/1996 (see above), informed the Committee that, in 2006 and 2007, the Council of Ministers decided not to grant compensation to the author. The author subsequently lodged an application before an Administrative Court of the Judicial Circuit of Santiago de Cali, which was dismissed in the first instance. According to information provided on 21 January 2010 by the Office of the Prosecutor, the appeal remains pending before the Administrative Tribunal of Valle del Cauca.

The State party's observations were sent to the author, for comments, on 13 February 2013 (one-month deadline). The Committee will await receipt of further information before deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Colombia**
Case	***Casadiego*, 1361/2005**
Views adopted on	30 March 2007
Violation	Article 26 of the Covenant.

Remedy: An effective remedy, including reconsideration of his request for a pension without discrimination on grounds of sex or sexual orientation.

Previous follow-up information: A/63/40

On 29 May 2012, the State party, referring to Article 2(1) of Act 288/1996, informed the Committee that on 20 June 2007, the Council of Ministers decided not to grant compensation to the author, as the Committee did not recommend such remedy.

The State party's observations were sent to the author, for comments, on 13 February 2013 (one-month deadline). The Committee will await receipt of further information before deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Colombia**
Case	***Bonilla Lerma*, 1611/2007**
Views adopted on	26 July 2011
Violation	Article 14, paragraph 1, of the Covenant.

Remedy: Effective remedy, including adequate compensation.

No previous follow-up information.

On 21 February 2012, the State party informed the Committee that, pursuant to Decree 4100 of 2011, it would propose a meeting to the author, with a view to discussing the way to implement the Committee's Views.

On 22 February 2012, the State party added that it intends to seek a meeting of the Inter-institutional Commission for human rights and international humanitarian law in order to inform the different institutions of the Committee's Views, and seek their implementation in accordance with Law 288 of 1996, which establishes a mechanism to provide victims of human rights violations with compensation.

On 17 July 2012, the author informed the Committee that the State party failed to implement the Committee's recommendation as no authority had contacted him. According to the author, the State party's procedure for compensation is arbitrary and ineffective. The author adds that he also submitted an application for compensation before the Supreme Court, which was dismissed.

The author's submission was sent to the State party, for observations, on 22 February 2013 (one-month deadline). The Committee will await receipt of further information before deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Colombia**
Case	***Calderón Bruges*, 1641/2007**
Views adopted on	23 March 2012
Violation	Article 14, paragraph 5, of the Covenant.

Remedy: An effective remedy, which includes the review of his conviction and adequate compensation.

No previous follow-up information.

On 11 October 2012, the State party reiterated its observations on the merits of the case, submitting that, in its view, the Supreme Court's cassation judgment of 21 July 2004 was in accordance to the law, and could not be considered arbitrary. Likewise, the criminal proceeding against the author observed all judicial guarantees. In the light of the above, the State party informs the Committee that the Government decided not to transmit the Committee's Views to the Inter-Ministerial Commission, which is in charge to allocate compensation to victims of human rights violations.

The State party's observations were sent to the author, for comments on 29 October 2012 (one-month deadline). The Committee will await receipt of further information before deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Democratic Republic of the Congo**
Case	***Gedumbe*, 641/1995**
Views adopted on	9 July 2002
Violation	Article 25 (c) in conjunction with article 2 of the Covenant.

Remedy: An appropriate remedy, namely: (a) effective reinstatement to public service and to his post, with all the consequences that that implies, or, if necessary, to a similar post; (2) (b) compensation comprising a sum equivalent to the payment of the arrears of salary and remuneration that he would have received from the time at which he was not reinstated to his post, beginning in September 1989.

Previous follow-up information: A/61/40

On 20 September 2012, the author requested information on implementation of the Committee's Views by the Committee.

On 22 October 2012, the author reiterated that the State party failed to implement any measure to implement the Committee's Views. He explains that in 2005, he wrote to the State party's President, and in 2008, to the Prime Minister, without response. According to the author, in the light of the 10 years which elapsed without being provided a remedy, the State party's unwillingness to cooperate is patent.

The author's submission was sent to the State party, for the State party's observations, on 14 January 2013 (one-month deadline). The Committee will await receipt of further information before deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**France**[27]
Case	***Singh*, 1876/2009**
Views adopted on	22 July 2011
Violation	Article 18, paragraph 1.

Remedy: Effective remedy, including a reconsideration of his application for a renewal of his residence permit and a review of the relevant legislative framework and its application in practice, in the light of its obligations under the Covenant. The State party is also under an obligation to take steps to prevent similar violations in the future.

No previous follow-up information.

[27] A meeting took place on 18 July 2012 between the committee's Special Rapporteur on follow-up to Views and a representative of the Permanent Mission of France to the United Nations Office at Geneva to discuss follow-up to Views.

By note verbale of 27 March 2012, the State party explains that the Code on entry and stay of foreigners requires the presentation of a bareheaded photograph for the renewal of identity documents. The same requirement is included in 1955 and 2005 Decrees, concerning the issuance of passports and identity cards; the same is valid for issuance/renewal of driver's licences (Ministerial Circular of 6 December 2006).

The State party points out that such requirement is in line with European and international law, and that States are given certain margin of appreciation concerning identity photographs. The Regulation (EC) No 2252/2004 of 13 December 2004 "on standards for security features and biometrics in passports and travel documents issued by Member States" adopted by the Council of the European Union refers to the regulations of the International Civil Aviation Organization, which indicates that "the full-face frontal pose shall be in focus from the crown (top of the head ignoring any hair) to the chin and from the nose to the ears". Headgear is, in principle, forbidden, except for purposes of religious, medical or cultural reasons, which the States parties are free to take into account or not. This explains, according to the State party, the absence of uniform legislation among European States.

The obligation to pose bareheaded in the French regulations aims at permitting better identification, and to make forgery or undue use of documents more difficult. Thus, use of headgear may be compared to the use of eyeglasses with thick frames concealing the eyes. This obligation permits also to treat all citizens in the same way, irrespectively of their religion, by excluding all headgear, without distinguishing between its justification, religious or other.

In addition, the constraint measure against the author was punctual and minimal, limited to the taking of the photograph only.

The State party explains that it has taken due note of the Committee's Views. It recalls, however, that its regulations governing identity photographs was found to be in conformity with the freedom of religion and the non-discrimination principle both by the French Conseil d'Etat and the European Court of Human Rights.[28] The Conseil d'Etat, in its Ruling of 15 December 2006, in "United Sikhs Association and Mann Singh", validated the legitimacy of the provisions of the 2006 Circular quoted above and found them to be in conformity with articles 9 and 14 of the European Convention for Human Rights (freedom of conscience and religion and non-discrimination). It found out that the restrictions imposed on the person's freedom of religion through the obligation to take a bareheaded picture, were justified given that they are aimed at limiting the risks of fraud or falsification and permit the identification of the individual. The restrictions were neither inadequate nor disproportional concerning these aims, as the measure is punctual. The measure was also found out not to be discriminatory, as it did not imply a differentiated treatment among persons of Sikh confession and the others.

In its inadmissibility decision in application No. 24479/07, *Mann Singh v. France*, November 2008 relating to the above mentioned Ruling of the Conseil d'Etat, the European Court of Human Rights decided that the French law was in conformity with the Convention, and the interference into the applicant's freedom of religion was justified by the requirements of public safety, provided under paragraph 2, article 9, of the Convention. The Court also recalled that States have a margin of appreciation on the matter, and decided that the restriction measure was not disproportionate in light of its aim.

The State party also notes that this judgment follows the Court's approach exposed in *Phull v. France*, 11 January 2005, regarding the obligation of a Sikh to remove his turban at an airport security

[28] The State part refers, in this connection, to the Conseil d'Etat's Ruling of 15 December 2006, in "*United Sikhs Association and Mann Singh*", and to the inadmissibility decision of the of the European Court of Human Rights in Application No. 24479/07, *Mann Singh v. France*, November 2008.

check, the European Court of Human Rights had concluded that security checks are within the margin of appreciation, left to States parties. Before this, the European Commission for Human Rights has also decided, on 3 May 1995 in *Karaduman v. Turkey*, that the requirement for a student to provide identity pictures bare-headed to obtain her diploma did not constitute a breach of the applicant's freedom of religion.

In the circumstances, and taking into account the imperatives related to security and fight against fraud and the validation of the French regulations by the European Court of Human Rights, the State party declares that it will not modify its laws concerning the requirements on identity photographs.

On 4 May 2012, author's counsel notes that the State party has "recycled" its unpersuasive and counterfactual arguments which were already rejected by the Committee in its Views.

As to the State party's argument that a turban obscures parts of the face of its wearer and impedes identification, counsel points out that the State party has failed to provide any credible explanation, as noted by the Committee, as to (i) why "the wearing of a Sikh turban covering the top of the head and a portion of the forehead but leaving the rest of the face clearly visible would make it more difficult to identify the author than if he were to appear bare-headed" or (ii) "how, specifically, identity photographs in which people appear bare-headed help to avert the risk of fraud or falsification of residence permits".

As to the analogy made by the State party with wearers of thick glasses, counsel notes that a Sikh turban does not obscure the eyes, and is worn to cover the hair; in addition glasses are not intertwined with the wearer's religious identity, and their removal in public neither humiliates the wearer nor is tantamount to repudiating the wearer's faith.

Counsel further notes that the State party has not reacted to the Committee's finding that given that the author wears the turban at all times when in public, his identification through a bareheaded photograph would be more rather than less difficult. In addition, the State party does not address the fact that it had in the past issued identity documents showing the author wearing a turban, and the author did not face any identification problems even if he used his identity card for a decade. According to counsel, the State party does not attempt to justify the reversal of its policy, as it cannot do so, because a Sikh turban does not obscure facial features and thus, it does not impede identification.

Counsel further maintains that the State party fails to recognize that an identity photograph without a turban would constitute a permanent memorialization of the author's humiliation, not for a punctual and minimal restriction limited to a click of a camera. With reference to the Committee's conclusions, counsel adds that the State party ignores the Committee's finding that the bareheaded photograph requirement mandates an ongoing and continuous victimization of Sikhs like the author, as they would always appear without his religious head covering in the identify photograph, and because he could be compelled to remove his turban during identity checks.

Counsel adds that the State party's refusal to implement the Committee's Views and to remedy its discriminatory laws cause additional ongoing injury to the author, whose inability to renew his residency card resulted in his denial of access to important public benefits such as health care. According to counsel, for the author, who is 76 years' old, and who suffers from numerous medical aliments, the State party's denial of a residence card not only infringes his freedom of religion, but it also jeopardizes his health and well-being.

Counsel further notes that in the case of *Phull v. France*, the European Court of Human Rights (the Court) held that a Sikh was required to remove his turban at an airport security check, to ensure physical safety of airline travellers. The purpose of the regulation was to detect and deter immediate threats to physical security, not the issuance of identification cards to prove residence and secure public benefits. In *Karaduman v. Turkey*, the Court denied a Muslim's petition for diploma that showed her wearing a headscarf; it related to Turkey's secularism and avoidance of secularization, none of which are present in this case. In addition, the headscarf in question was covering different facial parts than the

ones covered by a Sikh turban. Counsel adds that in *Mann Singh v. France*, as in *Karaduman v. Turkey*, the Court applies a different, inapplicable legal framework than the Committee did in the present case, and did not fully reach the substance of the applicant's claim or engage his key arguments.

None of the cases invoked does, according to counsel, excuse the State party's breach of the author's rights. In addition, the Committee is not bound by decisions of the European Court of Human Rights, in particular when it had applied different legal framework or, for procedural reasons, had failed to address the merits of an application.

Counsel next explains that even if the State party claims that its law corresponds to international and European standards, Austria, Belgium, Denmark, Estonia, Finland, Germany, Greece, Hungary, Ireland, Italy, Netherlands, Norway, Poland, Portugal, Sweden, and the United Kingdom of Great Britain and Northern Ireland offer some form of accommodation for religious headwear in driving licences, passports, etc. Outside Europe, Australia, Canada, New Zealand, and the United States of America are just few examples of countries offering similar accommodations. Counsel points out that the State party's refusal to make a minimal effort in this regard puts it increasingly at odds with regard to the norms of its peers.

As to the State party's argument that its regulations are not discriminatory, counsel contends that this argument ignores the principle of indirect discrimination. Counsel recalls that in *Althammer v. Germany*, counsel notes that article 26 can result from the discriminatory effect of a rule or a measure that is neutral at face value or without intent to discriminate where the detrimental effects of a rule or a decision exclusively or disproportionately affect persons having a particular race, colour, sex, language, religion, etc. According to counsel, in this case, the State party's measure has disproportionally affected Sikhs, who are religiously obligated to cover their hair, but not other residents who may not have such a religious obligation.

Counsel's comments were sent to the State party, for observations in April 2012. As per its request, the State party was provided with an extension for the presentation of its observations, until 23 July 2012.

On 23 July 2012, the State party expressed its disagreement with the author's position, in particular regarding his position on the scope of decisions rendered by the European Court of Human Rights. Nonetheless, the State party reiterates its commitment to regular and transparent dialogue with the Sikh community, as well as representatives of other religions. The State party further informed the Committee that members of the Ministry of Foreign Affairs and the Office of Cult of the Ministry of Interior had received, on their request, representatives of French and European Sikh associations, so as to raise and explain the main elements of the French legislative framework, and its rationales. The possibility of technical meetings with police experts, regarding the question of photographs on identity documents, was also raised. The State party will keep the Committee updated on any relevant development in this regard.

The State party's submission was transmitted to counsel, for comments, on 27 July 2012.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**France**
Case	***Cochet*, 1760/2008**
Views adopted on	21 October 2010
Violation	Article 15 of the Covenant.

Remedy: The State party is under an obligation to provide the author with an effective remedy, including appropriate compensation.

Previous follow-up information: A/66/40

On 16 March 2012, author's counsel informed the Committee that he had received the conclusions of the Judicial Agent of the Trésor public (Treasury). According to the Judicial Agent, the Trésor public owes no compensation to the author (counsel submits a copy of the conclusions). The conclusions were prepared at the request of the Tribunal de Grande Instance de Paris.

The case was also discussed during the meeting of the Special Rapporteur on follow-up to Views and a member of the State party's Permanent Mission to the United Nations Office at Geneva, held in July 2012. The State party's representative assured the Committee that a reply would be provided, and also emphasised the State party's willingness to continue with the dialogue aimed at obtaining a satisfactory solution of the case.

Despite the above-mentioned assurances, no response was received from the State party on implementation of the Committee's Views.

On 11 July 2012, a second reminder was sent to the State party for its observations, with a deadline on 13 August 2012.

On 7 February 2013, author's counsel transmitted a copy of a judgement of the *Tribunal de grande instance de Paris*, dated 6 February 2013. The appeal was lodged by the author, asking the State party, inter alia, to implement the Committee's Views, and to grant him compensation. The Court rejected the appeal, while stressing that while the Committee's Views are recognized by States parties to the Covenant, they derive from a non-jurisdictional organ, and do not possess a binding value vis-à-vis States parties, as the Council of States found on several occasions. The decision also provides that the State's responsibility can only be triggered where the author could show the existence of a blatant breach of the Covenant's principles, presenting a manifest and serious character, which the Tribunal did not find in the present case.

The author's submission was transmitted to the State party on 18 February 2013, for observations (one month deadline). The Committee will await receipt of further information before deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Greece**
Case	***Katsaris*, 1558/2007**
Views adopted on	18 July 2012
Violations	Article 2, paragraphs 3 read in conjunction with article 7; and articles 2, paragraph 1, and 26 of the Covenant.

Remedy: An effective remedy, including adequate compensation.

No previous follow-up information.

In its submission dated 3 January 2013, the State party informed the Committee of the measures adopted to give effect to the Committee's Views.

The State party refers to a document of the Ministry of Justice dated 13 December 2012, which highlighted shortcomings in the investigation conducted by the First Instance Prosecutor, as well as

discrepancies casting doubts on the thoroughness and impartiality of the penal investigation undertaken in the case, also highlighting the lack of any forensic medical examination undertaken and the length of the preliminary investigation. According to the State party, the Ministry of Justice communicated the Views of the Committee (translated into Greek) to the Prosecutor before the Court of Cassation, requesting its dissemination to all Prosecution authorities as a general and individual measure of compliance to the Committee's findings. The State party underlines that the obligations stemming from the Committee's Views are of a procedural nature rather than an obligation pursuing a specific result. According to the State party, the dissemination of the Committee's Views to the Prosecution Authority may be considered as new evidence brought against the three police officers involved, based on article 43 para. 5 of the Code of Penal Procedure, which would in turn allow the First Instance Prosecutor order a new investigation, with a view to re-examine the case.

The State party further draws the Committee's attention to a domestic remedy already available for the recognition of the civil liability of the State when damages occur due to unlawful actions or omissions of a State agent, under section 105 of the Introductory law to the Civil Code; Consequently, the State party suggests that the author has an effective judicial remedy at his disposal to seek reparation (pecuniary or moral damages) before the Greek Administrative Courts for damages suffered, due to the State party's failure to promptly, thoroughly and impartially investigate allegations of ill-treatment and racial discrimination. The State party refers to a case where the European Court of Human Rights had found a violation of article 3 of the Convention, and for which the Hellenic Administrative courts had awarded a considerable amount of compensation (117,108 euros).

The State party adds that the translated Views of the Committee will be disseminated to the public through the Internet, and that they have already been transmitted to all police personnel and special and frontal guards, so as to avoid similar violations in the future.

The State party's submission was transmitted to the author's counsel for comments on 8 January 2013.

On 28 February 2013, counsel submitted that the State party failed to provide redress to the author, as with the other two decisions of the Committee (*Kalamiotis* and *Georgopoulos*), in which the State has failed to effectively provide the authors with prompt effective remedy and compensation. Referring to the State party's observations, counsel stresses that the Prosecutor of the Supreme Court was not requested to take specific action so that, for example, the previous archiving of the two criminal investigations be reviewed and/or that the prosecutors responsible for the shortcomings in the investigation be subjected to criminal and/or disciplinary investigation. The State has provided no information as to the action taken by the Prosecutor of the Supreme Court. Regarding the State party's assertion, that the First Instance Prosecutor may bring charges against the police officers involved, provided that there is no time limitation involved, counsel affirms that the impugned unlawful actions of ill-treatment and racially discriminatory behaviour are misdemeanours with a five-year statutory limitation; therefore the criminal files cannot be withdrawn from the archives. The crime of abuse of authority, which is possibly a felony with a consequential 15-year statutory limitation (art. 239 of the Criminal Code) was not brought by the prosecutors as a charge at the time.

Regarding the State party's suggestion that the authors have the possibility to seek compensation from the domestic courts by filing a lawsuit under article 105 of the Introductory Law to the Civil Code, counsel submits that domestic courts are extremely slow in adjudicating such cases (which has led to several judgments of the European Court of Human Rights against the State party, with a finding of violation of article 6(1) of the European Convention on Human Rights). Counsel adds that in any event, the procedure suggested by the State party is not the most appropriate, as administrative courts are only relevant for compensation claims where it is necessary to first establish the State's liability, and thereafter to decide on the amount of compensation. When liability is irrevocably accepted by the State, the Legal Council of State has the authority to approve compensation, which is usually agreed upon

between the liable State agency and the claimant. The author would have expected the State party to adopt this procedure in the present case. Counsel highlights the fact that in its follow-up observations to the *Kalamiotis* Views to the Committee (A/64/40), the State acknowledged that the Views are equivalent in value to the judgments of the European Court of Human Rights and constitute res judicata, leaving only the amount of compensation to be decided. Counsel believes that amounts awarded in similar Roma ill-treatment with racial discrimination cases by the European Court of Human Rights could thus serve as a basis for his compensation through a similar decision of the Legal Council of State and the Minister of Economy and/or the Minister of Public Order.

Additionally, counsel notes that in principle, compensation ought to place the authors in an as close position to the one they would find themselves had the violations of their rights not taken place, also contesting the view that once securing a positive judgment, an applicant ought to start fresh domestic proceedings in order to obtain reparation. Finally, counsel stresses that there is no procedure to seek damages domestically for the excessive length of the criminal procedure, which is one of the violations found by the Committee in the case. He requests the Committee to urge the State party to ensure the criminal investigation of the prosecutors' failures which led to the violations of the Covenant, as well as adequate compensation.

Finally, the author's counsel is pleased with the prompt publication of the Greek translation of the Views.

The counsel's comments were sent to the State party, for observations, on 5 March 2013 (one-month deadline). The Committee will await receipt of further information prior to deciding on the matter.

The Committee considers the follow-up dialogue is ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Greece**
Case	***Georgopoulos et al.*, 1799/2008**
Views adopted on	29 July 2010
Violations	Articles 17, 23 and 27, alone and read in conjunction with article 2, paragraph 3, of the Covenant.

Remedy: An effective remedy, as well as reparations to include compensation.

Previous follow-up information: A/67/40

On 27 June 2012, the author's counsel informed the Committee that even though the official translation of the Committee's Views are normally uploaded on the website of the Legal Council of the State party, following a change in the website in late 2011, the Views are no longer available. The authors submitted two inquiries in this regard, for which they never got a reply.

The author's counsel submits that in its observations of 9 March 2011, the State party argued that having completed domestic criminal investigation with the Patras Appeals Prosecutor Decrees 44/2009 and 56/2009, rejecting the authors' allegations of unlawful eviction (along with other Romas), it had complied with the requirement for the provision of an effective remedy. According to counsel, the State party thus understood its obligation as one of means and not of a result, and implied that the fact that the investigation ordered did not reach the same conclusion as the Committee's Views did not force it to reopen criminal investigations.

The author's counsel adds that on 26 April 2011, the authors filed an application before the Supreme Court Prosecutor, requesting it to re-examine the domestic criminal file. The request was

granted, and the case was referred to court for the trial of the Mayor and two Deputy Mayors of Patras in 2006. Respective trial dates for 10 October 2011, 27 June 2012 and 19 November 2012 were set. The Committee will be informed of the outcome of the trial.

On 27 July 2011, the authors filed, with the Supreme Court Prosecutor, a request for the investigation of possible criminal responsibility for breach of duty and abuse of power of the Patras First Instance Deputy Prosecutor and the Patras Deputy Appeals Prosecutor, who had initially shelved the complaint filed in 2006. The Supreme Court Prosecutor has admitted the request and a preliminary criminal investigation is being carried out. On 25 June 2012, however, the Patras First Instance Deputy Prosecutor under investigation was promoted to Prosecutor, which, according to counsel, should be taken as an indication that the investigation will not be impartial, but is just a *pro forma* exercise, which will lead to impunity.

According to the author's counsel, in its reply of 14 July 2011, the State party suggested that they submit an application before the Legal Council of State, to seek reparation. He confirms that the authors filed such application on 20 October 2011.

In the course of the consideration of the State party's fifth and sixth periodic report (CAT/C/GRC/5-6) by the Committee against Torture, the authors informed that Committee of the above-mentioned developments. The author's counsel refers to the concluding observations adopted by that Committee with regard to redress, including compensation and rehabilitation. Finally, counsel asks the Human Rights Committee to take up the issue in general, as well as their specific follow-up procedure, in the course of a meeting with the State party.

On 5 July 2012, the author's counsel added that on 8 May 2012, the authors received the Legal Council of State's decision, dismissing their application for compensation, on the ground that the Legal Council is not competent to deal with such requests. Counsel refers to his previous submission of 27 June 2012, in which he informed the Committee of the State party's suggestion to seek reparation before the Council of State. Counsel concludes that the State party has misinformed the authors on the availability of such remedy.

The Committee, in its Views, found violations of several provisions of the Covenant *by the State party*, and not by the Municipality of Patras. The State party was requested to provide the authors with reparation, to include compensation. The violations were not all related to actions of the Municipality, but also to actions of the Prosecutor's Office, related to the length of the investigation. Consequently, the State party's responsibility is not primarily engaged due to the evictions themselves, but rather due to the subsequent failure of the authorities to provide the authors with adequate redress in relation to those evictions. The State is liable to provide compensation, as opposed to its various agents. As for the nature of compensation, the principle of *restituo ad integrum* should in principle place the authors in as a close position to the one they would find themselves, had the violations of their rights not taken place. According to the author's counsel, it is obvious from the observations submitted, and from the latest decision of the Legal Council, that the State party is not willing to provide compensation to the authors. Furthermore, the procedure of civil action for damages referred to in the Legal Council of State's decision is only relevant when the liability of the State is to be established first, while the exact compensation amount has to be subsequently determined. In the present case, the State party's liability was established in the Committee's Views, and consequently an out-of-court procedure would be sufficient. Moreover, there is no such legal procedure, within the State party's domestic system, allowing seeking damages for the excessive length of the criminal procedure, which is one of the violations found by the Committee.

The author's counsel requests the Committee to ask the State party to promptly provide the authors with compensation, and to refrain from evading the issue by invoking various procedures, which appear to be irrelevant, or shift the burden on to the authors.

By note verbale of 17 August 2012, the State party explains that it has fulfilled its obligations to take all necessary measures to give effect to the Committee's Views. As to counsel's comments of 5 July 2012, the State party reiterates that the Legal Council of the State did not reject the author's reparation claims but declared to lack jurisdiction thereon. The authors thus have two options: a penal claim before the court of the Three Member Misdemeanors Court of Patras as civil claimants against the defendants (reportedly municipal agents) for breach of duty; or to lodge an action for damages before the competent administrative courts seeking compensation for breaches of the Covenant. Under article 59, par. 3, of Law No. 4055/2012, such petitions must be heard within six months of its submission. Therefore, the contentions that the State party is not willing to compensate the authors or has prevented them from receiving an effective remedy are incorrect.

As to the counsel's comments of 27 June 2012, the State party explains that the official translation of the Committee's Views in Greek was placed on the website of the Legal Council of the State in 2011. Due to technical problems, it is currently inaccessible, but will be uploaded again soon.

On 9 February 2013, the author's counsel reiterated its previous comments, stating that the authors were denied the effective remedy requested by the Committee, which the State party is not prepared to provide.

Counsel's submission was transmitted to the State party, for observations, on 27 February 2013 (one-month deadline).The Committee will await receipt of further information prior to deciding on the matter.

The Committee considers the follow-up dialogue is ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Kyrgyzstan**[29]
Case	***Kaldarov*, 1338/2005**
Views adopted on	**18 March 2010**
Violation	Article 9, paragraph 3, of the Covenant.

Remedy: Effective remedy, in the form of appropriate compensation, and to make such legislative changes as are necessary to avoid similar violations in the future.

No previous follow-up information.

The State party provided its observations on 26 April 2012. It explains that its Criminal Procedure Code has been amended in June 2007, and under its article 110, placement in custody now requires a court decision. Thus, the State party's legislation is now in line with article 9 of the Covenant, and similar violations would not reoccur in future.

Given that the Committee's recommendations were partly satisfied, the State party invites the Committee to close the follow-up dialogue in this case.

The State party's submission was sent to counsel, for comments, in April 2012. The Committee will await receipt of further information prior to deciding on the matter.

[29] A meeting took place between the Special Rapporteur on follow-up to Views and the State party's Permanent Representative of Kyrgyzstan to the United Nations Office at Geneva, on 19 July 2012. The Special Rapporteur took note of the measures taken so far by the State party to give effect to the Committee's recommendations, but noted that no compensation was paid to victims in the majority of the cases; he invited the State party to revisit the issue.

The Committee will await receipt of further information prior to deciding on the matter.

At its 105th session, the Committee decided to consider the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been fully satisfactorily implemented.

State party	**Kyrgyzstan**
Case	***Kulov*, 1369/2005**
Views adopted on	26 July 2010
Violations	Articles 7; 9, paragraphs 1, 3, and 4; and 14, paragraphs 1, 2, 3 (b), (c), (d), (e), and 5, of the Covenant.

Remedy: Effective remedy including the payment of adequate compensation and initiation of criminal proceedings to establish responsibility for the author's ill-treatment under article 7 of the Covenant.

Previous follow-up information: A/66/40

On 18 April 2012, the State party informed the Committee about the following:

(a) It has reformed its Criminal Procedure Code (by Law of 25 June 2005), which is now in line with article 9 of the Covenant, making it obligatory for everyone arrested or detained on criminal charges to be brought promptly before a judge and to be tried within a reasonable time, and thus no similar violations could occur in the future;

(b) In accordance with "articles 2 and 5 of the Covenant", the State party has reformed its criminal procedure laws so as to satisfy the requirements listed in these provisions of the Covenant;

(c) As to the request to provide the author with an effective remedy, including compensation, the State party explains that in accordance with article 316, part 2, of the Criminal Procedure Code, the State party has "acknowledged the author's innocence and took full responsibility for the author's maltreatment, including the right to demand compensation".

In the light of the above, the State party believes that the Committee's recommendations in this case were partly satisfied, and it invites the Committee to close the follow-up dialogue in this case.

The State party's submission was sent to the author, for comments, in April 2012. The Committee will await receipt of further information prior to deciding on the matter.

The Committee will await receipt of further information prior to deciding on the matter.

At its 105th session, the Committee decided to consider the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been fully satisfactorily implemented.

State party	**Kyrgyzstan**
Case	***Torobekov*, 1547/2007**
Views adopted on	27 October 2011
Violation	Article 9, paragraph 3, of the Covenant.

Remedy: Effective remedy, in the form of appropriate compensation. The State party is also under an obligation to take all necessary steps to prevent similar violations in the future.

No previous follow-up information.

On 19 April 2012, the State party noted that it has reformed its Criminal Procedure Code in June 2007, and thus anyone arrested or detained on criminal charges shall be brought promptly before a judge and be tried within reasonable time. Given that the State party has partly complied with the Committee's recommendations, it invites the Committee to put an end to the follow up dialogue in this case.

The State party's submission was sent to the author, in April 2012, for comments. The Committee will await receipt of further information in order to finally decide on the matter.

At its 105th session, the Committee decided to consider the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been fully satisfactorily implemented.

State party	**Kyrgyzstan**
Case	***Moidunov and Zhumabaeva*, 1756/2008**
Views adopted on	19 July 2011
Violations	Violations of the author's son's rights under articles 6, paragraph 1, and 7; and of the author's rights under article 2, paragraph 3, in conjunction with articles 6, paragraph 1, and 7 of the Covenant.

Remedy: Effective remedy, which should include an impartial, effective and thorough investigation into the circumstances of the author's son's death, prosecution of those responsible and full reparation, including appropriate compensation.

Previous follow-up information: A/67/40

On 14 March 2012, the State party reiterates extensively its observations on the merits of the communication, and in part its previous follow-up submissions, contending that the circumstances of the death of the author's son have been properly examined, on a number of occasions, by different competent authorities, which issued grounded decisions. In addition, on the issue of the eventual retrial of Mr. M. — the official on duty accused as having been responsible for the death in question but who was later acquitted — the State party explains that the law allows for having an acquittal reviewed only during one year after its enforcement (art. 376, part 2, of the Criminal Procedure Code). Therefore, according to the State party, there are no grounds for the modification of the court decisions related to the death of the author's son. The State party adds that there are also no grounds to reopen the case based on new elements, as no new evidence exist (art. 384 of the Criminal Procedure Code).

On 13 April 2012, the author's counsel reiterated his previous comments and noted that the State party's latest submission was in large part irrelevant to the issue of implementation of the Committee's Views, as it concerned the pre-adoption stage. On the issue of reopening the case based on new elements, counsel argues that the State party has failed to explain what specific steps it has taken in order to verify whether new evidence exist, but uses the argument in order to justify its refusal to conduct an effective investigation. Counsel notes in this connection that a State cannot invoke provisions of its national law to justify its failure to comply with its international obligations.

The author's counsel expresses the view that a new investigation should be carried out by an independent commission of inquiry. He further notes that the State party's submission also illustrates the State party's failure to comply with its Constitutional obligation to implement the decisions of the treaty bodies (art. 41, part 2, of the Constitution).

In conclusion, the author's counsel asks the Committee to note that its Views were not implemented and to continue with the follow-up dialogue and invite the State party to provide the authors with redress, including: (a) an impartial, effective and thorough investigation in the circumstances of the death of Mr. Moidunov, by an independent body and to punish those responsible;

(b) full reparation and immediate appropriate compensation. The State party should also be asked to avoid similar violations in future, by (a) introducing an effective system of oversight of police stations and other places of pretrial detention, including by creating a national preventive mechanism; (b) improving the training and performance review of relevant personnel; (c) ensuring the independence of medical and forensic examinations. Finally, counsel believes that the State party should be asked to publish and widely disseminate the Committee's Views.

The submission of the author's counsel was sent to the State party in April 2012, for observations.

By note verbale of 3 July 2012, the State party presented additional observations. It recalls that the circumstances of the death of the son of the authors were investigated by the Kyrgyz Prosecutor's Office. A senior inspector (name provided) from the Department of the Ministry of Internal Affairs of the Bazar-Korgan district was accused in this connection. The inspector was later convicted for negligence but released by the court in virtue of article 66 of the Criminal Code (following an agreement between the convicted and the injured party).

An internal inquiry within the Ministry of Internal Affairs concluded on 25 February 2010 that the regulations into force at the material time do not permit to have the internal inspector in question dismissed on grounds of negligence. At present, police officials may be dismissed for having committed a crime, after the entry into force of a conviction, but the new regulations are not retroactive.

The State party's submission was sent to the authors, for comments, in July 2012.

On 3 July 2012, the State party reiterated that regarding the death of the authors' son, criminal proceedings were initiated, whereby a senior inspector (E.M.) was prosecuted. Further, on 27 December 2006, Mr. E.M., was found guilty of having committed a crime under article 316 of the Criminal Code (negligence); however, he was subsequently discharged from criminal liability pursuant to article 66 of the Criminal Code. In addition, on 25 February 2010, an internal investigation was carried out in relation to Mr. E.M.'s respective actions; however no grounds were found to dismiss him. Finally, the State party informed the Committee that according to the national legislation in force, a police officer may be dismissed "if convicted for committing a crime, when the final decision has come into force".

On 24 September 2012, authors' counsel, responding to the State party's latest submission, reiterated that investigation and prosecution in the author's case were inadequate, and that the State party's authorities have failed to conduct and independent and effective investigation into the torture and death of Mr. Moidunov. Further, the local attorney representing the family of the victim requested compensation from the Government based on the Committee's Views, and counsel engaged an independent evaluator on moral damages to assist the State in calculation of the appropriate amount of compensation. On 17 August 2012, the evaluator completed her assessment, based on which on 5 September 2012, the local attorney submitted a further request for compensation (Moral compensation requested was 100,000 euros). The State party has not responded to either of these requests.

Finally, counsel informed the Committee that Turdukan Zhumbaeva, the mother of the victim (Mr. Moidunov), died on 21 June 2012, without having received any form of redress or compensation from the Government in relation to this case. Her daughter (sister of the victim), Kaydahan Zhumbaeva, will now represent the family in seeking implementation of the Committee's Views. In the light of the State party's continued failings, counsel invites the Committee to consider that its Views have not yet been implemented, and continue dialogue with the State party, to ensure full implementation.

Counsel's submission was transmitted on 12 October 2012 to the State party, for observations.

The State party provided its observations on 21 January 2013, mainly rearguing the facts of the case, and providing details on the legal proceedings which took place.

The State party further explains that despite the agreement reached on 19 July 2006, the victim's brother wished to reopen the proceedings. The court of first instance informed the claimants that they could lodge a civil claim within civil proceedings in order to claim compensation for the damages incurred.

On 12 March 2013, the author's counsel stressed that the State party's latest submission did not provide an indication on any step to implement the Committee's Views. Instead, the State party repeats details on the steps taken during the domestic proceedings in the case, which the Committee has already found to be ineffective. The State party's observations conclude by declaring that there are no grounds for to reopen a criminal investigation, as the Committee requested in its Views. The author's counsel expresses the view that the Committee should pursue the dialogue with the State party to ensure full implementation, which should include the measures of redress already provided by counsel in his submission dated 13 April 2012.

The submission of the author's counsel was transmitted to the State party, for observations, on 19 March 2013 (one-month deadline). The Committee will await receipt of further information in order to finally decide on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been fully satisfactorily implemented.

State party	**Latvia**
Case	***Raihman*, 1621/2007**
Views adopted on	28 October 2010
Violation	Article 17 of the Covenant.

Remedy: Appropriate remedy; the State party should adopt such measures as may be necessary to ensure that similar violations do not occur in the future, including through the amendment of relevant legislation.

No previous follow-up information.

The State party provided its observations on 4 April 2012. First, it expresses the view that the Committee has drawn a very general and wide-reaching conclusion that a person's rights in choosing one's name, inter alia, the form of its reproduction in official documents are absolute in nature and that a State party is prevented from any unilateral modification of personal names for official needs and has no discretion to influence individual decisions in this respect.

The State party regrets that the Committee has acknowledged that the author's name, as registered by the U.S.S.R. authorities, was used for decades, without taking into consideration the campaigns of Sovietization and "Russification" which took place after 1940, against the Latvian names, and aimed at the extermination of the Latvian sovereignty, language and culture.

With the restoration of its independence, the State party undertook different measures in order, in particular, to ensure and develop essential elements characterizing the Latvian State, such as the national language.

According to the State party, the Committee's views contradict established and legally binding case law of independent and competent national and international tribunals, pursuant to which the statutory provisions providing for entry of personal names of different (national, ethnic) origin in official documents issued according to the requirements of the respective State official language's grammar particularities (spelling rules) are compatible with the Latvian Constitution, the European

Convention for the Protection of Human Rights and Fundamental Freedoms, and the law of the European Union.

The State party adds that personal names have, as a particularity, declinable endings in Latvia, indicating the sex of the person and showing whether names are used in singular or plural. Thus, names of any origin when written in official documents are reproduced according to the grammar rules. The contrary, according to the State party, would render Latvian language rules dysfunctional.

The State party points out that both Latvian language grammar and national law are unique in their approach towards reproduction of personal names in official documents, as similar practice exist in many States in which official language is gender-specific. Further, the State party regrets that the Committee did not pay attention to the fact that under article 4 of a Cabinet of Ministers regulation No. 775, 13 November 2007, "On passports", personal information is provided on the second page of the passport; under article 8.1 and 8.1.2, the original or historical form of a person's name and surname is disclosed on the third page of the passport. Pursuant to article 145 of the Cabinet of Ministers' regulation No. 114, 2 March 2004, "On spelling and usage of personal names in the Latvian language, as well as their identification", both forms have identical legal value. Accordingly, the State party believes that the above-mentioned "measure" should be considered sufficient to ensure compliance of national policy concerning reproduction of personal names in official documents with its obligations under articles 17 and 2 of the Covenant.

The State party thus does not see an immediate need to change the existing rules governing reproduction of personal names in official documents.

Finally, the State party explains that the Committee's Views have been disseminated through Latvian mass media.

On 28 April 2012, the author's counsel notes that the State party misinterprets both the Committee's Views and the author's contentions. The author has used his original name for decades; he never suggested that the USSR rules are legally binding upon Latvia. The Covenant's provisions, however, are legally binding to all States parties. The past, according to counsel, cannot serve as an excuse to the State party not to fulfil its obligations under the Covenant. In addition, the State party has made no reservation under article 17, of the Covenant. In its assessment of the situation, the Committee took note of the difficulties the Latvian language was facing during the Soviet period, and considered that the objective stated was a legitimate one. The Committee, however, concluded that the interference entailed for the author presented major inconveniences, which are not reasonable because they are not proportional to the objective sought.

As to the State party's note that the views contradicted established and legally binding case law of international tribunals, i.e., the European Court of Human Rights, counsel notes that the said case law acknowledged that there is an interference with the person's private life when his/her name is subjected to modifications. However, such interference is usually justified by the principle of proportionality, which, as such, is not employed by the Committee consistently, on a regular basis. Moreover, the European Court relies on the doctrine of the margin of appreciation, which is not used by the Committee.

Counsel acknowledges that in its judgment in Case C-391/09 *Runevic-Vardyn* and *Wardyn*, the Court of Justice of the European Union concluded that the Treaty on the Functioning of the European Union does not preclude the competent authorities of a member State to amend the joint surname of a married couple who are citizens of the European Union, which complies with the spelling rules of that latter State. Counsel maintains, however, that this judgment cannot be seen as blanket recognition of compatibility of the spelling rules with the law of the European Union, as the proportionality should be evaluated in any event.

Furthermore, counsel points out that the State party has omitted to refer to other rules of international law, which prescribe States to recognize minorities' names. For example, article 11 (1) of the Framework Convention for the Protection of National Minorities stipulates that the Parties undertake to recognize that every person belonging to a national minority has the right to use his or her surname and first names in the minority language and the right to official recognition of them, according to modalities provided for in their legal system.

Moreover, as to the State party's argument that a similar practice to modify surnames exists in other States, counsel explains that this is not in itself a reason for ignoring the obligations under the Covenant. Since the State party has not mentioned particular States, it is difficult to comment whether such a practice is in compliance with article 17 of the Covenant.

Counsel further notes the State party's argument that under national law, personal information is disclosed on the second page of the passport, but the original or historical form of a person's name and surname can be included on the third page. Counsel points out that this fact does not ensure that the Latvian authorities treat the historical or original form of the personal name equally to the official one. In this connection, counsel believes that in order to prevent further violations of article 17 of the Covenant, the name's original and historical form should be indicated on the main page of the relevant document (possibly side by side with the form spelled in the Latvian language).

Finally, following the Committee's Views in the present case, the author appealed to the Constitutional Court, but his application was dismissed as it firstly had to be examined within administrative proceedings. Currently the case is pending before the State Language Centre.

Counsel's comments were sent to the State party, in May 2012, for observations. The Committee will await receipt of further information in order to finally decide on the matter.

At its 105th session, the Committee considered the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Libya**
Case	***El Ghar*, 1107/2002**
Views adopted on	2 November 2004
Violation	Violation of article 12, paragraph 2, of the Covenant.

Remedy: An effective remedy, including compensation.

Previous follow-up information: A/62/40

On 29 October 2012, the author informed the Committee that even though she obtained a passport in July 2006 (whose validity was only two years, contrary to standard passports with five-year validity), since 2007, she has been denied access to both the Libyan consulates and Embassy in Morocco, and she was refused certificates she needed for the registration of her wedding, which ultimately had to be cancelled for lack of the proper documentation from the Libyan authorities. The author also reports a number of incidents which took place in the State party's diplomatic representations, during which she was verbally abused and threatened. She claims that her passport is considered a falsified document by the current diplomatic representations of the State party. The author adds that after the 2011 events, she has sought to register herself on voting lists before the State party's consulate in Casablanca, so as to exercise her right to vote. She was however denied the right to register on voting lists. The author claims that there is no administrative tribunal which could examine her claims, and that she is consequently left without a remedy for the State party's actions. The State party does not recognize her identity documents as legitimate. Her residence permit in Morocco expires on 17

December 2012, and she fears that she will not be able to renew it for lack of proper consular documents from the State party's representation, which refuses to recognize her Libyan citizenship.

The author's submission was sent to the State party, for observations, on 5 February 2013 (one-month deadline).

On 26 February 2013, the author reiterated her submission.

The Committee will await receipt of further information before finally deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Mauritius**
Case	***Narrain et al.*, 1744/2007**
Views adopted on	27 July 2012
Violation	Article 25 (b) of the Covenant.

Remedy: An effective remedy, including compensation in the form of reimbursement of any legal expenses incurred in the litigation of the case, to update the 1972 census with regard to community affiliation and to reconsider whether the community-based electoral system is still necessary. The State party is under an obligation to avoid similar violations in the future.

No previous follow-up information.

On 27 February 2013, the State party submitted that in connection with the reform of the electoral system, including reconsideration of the Best Loser system, the State party has been in active consultation with a number of stakeholders and constitutional experts. The State party intends, thereafter, to publish, in the course of this year, a consultation paper which will set out various options for reform, and the critical elements of such reform, and to invite public views as to those options. The State party expects that the debate promoted by the consultation paper will lead to broad consensus on the essential ingredients of a new electoral system, which may secure the required majority of votes in the National Assembly, in order to move forward with necessary amendments to the Constitution.

The State party is of the view that it would not be advisable to make piecemeal amendments to the Constitution, pending the holistic reform of the electoral system, in order to remove reference to the 1972 census in the First Schedule to the Constitution. It also considers likely that the resumption of gathering of ethnic data would not achieve the necessary broad consensus in Mauritius, and would be perceived as contrary to the objective of building a truly Mauritian Nation.

The State party also informs the Committee that it consulted the authors' legal representatives, with a view to reimbursing any legal expenses incurred in the litigation of the case before the Committee, and was informed by the legal representatives that the authors were making no claim in respect of legal expenses in relation to this communication. In this regard, the State party informs the Committee that it did not press for costs when a judgement was rendered in its favour by the Judicial Committee of the Privy Council in December 2011, in the related case referred to in the Committee's Views.

The State party further informs the Committee that its Views in this case were widely publicized in the press, and can be accessed in the English and French languages on the website of the Prime Minister's Office.

The State party's submission was transmitted to the author, for observations on 6 March 2013 (one-month deadline). The Committee will await receipt of further information before deciding on the matter.

The Committee considers the follow-up dialogue ongoing.

State party	**Nepal**[30]
Case	***Sobhraj*, 1870/2009**
Views adopted on	27 July 2010
Violations	Articles 10, para. 1; 14, paras. 2 and 3 (a), (b), (c), (d), (e) and (f), 5 and 7; article 15, para. 1, of the Covenant.

Remedy: Effective remedy, including the speedy conclusion of the proceedings and compensation. The State party is also under an obligation to prevent similar violations in the future.

Previous follow-up information: A/67/40

By note verbale of 27 March 2012, the State party presented additional observations. It recalls that the Supreme Court of Nepal had adopted final decisions in the cases of murder and fraudulent passports filed against the author; the judgments are final and not subject to appeal. The Supreme Court may review its own judgments only in exceptional circumstances. Review petitions must be written in Nepalese, which was not done in the present case, and for this reason, the author's petitions were returned.

As to counsel's contention that the Supreme Court judges understand English, the State party notes that the Supreme Court cannot register petitions which are not submitted in the official language.

The State party further notes that under the law, everyone arrested has the right to consult a lawyer of his/her choice. Accused can have free assistance of an interpreter if they do not understand Nepalese. The author had retained private lawyers of his choice during his court proceedings, who, on his behalf, submitted appeals against the judgments of the district and appellate courts. Moreover, he received assistance of an interpreter and the counsel's allegations that he was denied access to copies of his case-file are unfounded.

The State party explains that when a person intends to submit his/her petition to the court, it is up to he/she to prepare his/her petition and the State party does not have an obligation to provide legal assistance or interpretation therein. Moreover, the author never requested to be provided with a lawyer or an interpreter for the preparation of his review petition.

The State party maintains that by refusing to register the author's review petition, the Supreme Court did not commit any violation. Such a refusal in itself does not establish that the person was deprived of exercising the rights protected by the Covenant or that the State party has failed to fulfil its obligations under the Covenant.

As to the alleged undue delay of the author's court proceedings, the State party maintains that the Supreme Court, in line with the Constitution and other pertinent legal acts, examines cases promptly. The judiciary cannot decide a case without due process established by the law, in the name of a speedy

[30] The Permanent Mission of Nepal declined the Special Rapporteur's request for a meeting during the Committee's 106th session, due to the Ambassador's unavailability, and in light of the recent meeting held with the Permanent Mission, but reiterated its commitment to pursue its dialogue with the Committee on implementation of its Views.

justice. Consequently, there is no room for allegations in the present case that the judiciary made unreasonable delay and harassment by devoting unnecessarily long period of time to settle the case. The State party further emphasizes that taking into consideration the nature and sensitivity of the matter, the author's cases were given priority. Moreover, counsel's comments are contradictory, as on the one hand she highlights that the excessive length of the proceedings before the Supreme Court and the regular hearing adjournments demonstrated a lack of effective justice, but on the other hand, she claims that the Supreme Court delivered its judgment in a "somehow sudden and rapid manner".

The State party further contends that the author's detention was not arbitrary. No physical or mental torture or cruel, inhuman or degrading treatment was inflicted upon the author during the pretrial investigation or the trial. It further emphasizes that Nepalese judiciary is independent and its independence and competence have been guaranteed by the Constitution and the laws.

On 27 April 2012, counsel presented her comments to the State party's observations.

Counsel stresses that according to the Committee, its Views are legally binding and not mere recommendations, and notes that the State party continues to disregard the Views in the present case, violating article 2 of the Covenant. Counsel further notes that at this point in time, the question whether Mr. Sobhraj's rights under the Covenant are violated is closed, and the case should not be reargued now. The issue concerns the kind of remedy to be provided to the victim.

Counsel reiterates that she requested the President and the Prime Minister of Nepal to address the author's case and to compensate him for the violations suffered, but her requests were ignored. Moreover, the author himself had filed two review petitions to the Supreme Court, but both were dismissed without consideration as they were in English; the author does not speak Nepalese and cannot file the petitions in this language. In this connection, counsel notes that in its observations, the State party acknowledges that no free legal aid or translation services were available for the author to prepare his review petitions. Consequently, according to counsel, the State party was still persecuting the author, as the violations he had suffered were not remedied.

Counsel further notes that the duty "to give full effect" to the Committee's findings, presupposes that the remedy shall be provided by the State party on its own initiative and not within the review petition mechanism. Therefore, the State party's arguments concerning the language used by the author in his review petitions are not pertinent.

Finally, counsel requests the Committee:

- To inform the State party that according to the Committee's jurisprudence, its Views are legally binding;
- To recommend the State party to grant the author a judicial review implementing the Views adopted in the present case, either by the Supreme Court on its own initiative, or at the initiative of the author, permitting the author to submit the review petition either in English or in Nepalese (in such a case translation services have to be provided to him); to recommend that the author is discharged;
- To recommended the State party to pay the author a compensation;
- To express its deep concern about the lack, in general, of a mechanism in the State party to implement its Views;
- To have the possibility of Nepal to nominate and to elect members of the Human Rights Committee suspended.

On 11 July 2012, counsel inquired about the status of the case and reiterated its previous submission.

On 15 October 2012, counsel provided an update on the author's situation in prison in Nepal and informs the Committee that the latter was attacked and life threatened in this locked cell room at odd hours by a co-detainee.

On 24 January 2013, the State party transmitted comments to the latest observations of the author: on the receipt of information that the author was threatened by a co-detainee, the prison officials investigated, and learnt that a minor exchange of words had occurred between the two detainees. As the author also stated in his observations that he was feeling unsafe, the prison office has deployed plainclothes police in the prison around-the-clock, so as to prevent any future altercation. The leader staff member of the internal administration is also being periodically alternated.

The State party's submission was transmitted to the author on 12 February 2013 (one-month deadline). The Committee will await receipt of further information before finally deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Nepal**
Case	***Sharma*, 1469/2006**
Views adopted on	28 October 2008
Violations	Articles 7; 9; 10 and article 2, paragraph 3, read together with article 7, article 9 and article 10 with regard to the author's husband; and of article 7, alone and read together with article 2, paragraph 3, with regard to the author.

Remedy: An effective remedy, including a thorough and effective investigation into the disappearance and fate of the author's husband, his immediate release if he is still alive, adequate information resulting from its investigation, and adequate compensation for the author and her family for the violations suffered by the author's husband and by themselves.

Previous follow up information: A/67/40

On 20 July 2012, author's counsel, with reference to the meeting held with the Committee's Special Rapporteur on Follow-up to Views during the Committee's 105th session, recalls her briefing to the Rapporteur on the current political situation in the State party, and the latter's failure to establish transitional justice mechanisms, despite assurances that it would investigate the violations found by the Committee through a yet to be established transitional justice mechanism.

According to the author's counsel, such a mechanism will not provide an adequate remedy to the victims, and the ordinary criminal justice system must be used to investigate and prosecute the crimes committed.

In the light of the recent political developments in the State party, the prospect of any transitional justice mechanism being established in the immediate future became even more remote. Under the interim Constitution and successive extensions, the Government had a final deadline of 28 May 2012 to adopt a new Constitution. The Parliament failed to do so, and following this, the Constituent Assembly was dissolved, leaving Nepal without legislative authority. Although legislative elections were scheduled for November 2012, there is little prospect that they take place, and the possibility of a transitional mechanism being established is very slim. Also, a transitional justice mechanism, which would be established through Ordinance, without any consultation with civil society, and without a process of amendments, would fail to bring justice to victims (either because of a weak commission, or because it is not endorsed by Parliament). With no transitional justice mechanism in sight, the authors'

counsel is of the view that the State party must use the existing criminal justice system to investigate the violations.

The author's Counsel confirms that the author was provided with a total of Rs. 400,000 (approximately USD 4,520) by the Government in "interim relief", made in three separate payments. She further notes that all families of victims of disappearances and extra judicial killings have now been paid up to Rs. 300,000 under the interim relief policy. Ms. Sharma has therefore received Rs. 100,000 more than other victims. However, the Chief District Officer of Baglung has in return asked her to reimburse the Government Rs. 100,000. She has challenged this demand, but this has put additional strain on her and her representatives. Aside from the provision of "interim relief", which is not sufficient as compensation, the State party has taken no steps to meaningfully implement the Committee's Views.

On 29 August 2012, the State party reiterated its previous observations regarding the transnational justice mechanisms and explains that elections are scheduled for 22 November 2012 to elect a new constituent assembly, to function as parliament, and to establish the transitional justice mechanism. The State party reiterates that the current criminal justice system does not allow it to provide full justice of victims of acts occurring during the conflict.

The State party explains that it has implemented the Committee's Views by providing the author with an interim relief; it is, in addition, effortful in establishing a transitional justice mechanism. Accordingly, the State party considers that there is no justifiable ground to take any action in this case by the Committee.

The State party's submission was sent to the author, for comments, on 15 January 2013 (one-month deadline). The Committee will await receipt of further information before finally deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Netherlands**
Case	***X.H.L.*, 1564/2007**
Views adopted on	22 July 2011
Violation	The State party's decision to return the author to China violates his rights under article 24, in conjunction with article 7 of the Covenant.

Remedy: An effective remedy, by reconsidering his claim in the light of the evolution of the circumstances of the case, including the possibility of granting him a residence permit.

No previous follow-up information.

By note verbale of 24 February 2012, the State party submitted its observations. It states that like the Committee, it considers that unaccompanied aliens under 18 years of age are especially vulnerable and deserve special attention. The State party has a specific policy on unaccompanied minors, aimed at preserving the minors' interests. It has also a special "policy for aliens who through circumstances beyond their control cannot return to their country of origin", which provides that if despite his own efforts and the State's support an alien cannot return to his/her country of origin, he/she will be granted a residence permit. The conditions applied to children are more generous than those concerning adults.

The State party summarizes its policy on unaccompanied children, aimed at providing the minors with quick decision on their prospects, i.e. either a residence permit or a return. The aim is to expedite the return of unaccompanied minors who are not eligible for protection as asylum seekers. The State party explains that it will liberalize its policy on unaccompanied minors who, through circumstances

beyond their control, cannot return to their country to receive adequate care. Even when after a comprehensive asylum procedure it was established that a minor is not eligible for an asylum residence permit, the minor would only be expelled once it has been established that adequate care is available at the receiving country. Adequate care consists not only of care by the minor's parents or other family members, but also of care, for example by other residents of the same village who have cared for the minor in the past, or in general facilities (governmental or non-governmental) where adequate care is available.

Notwithstanding, and bearing in mind that the Committee's views are not of legally binding nature, the State party explains that however, it will take no measures to give effect to the Committee's views, for the following reasons. First, the Committee's decision is at variance with its previous decisions in similar cases. In the present decision, the Committee has, without explanation, abandoned its usual *ex nunc* assessment and instead taken the time of the Government's decision as its reference point. This difference is nevertheless crucial to the case: the author is now an adult (20 years' old), and there is no need at this point in time to assume that he is incapable of supporting himself; adequate care is therefore no longer needed.

In this connection, the State party notes that in its decision of 26 July 2010, *C.Z.Y. v. the Netherlands*, communication No. 1609/2007, the Committee declared a similar case inadmissible on the grounds that it was incompatible with the provisions of the Covenant, as the author was no longer a minor and any further removal would not touch upon the rights of the child. The State party explains that it fails to understand for what reasons two so similar communications have been dealt by differently and lead to opposite conclusions.

Furthermore, the State party considers that the Committee has provided very little substantiation of its conclusions, without discussing the arguments and information submitted by the State party concerning registration in China, the existence of adequate care facilities in that country, or the Netherlands' special policy for aliens who through circumstances beyond their control are unable to return to their country of origin for unaccompanied children.

According to the State party, the Committee has limited itself to stating that the State party has failed to identify any family members whom the author has in China. Although the State party referred to the facilities mentioned in the Dutch Minister of Foreign Affairs' country reports on China — which conclude that Chinese institutions provide adequate care for minors — the Committee does not address this issue.

The State party recalls its observations on the merits of the case and points out that it had explained that adequate care is defined as care under conditions that do not differ fundamentally from those in which care is provided to the asylum seeker's peers in a comparable situation. According to successive country reports issued by the Minister of Foreign Affairs, Chinese minors are entitled to care under the responsibility of the Chinese Ministry of Civil Affairs. Country-specific policy in relation to China assumes, on the basis of those country reports, that there is adequate care for unaccompanied minors. According to the State party, the author has not demonstrated that adequate care is not available to him.

The State party adds that the Committee has accepted the author's unsubstantiated statements that he has no address (*hukou*) registration in China, and would therefore have no access to social services and would be forced to beg to survive. The State party's claims that its extensive arguments on the basis of general, publicly available information as well as the author's own statements, that he is in fact registered, were ignored by the Committee. The State party recalls that the author was registered in his mother's *hukou* registration, and thus his name appears in the population's register. The author's statements that he attended school in China and had access to health care there also confirm that he was in fact registered. The author has not submitted any documents in substantiation, nor has he asked the Chinese embassy in the Netherlands to provide any information in this regard.

The State party further explains that the Committee has wrongly made no distinction between asylum seekers whose procedure is still pending and those whose ineligibility for protection was already established following a careful asylum procedure. The second ones may reasonably be expected to communicate with the authorities in their country of origin to obtain documents or — as in this case — information about registration. The Committee's consideration on this point is all the more surprising in as much as the author in the case by his own account had economic motives for leaving China.

According to the State party, the Committee did not discuss the special policy which is in place for failed unaccompanied minor asylum seekers, who, through circumstances beyond their control cannot return to their country. This policy was developed because the State parry considers that children are a vulnerable group and it attaches great importance to their interest. In the State party's opinion, the Committee ignored the fact that the author — for reasons of his own — had failed to submit an application on these grounds.

The State party further notes that its opinion is reinforced by the "sharply divergent" opinions among Committee members. Two Committee members have declared in their dissenting individual opinion that the decision in the present case was "unprecedented, unjustified and arbitrary". It also notes that as pointed out in one of the dissenting opinions, for the State party to act in any other way would encourage putting minors in the hands of smugglers to obtain Dutch residence permits, with all the dangers involved including the risk of exploitation. It would also encourage asylum seekers not to submit documentation and those who are found not to be eligible for protection not to cooperate, and even frustrate their return to their country of origin.

In the light of all these elements, the State party reiterates that it cannot agree with the Committee's views in the present case.

On 6 April 2012, counsel presented his comments on the State party observations. He notes that a general policy on unaccompanied minors in combination with the general human rights report of China cannot set aside the obligation of the State party to ascertain in each case, individually, whether or not adequate childcare would be available, especially when ID documentation is missing. Counsel adds that no general policies can be applied in cases involving minors, and the burden of proof cannot be put on the minors.

Counsel contends that the State party ignores the fact that when the authorities refused to grant Mr. L.X.H., as an unaccompanied minor, a residence permit, he was a child, and thus they have violated the rights of the child. Thus the State party's contention that its policy concerning unaccompanied minors is sufficient to comply with human rights, in particular the rights of the child is, according to counsel, incorrect.

Counsel adds that the Dutch Ombudsman for Child Rights concurs with the Committee's conclusions in the present case and he also considers that the State party's policy is not in conformity with articles 20 and 22 of the Convention of the Rights of the Child; that the burden of proof should not be put on the minor; and that extensive investigation is required prior to decide to expel minors. The Ombudsman wrote in this connection, on 2 April 2011, to the Minister of Foreign Affairs. In addition, counsel submits a copy of a letter prepared by the Office of the Ombudsman, exposing the views of "Defence for Children International – the Netherlands" in reaction to the State party's follow-up reply, where the organization in question also agrees with the Committee's conclusions.

Counsel adds that in this case it should be kept in mind that the child could in practice not be sent back, as there is no ID document, so no laissez-passer would have been provided, and that "even if return is not the issue, no residence permit was given either". The child would have stayed in a childcare centre till the age of 18, and then put on the street. Mr. L.X.H. was 12 years' old when he arrived in the State party. A few days after his arrival, he was informed that his asylum request was rejected, but that he could not be expelled, he would be kept in a shelter until the age of 18. Counsel points out that the

knowledge of not having a future cannot be considered to be child-friendly. In 2009, Mr. L.X.H. was asked to leave the childcare centre, and since, he lives with friends and changes often address.

According to counsel, even if Mr. L.X.H. has now reached 18, the violation of his rights did not stop, and the actions of the authorities start causing him irreparable damages. The conclusions of the Committee cannot be *ex nunc*, because such a reasoning, according to counsel, would fail to protect many children in similar situation, as the procedures are long and many of the children would have reached the age of 18 before a final decision is taken in their cases by the Committee.

Counsel's submission was sent to the State party in April 2012, for observations.

By note verbale of 1 March 2012 (received on 27 July 2012), the State party reiterated its previous observations.

On 6 September 2012, counsel submitted additional comments, regretting the State party's formalistic position, recalling that the author grew up in the State party, where he was denied a number of rights, although he nonetheless managed to integrate himself to the Dutch society. According to counsel, the State party did not deny that the author's rights were violated during his childhood, but reject the position adopted by the Committee, recognizing that his rights had been violated. Counsel reiterated the importance of the author's childhood and teenage years in the State party, during which he has developed a social network. According to counsel, the case at hand cannot be compared with *Chen, Zhi Yang v. The Netherlands* (1609/2007), which differs on many respects, including the age of arrival, period of stay in the State party, and other facts of the case.

Counsel stresses that the State party's policy regarding returns to China is fluctuating. The Court of Appeal itself (*Raad van State*) has changed its position on two occasions in the past three years, whether or not Chinese nationals without proper documentation may be returned to China. The official Chinese position, however, remains unchanged: return is not possible without documentation. The author was travelling with his mother, from whom he got separated and thus left without documents. Counsel rejects the State party's assertion, according to which the *hukou* registration is permanent, and may be retrieved. He stresses that in rural areas, where *hukou* are primarily done manually, these records are periodically updated, and obsolete information, including from people having left the area is simply deleted. The purpose of the *hukou* is to register people actually living in the area, as opposed to keeping track of persons once registered.

Counsel further rejects the State party's new policy introduced in 2001, whereby the burden of proof to establish that no proper care would be available for him in the country of return is placed on the minor.

Counsel finally seeks to have the Committee's Views not only published in the Government Gazette, but also in the nine major daily newspapers, so that the Dutch public can learn about the case.

On 28 January 2013, the State party added that it had already provided its follow-up observations and adds that the Committee's Views were published in the Government Gazette of 4 May 2012. The State party explains that the author's comments do not give rise to any further observations on its part, except for informing the Committee that since the adoption of the Views, the author has never reported to the Immigration and Naturalization Service. It adds that in September 2011, the Alien's police reported that the author's former roommates confirmed that he had left his home address three years earlier, and that he possibly resides abroad.

On 22 February 2013, counsel explained, regarding the author's whereabouts, that at the age of 18, the author was informed by the police that he had to leave the Netherlands, or risk to be arrested. He chose to flee and hide, and since then lives in illegality. He now resides with friends, and regularly changes address.

The latest counsel's submission was sent to the State party on 27 February 2013, for observations

(one month deadline). The Committee will await receipt of further information before finally deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Paraguay**
Case	***Asensi*, 1407/2005,**
Views adopted on	27 March 2009
Violations	Articles 23 and 24, paragraph 1, of the Covenant.

Remedy: Effective remedy, including the facilitation of contact between the author and his daughters.

Previous follow-up information: A/66/40

On 28 April 2012, the author informed the Committee that his daughters were supposed to visit him in Spain, but, despite their mother's authorization, a Child Court denied them authorization to leave the country. On 16 June 2012, the author added that the court had not duly dealt with his application, which was still pending before the Supreme Court.

On 21 August 2012, the State party informed the Committee that according to the information provided by the "Tribunal on Child and Adolescent matters" of Zaldivar, which has territorial competence to deal with the case, there were no proceedings concerning authorization to travel abroad regarding the author's daughters. The same tribunal lifted the minors' ban to leave the country.

The State party adds that the representative of the author's daughters failed to take further action in order to inform the Ministry of Internal Affairs and the Police that the ban was lifted. The State party invites the author to submit more information on the court before which the case was examined. The State party also reaffirms its eagerness to implement the Committee's recommendations.

The State party's submission was transmitted to the author, for comments, on 15 October 2012 (one-month deadline). The Committee will await receipt of further information before finally deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Paraguay**
Case	***Olmedo*, 1828/2008**
Views adopted on	22 March 2012
Violations	Article 6, paragraph 1, and article 2, paragraph 3, read in conjunction with article 6, paragraph 1, of the Covenant.

Remedy: An effective remedy, which includes an effective and complete investigation of the facts, the prosecution and punishment of those guilty and full reparation, including appropriate compensation.

No previous follow-up information.

On 11 October 2012, the State party informed the Committee that its authorities are engaged in negotiations with the author on measures of reparation, which would include the acceptance of State

responsibility for the violation occurred, public apologies and monetary compensation. Discussions are under way between the General Attorney's Office, the Supreme Court and the Ministry of Interior to continue the investigation in order to identify the agents responsible for the killing. Furthermore, in view of the difficult economic situation of the author and her daughter the authorities are considering measures to ensure that they have access to basic medical services and food. The Committee's Views were published in the Official Gazette and placed on the webpage of the Foreign Ministry.

The State party's submission was transmitted to the author, for comments, on 19 March 2013 (one-month deadline). While welcoming the information provided by the State party, on its efforts to provide reparation to the author, the Committee will await receipt of further information before finally deciding on the matter.

The Committee considers the follow-up dialogue ongoing.

State party	**Paraguay**
Case	***Benítez Gamarra*, 1829/2008**
Views adopted on	22 March 2012
Violations	Article 7 of the Covenant and article 2, paragraph 3, of the Covenant, read in conjunction with article 7.

Remedy: An effective remedy which should, as an alternative to what has been undertaken so far, include an impartial, effective and thorough investigation of the facts, the prosecution and punishment of those responsible and full reparation, including appropriate compensation.

No previous follow-up information.

On 11 October 2012, the State party informed the Committee that its authorities are engaged in negotiations with the author on measures of reparation, which would include the acceptance of State responsibility for the violation occurred, public apologies and monetary compensation. The Public Ministry is carrying out an internal investigation on the conduct of the prosecutors who participated in the investigation of the facts denounced by the author. The Committee's Views were published in the Official Gazette and placed on the websites of the Foreign Ministry and the Interior Ministry.

The State party's submission was transmitted to the author, for comments, on 19 March 2013 (one-month deadline). The Committee will await receipt of further information before finally deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Peru**
Case	***Ato del Avellanal*, 202/1986**
Views adopted on	28 October 1988
Violation	Article 26 of the Covenant.

Remedy: An effective remedy, including reconsideration of his request for a pension without discrimination on grounds of sex or sexual orientation.

Previous follow up information: A/63/40

On 5 October 2011, the author informed the Committee that the President of the Supreme Court had stated that it was not possible to reopen and review the judgment from which the violation found by the Committee derived, as the judgment is res judicata, and the Committee's Views are not binding.

On 30 April 2012, the author reiterated her previous submission. On 27 October 2012, the author confirmed that the President of the Supreme Court had provided that it was not possible to reopen and review the judgment which caused the violation brought before the Committee, since the judgment is res judicata and the Committee's Views are not binding. The author disagrees with the State party's assertion that the judicial proceedings ended in 1985, as was declared by the President of the Supreme Court. Despite her numerous requests lodged before the authorities, the State party has not reviewed its 1985 judicial decision. Therefore, according to the author, the State party had failed both to comply with its obligations and to implement the Committee's Views.

On 18 December 2012, 31 December 2012 and 14 January 2013, the author reiterated her previous submissions, which were transmitted to the State party for comments on 6 February 2013 (one-month deadline). The Committee will await receipt of further information before finally deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Peru**
Case	***Muñoz Hermosa*, 203/1986**
Views adopted on	4 November 1988
Violations	Article 14, paragraph 1 of the Covenant.

Remedy: The State party is under an obligation to take effective measures to remedy the violations suffered by the victims, including payment of adequate compensation for the loss suffered.

Previous follow-up information: A/59/40

On 3 June 2011, the State party informed that on 31 May 1989, the Supreme Court examined the author's application for amparo and ordered to reinstate the author in the active service of the Police and to recognize in his favour all the payments he had not received since he was removed from his position. On 17 April 1998, in the framework of a second application for amparo against the General Director of the Police, lodged in 1990, the Constitutional Tribunal ordered to pay to the author retirement pension and benefits that were denied by the Police.

On 7 June 2009, the Court of Appeal of Cusco confirmed the Civil Court No. 5's decision that endorsed the amount requested by the author for the unpaid retirement benefits (208,531.44 Peruvian nuevos soles equal at the time to some 70,000 US dollars). On 14 October 2010, the Court of Constitutional and Administrative Matters of Cusco imposed a fine to the Director of Economy of the National Police for failure to pay the amount recognized in favour of the author.

On 14 December 2010, the Retirement Pension Direction of the National Police decided to pay retirement benefits in favour of the author.

On 20 April 2011, upon request of the author, the Court of Constitutional and Administrative matters of Cusco informed to the Ministry of Internal Affairs about its order and the National Police's decision to recognize and to pay 208,531.44 Peruvian Soles (i.e. around 83,400 US dollars), as unpaid retirement benefits, in favour of Mr Muñoz.

The author provided his comments on the State party's observations on 15 August 2011, and noted that none out of the eight different court decisions in his favour was enforced. In addition, the Direction of Economy and Finance of the National Police had only recognized his benefits until 8 October 1988. He had lodged an application before the Court of Constitutional and Administrative matters of Cusco in which he requested it to order payments and benefits in his favour from 8 October 1988 until April 2011 (concerning 373,043.06 Peruvian nuevos soles, equal at the time to some 149,000 US dollars).

By note verbale of 12 December 2011, the State party added that a further request for information was addressed both to the Ministry of Internal Affairs and the National Police.

A request for updated information was sent to the State party in July 2012.

On 9 August 2012, the State party informed the Committee that its Views had been uploaded in the Peruvian System of Legal information website.

On 5 October 2012, the author informed the Committee that despite his efforts, the State party failed to implement the Committee's recommendations. According to article 40 of Act 23 506, decisions adopted by an international instance of which the State has recognized the binding nature, do not require any review or further examination by domestic instances to be enforced by the Supreme Court. In fact, according to the author, the State party does not recognize the binding nature of the Committee's Views. The author further claims that he did not have access to an effective remedy.

The author further informed the Committee that on 17 September 2012, he filed an application against the authorities of the Ministry of Internal Affairs and the Constitutional and Social Court of Justice of Cusco.

On 17 December 2012, the author reiterated that despite his efforts, the State party had failed to implement the Committee's. He filed applications against the authorities with the National Police and the Constitutional and Social Court of Justice of Cusco, since they allegedly obstructed the execution of the courts' decisions in his favour. He held that he had not received a complete monetary compensation. The author asks the Committee to request the State party to provide him with monetary compensation; to bring the authorities that denied his rights to court and to order them to pay the author courts fees.

By note verbale of 6 December 2012, the State party informed the Committee that the author's application for amparo against the Director of the Peruvian National Police (PNP), lodged in 1990, was pending before the Constitutional and Social Chamber of the High Court of Cusco, which would decide the appeal lodged by the author.

The State party further pointed out that on 17 April 1998, the Constitutional Tribunal ordered to pay to the author a retirement pension and benefits that were denied by the National Police. On 07 June 2009, the Court of Appeal of Cusco confirmed the Civil Court No. 5's decision, which approved the amount requested by the author for the unpaid retirement benefits (208,531.44 Peruvian nuevos soles). On 14 October 2010, the Director of Economy of the PNP was fined for failure to pay the debt recognized in favour of the author. On 14 December 2010, the Retirement Pension General Board of the PNP ordered to pay the author his retirement benefits for 208,531.44 Peruvian nuevos soles.

On 26 December 2011, the author lodged a new application and requested to be promoted and recognized as "Sub-Official Superior" of the PNP, and to approve additional monetary compensation for 360,000.00 and 290,429.84 Peruvian nuevos soles. On 23 April 2012, the Court of Constitutional and Administrative matters of Cusco dismissed the author's application. This decision was confirmed by the Constitutional and Social Chamber of the High Court of Cusco on 13 July 2012.

The State party's submission was transmitted to the author, for comments, on 6 February 2013 (one month deadline). The Committee will await receipt of further information before finally deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Peru**
Case	***Celis Laureano*, 540/1993**
Views adopted on	25 March 1996
Violations	Articles 6, paragraph 1; 7; and 9, paragraph 1, juncto article 2, paragraph 1; and of article 24, paragraph 1, of the Covenant.

Remedy: Effective remedy; the Committee urged the State party to open a proper investigation into the disappearance of the victim and her fate, to provide for appropriate compensation to the victim and her family, and to bring to justice those responsible for her disappearance, notwithstanding any domestic amnesty legislation to the contrary.

Previous follow-up information: A/59/40

On 24 May 2011, the State party reiterated its previous observations and added that further information would be submitted to the Committee once the Office of the Prosecutor prepares a reply. The State party's submission was sent to the author in July 2011, but the mail was returned as it appeared that the author has moved without providing a new address.

In the light of the content of its submission of 24 May 2011, the State party was requested to provide updated information on 2 July 2012.

On 9 August 2012, the State party informed the Committee that its Views had been uploaded in the Peruvian System of Legal information website.

The State party's submission was transmitted to the author, for comments, on 16 August 2012, but the letter was returned once again. Efforts will be made to identify the author's new address. The Committee will await receipt of further information before finally deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Peru**
Case	***Gutiérrez Vivanco*, 678/1996**
Views adopted on	26 March 2002
Violation	Article 14, paragraphs 1 and 3 (c), of the Covenant.

Remedy: Effective remedy, including compensation.

Previous follow-up information: A/64/40

On 24 May 2011, the State party reiterated its previous submissions and pointed out that its national legal order is currently in line with international standards.

The State party's submission was transmitted to the author, for comments, in September 2011, but no reply was received. On 2 July 2012, a reminder was sent to the author.

The Committee will await receipt of further information before finally deciding on the matter.

At its 105th session, the Committee decided to consider the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	Peru
Case	***Arredondo*, 688/1996**
Views adopted on	27 July 2000
Violations	Article 10, paragraph 1, of the Covenant as regards Ms. Arredondo's conditions of detention; of article 9 as regards the manner of her arrest; of article 14, paragraph 1, as regards her trial by a court made up of "faceless judges"; of article 14, paragraph 3 (c), with respect to the delay in the completion of the proceedings initiated in 1985.

Remedy: Effective remedy. Ms. Arredondo should be released and adequately compensated.

No previous follow-up information.

On 26 May 2011, the State party informed the Committee that upon request of its Constitutional Court and the Inter-American Court of Human Rights, its anti-terrorism legislation was amended in order to guarantee fair trial in criminal proceedings for terrorism. The author was released on 31 May 2002 since she had served sentence imposed of 12 years' imprisonment.

The State party's submission was transmitted to the author, for comments, on 28 September 2011. No reply was received. On 7 February 2013, a reminder was sent to the author for comments (one-month deadline). The Committee will await receipt of further information before finally deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	Peru
Case	***Gómez Casafranca*, 981/2001**
Views adopted on	22 July 2003
Violations	Articles 7; 9, paragraphs 1 and 3; 14 and 15 of the Covenant.

Remedy: Release of Mr. Gómez Casafranca, and appropriate compensation.

Previous follow-up information: A/59/40

On 21 June 2011, the State party informed the Committee that its legislation was amended and that on 16 April 2012, the Supreme Court applied ex officio its statute of limitations in favour of the author. It further stated that the author was offered a fair trial, and the case was concluded, providing the author with an effective remedy.

On 29 June 2011, the author was requested to provide comments to the State party's observations, but no reply was received. A reminder was sent to the author for his observations on the State party's submission 7 February 2013 (one-month deadline). The Committee will await receipt of further information before finally deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	Peru
Case	***Quispe*, 1125/2002**
Views adopted on	21 October 2005
Violations	Articles 9 and 14 of the Covenant.

Remedy: Effective remedy and appropriate compensation. In the light of the long period that he has already spent in prison and the nature of the acts of which he is accused, the State party should consider the possibility of terminating the author's deprivation of liberty, pending the outcome of the current proceedings against him. Such proceedings must comply with all the guarantees required by the Covenant.

Previous follow-up information: A/61/40

On 26 May 2011, the State party informed the Committee that upon the request of its Constitutional Court and the Inter-American Court of Human Rights, it amended its anti-terrorism legislation, so as to comply with international obligations. Currently all trials respected judicial guarantees. The author, who had been tried by faceless judges in the 1990s, was provided with a new trial pursuant to the new legislation. On 9 June 2006, the National Criminal Chamber sentenced him to 15 years of imprisonment. After serving his sentence, he was released on 20 June 2007.

On 27 October 2011, the author informed the Committee that he served his prison sentence until June 2007, further to his conviction for terrorism, and was afterwards released. He claims that the judicial proceedings did not observe his rights to judicial guarantees, and that the aim of his filing a communication before the Committee was to prove his innocence. Although he was released, his imprisonment seriously affected his life and he still suffers physical and psychological consequences.

The author's submission was transmitted to the State party, for comments, on 10 November 2011, for observations but no reply was received. The Committee will await receipt of further information before finally deciding on the matter.

The Committee considers the follow-up dialogue ongoing.

State party	Philippines
Case	***Rouse*, 1089/2002**
Views adopted on	25 July 2005
Violations	Articles 14, paragraphs 1 and 3 (c) and (e); 7; and 9, paragraph 1, of the Covenant.

Remedy: Effective remedy, including adequate compensation, inter alia, for the time of the author's detention and imprisonment.

Previous follow-up information: A/67/40

On 9 May 2012, the State party explained that the author's requests for absolute and unconditional pardon were duly considered by the Philippine Board of Pardons and Parole, but were denied for lack of merit.

The State party's submission was sent to the author, for comments, in May 2012. The Committee may wish to await receipt of further information prior to deciding on the matter.

At its 105th session, the Committee decided to consider the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Philippines**
Case	***Larrañaga*, 1421/2005**
Views adopted on	24 July 2006
Violations	Articles 6, paragraph 1; 7; and 14, paragraphs 1, 2, 3 (b), (c)–(e), and 5, of the Covenant.

Remedy: Effective remedy, including commutation of the author's death sentence and early consideration for release on parole.

Previous follow-up information: A/67/40

The State party provided additional observations by note verbale of 9 May 2012.

The State party notes that the alleged violation of article 6 of the Covenant has become moot with the enactment of the Republic Act 9346 prohibiting the imposition of death penalty. Pursuant to the provisions of this Act, those sentenced to death had their sentences commuted to "reclusion perpetua" (Revised Penal Code), or, also, "life imprisonment", for acts classified under the old Penal Code.

As to the violations of article 14, paragraphs 1, 2, 3 (b), (c), (d) and (e), and 5, of the Covenant, the State party explains that the arguments advanced by the author in his communication have been sufficiently considered and directly addressed by the Philippine Supreme Court in its decision in People vs. Larrañaga (421 SCRA 530) and Resolution (463 SCRA 652), concerning the same case (copies provided). The decision of the Supreme Court in the case clearly shows, according to the State party, that the author was accorded a fair trial and his rights as an accused were duly safeguarded. The State party points out that the accused author has contributed to the delay in the proceedings and "made a mockery" of the judicial process, which was cited in the court's decision.

On the issue of the commutation of the death sentence and a possibility of early release on parole, the State party notes that the author was found guilty of particularly serious crimes, including kidnapping and serious criminal detention with homicide and rape. He was initially sentenced to death and *reclusion perpetua*. In 2007, his death penalty was commuted to *reclusion perpetua*, due to the introduction of Act No. Act 9346.

On 3 September 2009, the Department of Justice examined Mr. Larrañaga's request to be transferred to Spain, and approved it. On 5 October 2009, the author was transferred to the Spanish authorities. As of 10 November 2010, the maximum sentence to be served by the author is until 3 February 2027.

The State party further quotes a report of the National High Court of Spain, concerning the author's transfer, which stated that:

> "With reference to the information requested by the Judicial Authorities of the Republic of the Philippines pertaining to the sentence to be served by the Spanish citizen, Francisco Larrañaga Gonzales, please be informed that the provisions of article 10 of the Treaty which establishes that in the execution of a sentence the State in which it is to be served is bound by the term thereof must be complied with. No justification whatsoever exists to revise the Ruling handed down by the Philippine Judicial Authority".

The State party adds that both the Philippines and Spain, as parties to the Transfer of Sentenced Persons Agreement, are bound to respect and implement, in good faith, the treaty's provisions.

As far as the early release on parole is concerned, the State party notes that pursuant to article 10 of the Transfer Agreement, once a transfer has taken place, the enforcement of the sentence should be governed by the law of the administrating State. As confirmed by the author in his December 2011 submission, he had not yet attained the third degree status to be eligible for parole in Spain.

Under the provisions of the Indeterminate Sentence Law (Act 4103), the author is not qualified for parole in the Philippines either, as he was sentenced to life imprisonment.

Accordingly, the author's continued detention in Spain is in conformity with articles 11 to 13 of the Transfer Agreement, and it is clear that Spain cannot proceed to a conversion of his sentence as it is bound by the judgment handed down in the Philippines.

The State party concludes that the author's statement that he is purportedly a victim of a flagrant denial of justice is groundless.

Counsel presented comments on the State party's observations on 15 June 2012. He qualifies the observations as inadequate, and notes that the State party reargues the case at this stage, without explaining what measures it envisaged to give effect to the Committee's recommendation in respect to the early consideration of the author's release on parole.

With reference to his submission of December 2011 and the Committee's conclusions contained in its Views, counsel contests several of the State party's arguments, and claims that the position of the authorities is "calculated to and likely to prevent the victim acquiring parole". Counsel further notes that in Spain, the author is supposed to serve a sentence until 2034, whereas, in the Philippines, his maximum prison sentence could have been until 2027.

Counsel further invokes several particular provisions of the Transfer Treaty, and affirms that nothing precludes the author from serving his sentence in Spain on parole.

Counsel confirms that the author still does not have a 3rd degree status (a legal classification for prisoners), as to receive it, prisoners must have completed half of their sentence. Once granted this status, prisoners may spend weekends at home, whereas weeknights are spent in prison, and they are allowed to work outside prison during the day. Counsel notes that thus, the third grade status does not fully correspond to release on parole.

Counsel notes that the author has spent 14 years in prison since September 1997, when he was 19 years old (at this moment in time, he was 34), for a crime he did not commit. The author remains in prison, five years after the adoption of the Committee's Views in 2006, when the request that the author is being given "early consideration for parole" was made. Therefore, according to counsel, the author must be given executive clemency under Philippine law.

Counsel's latest comments were sent to the State party in June 2012, for observations. The Committee will await receipt of further information prior to deciding on the matter.

At its 105th session, the Committee decided to consider the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Portugal**
Case	***Correia de Matos*, 1123/2002**
Views adopted on	28 March 2006
Violations	Article 14, paragraph 3 (d), of the Covenant.

Remedy: Effective remedy; the State party should amend its laws to ensure their conformity with article 14, paragraph 3 (d), of the Covenant.

Previous follow-up information: A/67/40

On 4 April 2012, the State party reiterated its observations of 6 January 2012, and recalled that the same matter was declared inadmissible by the European Court of Human Rights in September 2000, as it was concluded that the issue of compulsory legal representation at certain stages of proceedings falls within the margin of appreciation left to States. Thus, the State party faces two opposite conclusions – one by the Committee and the other one by the European Court of Human Rights.

On 17 May 2012, the author reiterated his previous comments and noted that the State party refuses to implement the Committee's Views by referring to the conclusions of the European Court of Human Rights. In this connection, he refers to article 449, paragraph 1 (g) of the Portuguese Code of Criminal Procedure, which provides that a case may be revised if a compulsory decision for the Portuguese State, adopted by an international instance, is irreconcilable with the sentence or raises serious doubts concerning its justness. In addition, the respect of the Committee's Views would not amount, for the State party, to any positive failure to comply with the European Court of Human Rights' inadmissibility decision.

In conclusion, after having noted the refusal of the State party to allow individuals under its jurisdiction the possibility to ensure themselves their defence, which according to the Committee constitutes a cornerstone for the justice, the author is wondering whether it would not be appropriate to seek explanation by the State party as to the reasons for which it does not denounce the Optional Protocol to the Covenant.

The latest comments from the author were sent to the State party, for observations, in May 2012. The Committee will await receipt of further information before finally deciding on the matter.

At its 105th session, the Committee decided to consider the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Republic of Korea**
Case	***Min-Kyu Jeong et al.*, 1642-1741/2007**
Views adopted on	24 March 2011
Violations	Article 18, paragraph 1, in conjunction with article 2, paragraph 3 of the Covenant.

Remedy: Effective remedy, including expunging the authors' criminal records and adequate compensation.

No previous follow-up information.

On 19 October 2012, the authors' counsel informed the Committee that the State party had failed to give effect to the Committee's Views. According to counsel, generally, more than 650 young men who are conscientious objectors remain in detention.

After the adoption of the Committee's Views, the authors asked the President of the State party to expunge their criminal records. On 20 June 2011, the Office of the Secretary to the President notified the authors that their request had been rejected. On 28 February 2012, the authors filed a petition for amnesty with the Minister of Justice, requesting to have their criminal records expunged and to have their civil rights that had been restricted due to the criminal records rehabilitated. On 15 March 2012, the Ministry replied stating that their petition had been registered and that amnesty was at the discretion of the President, but it was not the right time to determine whether the amnesty should be granted.

Counsel adds that on 16 March 2012, a young man who had been employed by a public corporation was notified that his employment had been terminated because of his criminal record. In fact, this criminal record was related to his conviction and imprisonment nine years earlier as a conscientious objector. This person filed a complaint with the National Human Rights Commission of Korea, arguing a violation of his human rights guaranteed by the Constitution. The case is pending before the Commission. According to counsel, this exemplifies the unwillingness of the State party to implement the Committee's Views, especially the Committee's request to avoid similar violations of the Covenant in the future.

Counsel further informed the Committee that on 30 March 2012, the Ministry of Justice announced a National Action Plan on Human Rights for the years 2012–2016, which provides that alternative civil service for conscientious objectors would only be introduced if a national consensus was reached.

The authors' submission was transmitted to the State party for comments, on 5 February 2013 (one-month deadline). The Committee will await receipt of further information before finally deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Russian Federation**
Case	***Zheikov*, 889/1999**
Views adopted on	17 March 2006
Violations	Article 7, read together with article 2 of the Covenant.

Remedy: Effective remedy, including completion of the investigation into the author's ill-treatment, as well as compensation.

Previous follow-up information: A/62/40

On 14 March 2012, the author contended that the Prime Minister of the Russian Federation, together with ministers and other high-level officials are responsible for his ill-treatment in 1999 and for a fire which took place in 2005. He asks to be paid compensation.

The author's submission was sent to the State party, in March 2012, for observations, but no reply was received.

At its 105th session, the Committee decided to consider the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Russian Federation**
Case	***Zyuskin*, 1605/2007**
Views adopted on	19 July 2011
Violation	Article 7, read in conjunction with article 2, paragraph 3, of the Covenant.

Remedy: Effective remedy, to include an impartial, effective and thorough investigation of the author's claims falling under article 7, prosecution of those responsible, and full reparation, including appropriate compensation. The State party is also under an obligation to prevent similar violations in the future.

No previous follow-up information.

On 21 August 2012, the author informed the Committee that no measures have been taken by the State party to give effect to its Views. On 30 December 2011, the author was informed in a letter sent by the Investigation Department of the Investigative Committee of Leningrad Region (Oblast) that a verification in the case has being carried out. This was also confirmed in a letter dated 23 February 2012 from the Leningrad Region Prosecutor's Office, which indicated that he would be informed of the results of the ongoing verification by the Investigation Committee on a later stage. He adds that he had asked the General Prosecutor's Office, on 21 February 2012, to open a criminal case regarding his past torture and to have all courts' decisions in his criminal case annulled as vitiated, in vain.

The author's submission was sent to the State party on 16 January 2013, for observations (one-month deadline). The Committee will await receipt of further information before finally deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendations has not been satisfactorily implemented.

State party	**Russian Federation**
Case	***Khoroshenko*, 1304/2004**
Views adopted on	29 March 2011
Violations	Article 6, read together with article 14; 7; 9, paragraphs 1–4; 14, paragraphs 1 and 3 (a), (b), (d) and (g), of the Covenant.

Remedy: Effective remedy including: conducting a full and thorough investigation into the allegations of torture and ill-treatment and initiating criminal proceedings against those responsible for the treatment to which the author was subjected; conducting a retrial in compliance with all guarantees under the Covenant; and providing the author with adequate reparation, including compensation.

Previous follow-up information: A/67/40

The author provided comments on 18 November 2012, noting that in the light of the remedies prescribed by the Committee within the present case, his situation has not changed and he is not aware whether the State party has taken any action in order to implement the Committee's Views.

The author's submission was transmitted to the State party for observations on 6 February 2013 (one-month deadline).

The Committee will await receipt of further information before finally deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Serbia**
Case	***Novaković*, 1556/2007**
Views adopted on	21 October 2010
Violations	Article 2 paragraph 3, in conjunction with article 6 of the Covenant.

Remedy: Effective remedy. The State party is under an obligation to take appropriate steps to (a) ensure that the criminal proceedings against the persons responsible for the death of the victim are speedily

concluded and that, if convicted, they are punished, and (b) provide the authors with appropriate compensation.

Previous follow-up information: A/67/40

On 9 July 2012, the State party informed the Committee that criminal proceedings are taking place before the First Basic Court in Belgrade, on charges of grave offence against the health of people, as defined under article 259(4) and 251(3) of the Criminal Code, read in conjunction with paragraph 1 of the Code. The main trial was scheduled for 12 and 13 July 2012. The State party submits that for the purpose of taking appropriate and necessary measures to finalize the criminal proceedings in case K. No. 5046/10 as soon as possible, the Judge sitting on the case was ordered to take all legally prescribed measures to conclude the proceedings within a reasonable time frame. The order was issued pursuant to articles 6 and 9 of the Court Rulebook, and the Annual Calendar of Tasks of the First Basic Court of Belgrade.

In relation to the criminal investigation K. No. 2594/10, now carried with the new number K. N° 1078/12, for the grave offence against the health of people as defined under article 259(4) and 251(3) in conjunction with paragraph 1 of the Criminal Code, and the criminal offence of abuse of office as defined under article 359(4), in conjunction with paragraph 1 of the Criminal Code, the State party specifies that the case has been placed under the jurisdiction of the First Instance Court since 19 June 2012 (under article 24(6) of the Code of Criminal Procedure). The Court decided on 9 March 2012 to terminate the criminal proceedings, and the victims appealed the decision on 27 March 2012.

The State party further informs the Committee that its Views were published on 10 February 2012 in the Official Gazette of the Republic of Serbia No. 10/2012.

On 17 August 2012, the authors explain that two different proceedings against medical doctors are pending before the First Basic Court of Belgrade in connection with the death of Mr Novackovic, The first case, K. No. 5046/10 is against five medical doctors. The next session in this trial was scheduled for 28 September 2012. The second case, K. No. 1078/12, concern two medicine professors. The first court session should take place in the following months. In this regard, the authors invite the Committee to ask the State party to clarify the meaning of the terms “a reasonable time frame” which was used in its submission of 9 July 2012.

The authors claim undue delay in the proceedings, and, with reference to the measures taken by the authorities in connection to Case No. 1180/2003, *Bodrozic v. Serbia and Montenegro* in which the author received a compensation through an agreement with the Ministry of Justice (see Committee’s report A/63/40), note that the State party has a mechanism to pay compensation when obliged to so by the Committee. Thus, according to the authors, the State party either does not understand its obligations under the Covenant or it does not take them seriously enough in this case.

The authors further state that the Views were published in the Official Gazette in February 2012, but explain that they do not know why it took more than 15 months to do so.

On 20 January 2013 (transmitted on 4 February 2013), the State party commented upon the author’s submission. It states that the case K. No. 1178/12 (former K. No. 2594/09) is a criminal case under article 259 para. 4 of the Criminal Code (severe criminal act against the health of people), in conjunction with article 251 para. 1 and 3 (negligent medical aid rendering) and article 359 para. 4 of the Criminal Code (abuse of office). The presiding judge requested a supplementary investigation in the case, and the proposed witnesses were going to be summoned and heard shortly.

Parallel proceedings K. No. 5046/10 have been in progress before the First Basic Court in Belgrade against five defendants, for the commitment, by each of them, of one severe criminal act against the health of people, contained in article 259 para.4, in conjunction with article 251 para. 3 and

para. 1 of the Criminal Code. On 12 October 2012, the main hearing was concluded, and preparation of a final decision was in progress.

In the case P. No. 7354/11, an action was filed by the authors against the faculty of dental medicine — Maxillofacial Surgery Clinic — as defendant, for damages. The production of evidence and hearing of witnesses is in progress, with the last hearing held on 3 October 2012, and the next hearing scheduled in January 2013.

The State party adds that the authors were recently received on several occasions by the Ministry of Justice and State administration, and were informed about the ongoing procedures.

The State party's submission was transmitted to the authors for comments on 12 February 2013 (one-month deadline). While noting with satisfaction that criminal procedures are ongoing with respect to several suspects in the authors' case, the Committee will await receipt of further information before finally deciding on the matter.

The Committee considers the follow-up dialogue ongoing.

State party	**Spain**[31]
Case	***Hill*, 526/1993**
Views adopted on	2 April 1997
Violations	Articles 9, paragraph 3; 10 and 14, paragraphs 3 (c) and 5, of the Covenant, in respect of both Michael and Brian Hill and of article 14, paragraph 3(d), in respect of Michael Hill.

Remedy: An effective remedy, entailing compensation.

Previous follow-up information: A/64/40

On 22 April 2011, the State party reiterated that the authors were re-tried in compliance with the Committee's Views, which in no way implied that the authors had to be acquitted. The State party's submission was sent to the authors for comments, in June 2011.

The Committee will await receipt of further information before finally deciding on the matter. A reminder for comments to the authors was sent in July 2012.

At its 105th session, the Committee considered the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Spain**
Case	***Alba Cabriada*, 1101/2002**
Views adopted on	1 November 2004
Violations	Article 14, paragraph 5, of the Covenant.

Remedy: Effective remedy; the author's conviction must be reviewed in accordance with article 14,

[31] A meeting with the Special Rapporteur on follow up to Views and the State party's representatives took place in July 2012, to discuss the measures taken to give effect to the Committee's Views concerning Spain.

paragraph 5, of the Covenant. The State party is under an obligation to take the necessary measures to ensure that similar violations do not occur in future.

Previous follow-up information: A/65/40

On 2 November 2010, the State party informed the Committee that even if the Spanish Constitution does not establish a right to have a review of sentences in criminal cases, the Constitutional Tribunal had interpreted the rules on cassation appeal in a broad way in order to comply with the requirements of article 14, paragraph 5, of the Covenant. It also pointed out that a new Judiciary Act (Organic Law 19/2003) was adopted since the submission of the communication, whereby the requirements of article 14, paragraph 5, of the Covenant are respected.

The State party's submission was sent to the author, for comments, in November 2011, but no reply was received. A reminder was sent to the author in July 2012. The Committee will await receipt of further information before finally deciding on the matter.

At its 105th session, the Committee considered the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Spain**
Case	***Martínez Fernández*, 1104/2002**
Views adopted on	29 March 2005
Violation	Article 14, paragraph 5, of the Covenant.

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

No previous follow-up information: No response from the State party.

On 2 June 2010, the author argued that he had exhausted all domestic remedies to implement the Committee's Views of violation concerning article 14, paragraph 5. The author therefore wished to file a new communication against the State party for violation of article 14, paragraph 5, since the Committee's Views were not implemented. On 19 October 2011, the author informed the Committee that, in the State party, there was no legal basis to implement the Committee's Views, or to seek judicial review of previous judgments which amounted to violations of the Covenant. Consequently, he is deprived of an effective remedy.

The Committee will await receipt of further information before finally deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Spain**
Case	***Gayoso*, 1363/2005**
Views adopted on	19 October 2009
Violation	Article 14, paragraph 5, of the Covenant.

Remedy: Effective remedy that will permit the author's conviction and sentence to be reviewed by a higher court. The State party is also under an obligation to prevent similar violations in the future and to ensure the strict fulfilment of its obligations under article 14, paragraph 5, of the Covenant.

Previous follow up information: A/66/40

On 30 March 2011, author's counsel informed the Committee that on 2 March 2011, the Constitutional Tribunal declared inadmissible an application for amparo filed by the author whereby he requested the implementation of the Committee's Views. Counsel adds that the State party failed to give effect to the Committee's Views and that the author had exhausted all domestic remedies and means to request their implementation. He requests the Committee to admit a new communication due to the State party refusal to comply with the Committee's Views, and argues that he did not have access to an effective remedy and that, among other international obligations, the State party had violated article 2 of the Covenant.

On 28 June 2011, the State party reiterated its previous observations and explained that its national legislation would be amended in order to guarantee the principles enshrined within article 14 of the Covenant and other treaty obligations. A protocol to give effect to the Committee's Views was also in process of adoption in the framework of the Human Rights National Plan.

On 15 July 2011, the author points out that the State party only referred to general measures and it recognized that there is no legislation to give effect to the Committee's Views. He reiterated that the refusal of the State party to comply with the Committee's Views constitutes a new violation of the Covenant due to the lack of access to effective remedy, as established within article 2 of the Covenant.

On 31 October 2011, with reference to its submission of June 2011, the State party informed the Committee that it would not provide further observations.

On 17 April 2012, the author informed the Committee of his wish to lodge a new communication on the basis of the non-implementation of the State party of the Committee's Views, based on article 2 of the Optional Protocol. He explains that he had exhausted all available judicial remedies in this connection, up to the Constitutional Court, without success. The author's submission was transmitted to the State party, for observations, in June 2012.

The State party presented additional information by note verbale of 5 July 2012. It reacted to the author's claim that article 2 of the Optional protocol was violated and noted that such claim falls outside of the scope of the follow up proceedings and should be the object of a separate communication.

The State party reiterated its previous submissions to the effect that a new legislation is being prepared, in line with the requirements of article 14, paragraph 5, of the Covenant.

Finally, the State party pointed out that from the Committee's Views, it cannot be concluded that the author necessarily needs a new "criminal instance proceeding", in the way it is requested by the author. The State party's submission was transmitted to the author, for observations, in July 2012.

On 27 January 2012, the author informed the Committee that the State party failed to implement its recommendations, and that he has exhausted all domestic remedies. He further argues that by denying the implementation of the Committee's Views the State has violated his right enshrined in article 2 (3) of the Covenant, and consequently he wishes to file a new communication (in the framework of follow-up).

On 30 July 2012, the author reiterated his previous comments, including his intention to file a new communication before the Committee.

On 2 August 2012, the author reiterated his previous submission.

On 17 January 2013, the State party reiterated its previous observations and reported that its national legislation would be amended in order to guarantee the principles enshrined within article 14, paragraph 1 of the Covenant and other treaty obligations. Therefore, the new *Ley de Enjuiciamiento Criminal* will observe the guarantees contained in article 14 of the Covenant.

On 12 February 2013, the State party's submission was sent to the authors for comments.

On 8 March 2013, the author repeated his previous observations.

At its 107th session, the Committee decided to address a letter to the author, informing him that it is not possible to file a communication in the framework of follow-up (see the Committee's decision of inadmissibility in communication No. 1634/2007, *Korneenko v. Belarus*). The Committee will await receipt of further information prior to deciding on the matter.

In the meantime, it considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Spain**
Case	***Carpintero*, 1364/2005**
Views adopted on	22 July 2009
Violation	Article 14, paragraph 5, of the Covenant.

Remedy: Effective remedy, which allows a review of his conviction and sentence by a higher tribunal.

No previous follow-up information.

On 2 December 2010, the author informed the Committee that the State party had failed to give effect to the Committee's recommendation. He also pointed out that, on 12 April 2010, his application to be released was rejected by the Barcelona Provincial High Court. Subsequently, he lodged a petition for reconsideration before a Provincial High Court, which was still pending.

On 13 October 2011, the State party informed the Committee that its Views were disseminated among the Judiciary and the Office of the Prosecutor. It added that the criminal procedure set out in its legislation, as interpreted by the Constitutional Tribunal, met with the requirement provided by the Covenant. Notwithstanding, the State party envisaged undertaking legislative measures to ensure the access to a second instance court. Two draft Acts were prepared, the Organic Act of Development of Fundamental Rights Related to Criminal Proceedings and a new Criminal Procedure Act. According to the State party, both draft Acts comply with the requirements of article 14, paragraph 5, of the Covenant. Finally, the State party recalls that since 2004 the Supreme Tribunal, following the Committee's previous recommendations, converted the "cassation" instance into an appeal one, through interpretation of the current legal provisions.

The State party's submission was sent to the author, for comments, in December 2011 but no reply was received. A reminder for comments was sent to the author, in July 2012.

On 25 January 2012, the author informed the Committee that the State party had not taken any measure in order to implement the Committee's recommendations. He did not have access to a second instance court that could review the first sentence. Moreover, his application for amparo and request for compensation were denied by the Constitutional Court. Therefore, he argues that he was in the same condition as at the moment when he filed his communication before the Committee.

The author's submission was transmitted to the State party, for comments on 14 February 2012.

On 9 March 2012, the State party submitted additional information. It reiterates its previous arguments, and submits that the Committee's Views do not refer to the State party's obligation to provide the author with compensation.

As regards cassation proceeding, it reiterates that since the 2004 Supreme Court's interpretation of the current legislation, following the Committee's previous recommendations, converted the

cassation instance into an appeal, in compliance with the requirements of article 14, paragraph 5, of the Covenant. It reiterates the efforts made by the State party to expressly incorporate the access to a second instance court for all the judgements, namely through the Organic Act of Development of Fundamental Rights Related to Criminal Proceedings and a new Criminal Procedure Act. It adds that one of the priorities of the new government formed after the 2011 elections is the reform of the Criminal Procedure Act.

The State party's submission was transmitted to the author for comments on 14 March 2012 (one month deadline).

At its 105th session, the Committee decided to consider the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Spain**
Case	***Morales Tornel*, 1473/2006**
Views adopted on	20 March 2009
Violation	Article 17, paragraph 1, of the Covenant.

Remedy: Effective remedy, including appropriate compensation for the violation that occurred.

No previous follow-up information: A/66/40

On 28 June 2010, the authors informed the Committee that on 21 May 2010, the Ministry of Internal Affairs rejected their request for compensation. The decision noted that according to well-established jurisprudence of domestic courts, the Committee's Views were not binding and further stated that there was no link between the death of the authors' son and brother and the service provided in prison. According to the decision, it could be appealed before administrative and judicial instance.

On 26 September 2011, the authors informed the Committee that the State party's assertion about the Committee's Views legal effect in its municipal law was not reflected by the Attorney General during the proceedings before the Administrative Court. Within these proceedings the State party argued that the Views were not binding according to the Constitutional Court's and Supreme Court's jurisprudence. According to the authors, this represents a violation of article 2, paragraph 3, of the Covenant, since the State did not provide the author with an effective remedy.

On 20 October 2011, the State party informed the Committee that according to the Constitutional Tribunal's jurisprudence, the Committee's Views were not binding, in the sense that they could not be directly implemented. However, the Tribunal also noted that this did not mean that they lacked all effect in the State party's municipal law. It further noted that the fundamental rights recognized in its Constitution have to be interpreted in the light of State party's international obligations. The State party further noted that the authors' request is pending before the High Court.

On 9 January 2013, the authors submitted that the State party had not provided them with a domestic remedy, and had failed to amend its legislation so as to guarantee them second instance proceedings, as established in the State party's Human Rights Plan.

On 19 February 2013, the authors informed the Committee that the High Court dismissed their application and, therefore, the State party had failed to provide them with an appropriate compensation.

The authors' submission was transmitted to the State party for comments on 22 February 2013 (one-month deadline). The Committee will await receipt of further information before finally deciding on the matter.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Sri Lanka**[32]
Case	***Bandaranayake*, 1376/2005**
Views adopted on	24 July 2008
Violations	Violation of article 25 (c), in conjunction with 14, paragraph 1, of the Covenant.

Remedy: An effective remedy, including, appropriate compensation.

No previous follow-up information.

On 21 September 2012, the author informed the Committee that, four years after the adoption of the Committee's Views, the recommendations had yet to be implemented by the State party, which had wilfully disregarded the Committee's decision, nor undertaken any meaningful step to comply with the remedy sought. The State party has also deliberately failed to acknowledge several written appeals made to the President and the Minister in charge of Human Rights by both the author's counsel and the author himself. As a consequence, the author claims that he is left without redress, and without employment for nearly 14 years. The author requested the matter to be addressed by the Committee with the State party. The author's submission was sent to the State party for observations but no reply was received.

A first reminder was sent to the State party for observations on the measures taken to give effect to the Committee's Views on 21 September 2012 (one month deadline).

On 17 February 2013, the author renewed his request to the Committee, requesting to be informed of any development in respect of the implementation of the Views adopted in his case.

On 11 March 2013, a second reminder was sent to the State party to submit information and observations on the measures taken to give effect to the Committee's Views (one month deadline).

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Sri Lanka**
Case	***Weerawanza* 1406/2005**
Views adopted on	17 March 2009
Violations	Article 9, and potential violation of articles 6 and 7 of the Covenant.

[32] On 18 March 2013, during the Committee's 107th session, a meeting took place between the Committee's Chair and representatives of the State party, which included the Deputy Solicitor General (Attorney General's Department), to discuss follow-up to Views. In the course of this meeting, the State party restated its formal position with respect to the implementation of the Committee's recommendations, and absence of binding force of the Optional Protocol in its domestic legal order, for lack of implementing legislation (reference is made to the State party's observations dated 2 February 2005, with respect to communication No. 1033/2001, *Singasara*, reflected in A/64/40). The State party nevertheless informally provided the Committee with a factual update on a number of cases, in which the follow-up dialogue is ongoing.

Remedy: Effective and appropriate remedy, including commutation of the author's death sentence and compensation. As long as the author is in prison, he should be treated with humanity and with respect for the inherent dignity of the human person. The State party is under an obligation to take measures to prevent similar violations in the future.

No previous follow-up information received.

On 21 January 2013, the author informed the Committee that, despite the Committee's decision and remedy sought from the State party and the change of presidency, the current regime has overlooked the gravity of the case, and the author remains in custody in a state of severe mental depression, confined to a small cell without even basic human facilities.

The author's submission was transmitted to the State party for comments on 12 February 2013 (one-month deadline).

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Sweden**
Case	***X.*, 1833/2008**
Views adopted on	1 November 2011
Violations	Article 6 and 7 of the Covenant.

Remedy: Effective remedy, including taking all appropriate measures to facilitate the author's return to Sweden, if he so wishes.

No previous follow-up information.

The State party presented its follow-up observations by note verbale of 30 May 2012. It explains, first, that the Swedish Migration Board was officially notified of the Committee's Views, on 6 December 2011. Pursuant to Chapter 5, section 4, of the Aliens Act, if an international body competent to examine individual cases concludes that a refusal of entry or expulsion order in a given case is contrary to a Swedish commitment under a treaty, a residence permit shall be granted to the person covered by the order, unless if exceptional grounds against granting a permit exist. This provision applies regardless of whether or not the alien is still in Sweden at the relevant time. In principle, the Migration Board, unless if exceptional circumstances exist, orders the stay of the expulsion order pending the re-consideration of the matter.

The State party explained that the handling of the present case does not follow the usual pattern described. When he submitted the communication to the Committee, on 26 November 2008, the author requested interim measures of protection, as he was to be deported the next day. The State party was unaware that the author had submitted such a request and it proceeded with the deportation. On 12 December 2008, or two weeks after the deportation, the State party was informed of the registration of the case, and of the Committee's decision not to grant interim measures of protection in this case.

The State party pointed out that an alien who wishes to stay in Sweden must apply for a permit to the Migration Board or at least to indicate to the Board of his/her desire to stay. With the support of the Committee's Views, the author may apply for a residence permit to the Migration Board, or file an application with the Swedish Embassy in Kabul, which would be transmitted to the Migration Board. The above-mentioned provisions of the Alien Act must be seen as providing an effective remedy in this case, in the State party's opinion.

The State party noted that the Migration Board cannot grant a residence permit, unless it is assured that the author wishes to return to Sweden and settle there. It also notes that it took almost three years for the Committee to adopt its decision, and that, in addition, in May 2011, counsel informed the Committee that she had no contact with the author since March 2010.

The State party maintained that the Migration Board had no information on the author's address in Afghanistan; the author did not apply for a residence permit after the enforcement of his expulsion order. The Migration Board has adduced the Committee's Views to the author's case; the Board would thus take into account the Views if the author applies or a residence permit.

As to the general measures taken, the State party explained that the Director for Legal Affairs at the Migration Board issued two legal standpoints (RCI 04/2009 and RCI/03/2012), publicly available on the Migration Board's website, on how to address applications and assess the risk when asylum seekers invoke their sexual orientation as a ground for asylum. The two documents highlight the importance of examining an asylum seeker's sexual orientation claim in light of the country of origin and the risk there, even if the claim was not invoked at the early stages of the proceedings. Thus, according to the State party, through the above mentioned legal standpoints, effective steps have been taken to prevent similar violations in the future.

The State party added that on 2 January 2012, the Migration Board published the Committee's Views on an Internet site which is easily accessible to civil servants, lawyers, and the public. The views are accompanied by a summary and comments in Swedish. In this way, the Views have been widely disseminated.

Finally, the State party informed the Committee that a new version of the Government's human rights website will be launched on 14 June 2012. The State party explained also that it intends including on this website all decisions in individual cases against Sweden decided by the United Nations' treaty bodies, starting as of 1 January 2011.

In the light of the above-mentioned elements, the State party maintained that it has taken appropriate measures to comply with the Committee's recommendations.

The State party's submission was sent to author's counsel, for comments, in June 2012.

On 6 September 2012, counsel informed the Committee that she was in contact with the author, who submitted an application for a residence permit to the Swedish Embassy in Kabul; these proceedings are ongoing.

Counsel challenges the State party's affirmation on the efforts made to locate the author, and notes, in particular, that the authorities did not contact her or did not made any research effort to locate him in Afghanistan through the State party's Embassy.

Contrary to the State party's assertion, the author was in contact with the State party's Embassy in Kabul a few times since his deportation to Afghanistan, and before the publication of the Committee's Views, expressing his wish to return to Sweden. He was however informed that he had no possibility to return to Sweden, lacking legal means to do so. For this reason, the author did not apply for a residence permit before he was contacted by the counsel, after the publication of the Committee's Views.

Regarding the State party's reference to two legal standpoints (RCI 04/2009 and RCI/03/2012), adopted regarding the author's invocation of a risk due to his sexual orientation, counsel questions whether they can be seen as constituting effective steps taken to prevent future violations similar to those found by the Committee in the present case. Counsel stresses that the author was required, under Section 12, § 19 of the State party's Aliens Act, to provide a "valid excuse" for the late disclosure of his sexual orientation in the procedure. This provision was not amended since the author's deportation, despite a Government-mandated study recommending that the requirement of a "valid excuse" be

repealed. Consequently, there is still a risk that individuals, invoking new circumstances showing a risk of treatment contrary to articles 6 or 7 of the Covenant, are denied a thorough assessment of their asylum claims by the Migration Board or the Courts, simply for lack of a "valid excuse" for not having invoked these circumstances earlier. Consequently, such individuals risk to be expelled, without any material assessment of their claim, and despite a risk of torture or other cruel, inhumane or degrading treatment upon return.

Counsel adds that while welcoming the adoption of legal standpoint RCI 04/2009, its provisions are not binding upon the Migration Board. Also, there have been decisions and judgements adopted after the issuance of this policy, where the applicant has not been considered to have provided a valid excuse for the late disclosure of his/her sexual orientation.

According to counsel, the Migration Board has initiated its own assessment of how the legal standpoints relating to asylum claims based on sexual orientation have been implemented. However, from its report of 3 January 2012 (Ref. No. 111-2012-7147), it is not possible to discern how and with what result the internal researchers have examined the implementation of the public legal standpoint RCI 04/2009 concerning delay in presenting asylum claims based on sexual orientation, or gender identity. Also, this legal standpoint does not under any circumstances imply obligations on the part of the Migration Court or the Migration Court of Appeal.

Counsel further stresses that the Migration Court of Appeal has so far not issued any precedent judgment concerning asylum claims related to sexual orientation or gender identity, let alone a case concerning the application of Section 12§19 of the Aliens Act focusing on the interpretation of a "valid excuse". However, the Migration Court of Appeal has issued judgments on the interpretation of "valid excuse" in relation to other grounds, such as gender-related asylum claims, which were rejected for lack of a "valid excuse". Counsel requests the Committee to recommend to the State party to propose to its Parliament the amendment of Section 12§19 by way of abolishing the requirement of a "valid excuse", so as to prevent similar violations.

Counsel further welcomes the legal standpoint RCI 03/2011, despite shortcomings such as the lack of reference to UNHCR's Guidelines on gender-related persecution, and UNHCR's "Guidance Note on asylum claims relating to sexual orientation and gender identity". She reiterates that the standpoint is not binding upon the Migration Board employees or judges, but is only a guidance policy document.

Counsel also notes that the standpoint does not effectively prevent future violations with regard to asylum claims based on sexual orientation. Asylum seekers such as the author are not consistently granted international protection in the State party, when facing a risk of treatment contrary to articles 6 and 7 of the Covenant. The State party has not clearly indicated the need to change its asylum assessments. It should take measures at various levels, to ensure that LGBT asylum seekers are obtaining international protection when they are at risk of treatment in contravention to the Covenant.

Finally, counsel recalls that in this case, the Committee considered that when further domestic remedies are available to asylum seekers facing deportation, they must be allowed a reasonable length of time to pursue them before the deportation is enforced; such remedies would otherwise become materially unavailable, not effective and futile. In this context, counsel stresses that applicants making subsequent applications, or raising new circumstances, are only protected from deportation while the Migration Board is handling the application but they are not granted appeal (to the Migration Board and the Migration Court of Appeal) with suspensive effect.

Counsel requests the Committee to urge the State party to introduce effective measures to prevent future violations similar to those found in the author's case, to propose amending the "valid excuse" ground in Section 12§19 of the Swedish Aliens Act, and to introduce a provision granting appeal with suspensive effect with regard to subsequent applications.

Counsel's comments were sent to the State party, for observations, on 17 December 2012.

By note verbale of 25 October 2012, the State party explained that on 15 October 2012, the Migration Board informed the State party authorities that the author had handed in an application for asylum and a residence permit to the Swedish Embassy in Kabul in June 2012. The application was, according with standard procedures, forwarded to the Swedish Embassy in Islamabad, where migration and visa matters are being handled. The Migration Board further informed that the Embassy in Islamabad had made an interview appointment with the author on 27 July 2012, but the author called the Embassy before the interview date, stating that he did not find it necessary to attend the interview. The author has not been in contact with the Swedish embassies in Islamabad or Kabul after this. On 23 October 2012, the Migration Board informed the State party authorities that a decision has been taken to transfer the author to Sweden on the refugee quota. The Migration Board further informed the State party that as soon as contact is re-established with the author, he would receive travel documents and proof of residence permit. The author will also receive, with the assistance of the International Organization for Migration, a transfer to Sweden.

In view of the information submitted, the State party maintains that appropriate measures have been taken to comply with the Committee's Views.

The State party's submission was transmitted to the author's counsel, for comments, on 18 December 2012, but no reply was received.

While welcoming the information submitted by the State party, according to which it intends to provide a visa and residence permit to the author, the Committee will await receipt of further information before finally deciding on the matter.

The Committee considers the follow-up dialogue ongoing.

State party	**Turkey**
Case	***Atasoy and Sarkut*, 1853–1854/2008**
Views adopted on	29 March 2012
Violation	Article 18, paragraph 1, of the Covenant.

Remedy: An effective remedy, including expunging their criminal records and providing the authors with adequate compensation. The State party is under an obligation to take measures to prevent similar violations in the future.

No previous follow-up information received.

By note verbale of 6 December 2012, the State party informed the Committee that consultations on the Committee's Views were ongoing.

On 5 February 2013, the State party explained that, while respecting the Committee's Views, it maintains its position that article 18 of the Covenant is not applicable to the case. It adds that the Committee's Views were distributed to the relevant authorities, namely the Ministries of Justice, Defence and Interior and the Turkish Army's General Staff and that the translated Views have been provided to the competent authorities.

Law No. 6217 Amending Certain Laws to Accelerate the Functioning of the Judiciary of 31 March 2011 amended Article 47, 86 and 89 of Law No. 1111 (Military Law) and article 63 of the Military Penal Code. According to these amendments, persons who committed the offences under these provisions in peace time shall be sentenced to administrative fines, and appeals can be lodged in accordance with the provisions of Law on Misdemeanours (Law No. 5326). In this regard, the State

party submits that the offence of draft evasion (article 63 of the Military Penal Code), when committed by civilians in peace time, falls within the jurisdiction of civil courts. Civil courts have been taking into consideration the provisions of the Covenant and the European Convention on Human Rights in their decisions concerning the offences of evading military services.

With regard to the situation of the authors, the State party submits that the Beyoglu 2nd Criminal Court of Peace acquitted Mr. Atasoy on 24 September 2009, considering that he had not performed his military services due to his religious beliefs, and that he did not have a criminal intent as per the judgments of the European Court of Human Rights and the Views of the Committee. Mr. Atasoy was also acquitted by the Beyoglu 3rd Criminal Court of Peace on 21 July 2010 and the 9th Criminal Court of Peace on 29 September 2011, which concluded that there was no criminal intent, and therefore no crime.

After the entry into force of Law No. 6217, the Istanbul 8th Criminal Court of Peace re-examined the judgments of the Beyoglu 1st Criminal Court of Peace rendered on 2 April 2009 (No. 2008/1144 and 2009/577), 19 March 2009 (No.2009/418 and 2009/467) and 30 March 2010 (No.2009/1303 and 2010/579), respectively on 3 October 2013, 25 May 2012 and 3 October 2012. The Court decided, in accordance with the legal amendments, to erase previous judgements along with all of their consequences and sentenced Mr. Atasoy to an administrative fine of 250 Turkish lira in each of the three cases.

With regard to Mr. Sarkut, the State party informs the Committee that the Istanbul 9th Criminal Court of Peace decided on 7 September 2011 not to sentence the author to an administrative fine, considering that he had not performed his military services due to his religious beliefs, and that he did not have a criminal intent as per the judgments of the European Court of Human Rights, and the Committee's Views.

Finally, the State party underlines that there are no pending investigations in respect of the authors concerning their refusal to perform the military service.

On 6 March 2013, the authors submitted a response to the State party's observations. They provide that they live in a precarious situation, despite the adoption of the Committee's Views. Referring to the State party's assertion, that there is no pending investigation in their respect concerning their refusal to perform military service, the authors submit that this provides no assurances that the State party will not issue future indictments against the authors, as future prosecutions are at the full discretion of the Prosecution Office.

The authors annexed two letters from the Ministry of Defence and the Military Recruitment Department, dated respectively 7 and 18 December 2012, which indicate that they are still expected to report for military call-up every four months – April, August, and December, or face prosecution, and confirmed that Mr. Atasoy was subject to dispatch on April 2013 call-up term.

According to the authors, the State party admits in its submission that the authors were ordered to pay burdensome administrative fines even after the Views of the Committee were adopted. There is no reason to believe that these fines will not continue whenever the State party decides to prosecute the authors after future call-ups.

The authors add that on 15 January 2013, the Istanbul 10th Criminal Court of First Instance upheld the pecuniary fine of 250 Turkish lira issued by the Istanbul 8th Magistrates' Court decision of 4 October 2012, against Mr. Sarkut.

The authors' submission was transmitted to the State party for comments, on 8 March 2013 (one-month deadline). While welcoming the information submitted by the State party on the annulment of the criminal sentence of Mr. Atasoy, the Committee will await receipt of further information before finally deciding on the matter.

The Committee considers follow-up dialogue ongoing.

State party	**Ukraine**[33]
Case	***Butovenko*, 1412/2005**
Views adopted on	19 July 2011
Violations	Articles 7, 9, 10, 14 and 2, of the Covenant.

Remedy: Effective remedy, which should include a review of the author's conviction that would comply with fair trial guarantees of article 14 of the Covenant, impartial, effective and thorough investigation of the author's claims under article 7, prosecution of those responsible and full reparation, including appropriate compensation.

No previous follow-up information.

The State party's reply, due in May 2012, remains outstanding.

On 5 March 2012, the author's counsel informed the Committee that he tried to have the case reviewed by the Supreme Court pursuant to article 400-12 of the Criminal Procedure Code. This article provides for a re-examination of criminal cases based on decisions of international judicial organs.

On 26 December 2011, his request was rejected by the Higher Specialized Court on the examination of civil and criminal cases, as the court considered that the Human Rights Committee's Views are not decisions of an "international judicial agency" for the purposes of article 400 of the Criminal Procedure Code of Ukraine.

On 3 July 2012, counsel reiterated his previous submission and noted that the State party failed to give effect to the Committee's Views.

The Counsel's submission was sent to the State party, in March 2012 and July 2012, with a reminder to submit information and observations on the measures taken to give effect to the Committee's Views.

On 3 July 2012, counsel for the author submitted that the State party is disregarding the Committee's Views. In October 2011, the author approached the Supreme Court of Ukraine with the request to re-examine his criminal case, in light of the Committee's Views, and also relying on article 400-12, paragraph 1, subparagraph (2) of the Code of Criminal Procedure of Ukraine, which allows the re-examination of a criminal case when the proceedings were found by an international tribunal to be incompatible with the international obligations of the State party.

On 26 December 2011, the Specialized Supreme Court of Ukraine dismissed the author's request, on the ground that the Committee may not be regarded as "an international tribunal". Consequently, the author submits that he has no opportunity to enforce the Committee's Views in the present case.

The author's submission was sent to the State party, for observations, on 13 July 2012 (one-month deadline). No reply was received. The Committee will await receipt of further information before finally deciding on the matter.

[33] A meeting with representatives of the Permanent Mission of Ukraine to the United Nations Office at Geneva and the Committee's Special Rapporteur on follow up to Views took place on 30 October 2012, during which the follow-up status of this case was raised.

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Uruguay**
Case	***Canessa Albareda et al.*, 1637/2007, 1757/2008, and 1765/2008**
Views adopted on	24 October 2011
Violation	Article 26, read in conjunction with article 2, of the Covenant.

Remedy: The State party must recognize that reparation is due to the authors (seven authors in the three communications combined), including appropriate compensation for the losses suffered.

No previous follow-up information.

On 4 May 2012, the State party informed the Committee that under Act 18,719 of 27 December 2010 and Article 20 of Act 14,206 of 6 June 1974 of the Foreign Service, all servants in step/level R of the Foreign Service, were reincorporated in step/level M.

On 20 June 2012, the State party informed the Committee that, according to the new provision (art. 20 of Act 14,206, amended by Act 18,719), the maximum age to carry out functions in step/level M is 70 years old. Consequently, Mr Torres Rodriguez could not re-enter the Foreign Service, but would receive all retirement benefits. In contrast, all the other authors who were below the maximum age were reintegrated in their functions in the Foreign Service.

On 04 June 2012, Mr Torres Rodríguez informed the Committee that the amendments of the law made after the Committee's Views in practice only benefited Mr Canessa. The Ministry of Finance informed him that it would not make any payment, or grant any monetary compensation to him, unless ordered by a court.

Mr. Rodriguez's submission was transmitted to the State party, for observations, on 7 June 2012. No reply was received.

On 21 June 2012, Mr Torres Rodríguez reiterated his previous submission.

While noting with satisfaction the reintegration of one of the authors in his functions, the Committee will await receipt of further information before finally deciding on the matter.

The Committee considers the follow-up dialogue ongoing.

State party	**Uruguay**
Case	***Peirano Basso*, 1887/2009**
Views adopted on	19 October 2010
Violations	Article 14, paragraph 3 (c), of the Covenant.

Remedy: Effective remedy. The State party should also take steps to speed up the author's trial.

No previous follow-up information.

By note verbale of 18 April 2011, the State party informed the Committee that the author sought to be released but his request was rejected; his preventive detention is unrelated to the violation found under article 14, paragraph 3, of the Covenant. The author's detention was ordered in the framework of judicial proceeding opened against him, before the Court of Appeal.

On 27 April, and 7 and 9 June 2011, counsel contended that the author's preventive detention is strictly related to the violation found by the Committee in this case, and pointed out that the State party had failed to give effect to the Views. Counsel also informed the Committee that a request to have the author released was rejected by the Court of Appeal (no date specified).

On 28 July 2011, the State party reiterated its previous submission, and stressed that the existing judicial proceedings guarantee a trial without undue delay, and that preventive detention is a legitimate measure adopted pursuant to the law.

On 1 August 2011, counsel reiterated that the State party has failed to implement the Committee's Views.

By note verbale of 19 September 2011, the State party informed the Committee that the author was released on 31 August 2011, due to the time unduly elapsed and the duration of his preventive detention and the current status of the proceedings. On 27 September 2011, the State party's submission was sent to the author, for comments, but no reply was received. A reminder for comments was sent to counsel, in July 2012.

In the meantime, on 19 October 2011, in the framework of the Committee's 103rd session, counsel met with the Special Rapporteur on follow-up to Views and emphasized, inter alia, that the State party had failed to give effect to the Committee's Views.

On 6 July 2012, the author informed the Committee that he had been released by order of the Supreme Court. However, the Judiciary had failed to take measures in order to speed up his trial. He also claimed that the proceedings did not observe all judicial guarantees, and that a first instance decision would be expected in about three-four years.

The author's submission was transmitted to the State party, for observations, on 26 July 2012.

On 27 August 2012, the State party informed the Committee that the judicial proceedings had taken place according to its legislation, and in observance of all judicial guarantees. Any possible delay was due to the action by the parties, including the author. For instance, among other pieces of evidence requested, the author asked for 31 reports to be provided by the Central Bank. Moreover, the Judiciary had to retrieve documentation under the authority of several different countries, with consequential delays in the proceedings.

The State party's submission was sent to the author, for comments, on 19 March 2013 (one-month deadline). The Committee will await receipt of further information before finally deciding on the matter.

The Committee considers the follow-up dialogue ongoing.

State party	**Uzbekistan**
Case	***Musaev*, 1914,1915&1916/2009**
Views adopted on	21 March 2012
Violations	Articles 7; 9; and article 14, paras 3 (b), 3 (g) and 5, of the Covenant.

Remedy: Effective remedy, including: carrying out an impartial, effective and thorough investigation into the allegations of torture and ill-treatment and initiating criminal proceedings against those responsible; either his retrial in conformity with all guarantees enshrined in the Covenant or his release; and providing the victim with full reparation, including appropriate compensation. The State party is also under an obligation to take steps to prevent similar violations occurring in the future.

No previous follow-up information.

The State party presented its observations by note verbale of 30 August 2012. It explains that its competent authorities have given due consideration to the Committee's views and concluded that the author's allegations are groundless and the communication as a whole biased. According to the State party, the Committee did not take sufficiently into consideration the State party's reply on admissibility and merits, which was objective, accurate and verified. The State party also claims that such selectivity and violation of the Code of conduct cast doubts on the objectivity and impartiality of the Committee's Views in this case.

The State party claims that the author, through her unfounded allegations according to which her son was subjected to torture and physical and moral pressure during the preliminary investigations regarding his first and second trial to the point that he confessed guilt, in the absence of a lawyer, and that he was beaten during the third investigation, has misled the Committee. The author has not adduced any evidence in substantiation of her allegations of recourse to unlawful methods of investigation against her son. All the author's claims are groundless and based on unverified allegations or mere suppositions. The State party contends that its competent authorities have carried out a comprehensive examination of the alleged use of unlawful methods of investigations and torture against the author's son, both during the preliminary investigation and the court trial. The author's allegations in this regard were never ignored.

At the end of the inquiries of the authorities, it was established that all allegations regarding the use of torture or other unlawful methods of investigation against Mr. Musaev aimed at his forced confessions were not confirmed. Thus, the Committee erroneously gave due weight to the author's allegations concerning its conclusion of a violation of her son's rights under articles 7 and 14, paragraph 3 (g), of the Covenant.

In this connection, the State party emphasizes that under article 3 of the Optional Protocol, the Committee shall declare inadmissible a communication which in substance constitutes an abuse of the right of submission and is incompatible with the provisions of the Covenant. The State party requests the Committee to recall its contention that Mr. Musaev's rights under articles 7 and 14, paragraph 3 (g), have been violated.

As to the violation of article 9 of the Covenant, the State party explains that it is normal that Mr. Musaev' s arrest and placement in custody were not sanctioned by a court, as, under the laws in force at that time, such decisions were taken by a prosecutor, as an officer authorized by law to exercise judicial power. The habeas corpus institute was created only in 2008, and since, courts are competent to deal with such issues. Thus, the author's allegations that her son was never brought before a court or other officer empowered to exercise judicial power is incorrect from the point of view of the elementary legal practice. In addition, the author son's right under article 9, paragraph 3, to be tried promptly was fully respected, and the trial took place in May–June 2006. In addition, individuals in Mr. Musaev's situation were not necessarily placed in detention awaiting trial, but neither Mr. Musaev nor his lawyer provided the court deciding on his restraint measure (i.e. whether to have him placed in pretrial detention) with sufficient guarantees that he would not abscond.

In these circumstances, the State party stresses that pursuant to article 3 of the Optional Protocol, the Committee must declare inadmissible a communication which in substance constitutes an abuse of the right of submission and is incompatible with the provisions of the Covenant. The State party requests the Committee to recall its contention that Mr. Musaev's rights under article 9 were violated.

Regarding the violation of article 14, paragraphs 3 (b), of the Covenant, the State party affirms that the Committee was misled by the groundless contention of the author to the effect that her son after his arrest on 31 January 2006, he was kept isolated in the premises of the National Security Service and forced to confess guilt in the absence of a lawyer, and that further, throughout the preliminary

investigations, his contacts with his lawyer were limited.

Under article 49 of the Criminal Procedure Code, a lawyer was assigned to Mr. Musaev since the moment of the factual limitation of his freedom of movement, i.e. his arrest in this case. No limitations were imposed on his contacts with his lawyer throughout the preliminary investigation. The same lawyer represented Mr, Musaev during the preliminary investigation and in court. The criminal case file contains records attesting the lawyer's presence.

The author's allegations regarding the absence of a lawyer during the preliminary investigation in the second set of criminal proceedings of her son are, according to the State party, also groundless and refuted by the corresponding records on file, attesting the presence of a lawyer. The lawyer representing the interest of Mr. Musaev at the investigation stage ensured his defence also in court, as attested by the relevant records in the case file.

The State party further rejects as false the author's allegations that, in the framework of the third set of criminal proceedings, on 2 March 2007, her son was placed in the Investigation Detention Centre of the National Security Service and was interrogated there in the absence of a lawyer until 5 June 2007. Mr. Musaev was represented by the same lawyer both throughout the preliminary investigation and in court, as attested by the corresponding records on file.

The State party also rejects as groundless the author's allegations regarding her son's rights under article 14, paragraph 5, of the Covenant. It explains that the author has misled the Committee by affirming that her son was not provided with a copy of the judgment of the Military Court of 21 September 2007, what prevented him to effectively file an appeal. Mr Musaev exercised fully his right to access to the adequately motivated and prepared in written form decision of the Military Court of 21 September 2007. He was given the opportunity to file effectively an appeal against it. On 11 October 2007, the judicial college of the Military Court confirmed the judgement of 21 September 2007. Thus, the State party believes that the Committee's decision to give due weight to the author's allegations in this connection to be erroneous. Under article 3 of the Optional Protocol, the Committee must declare inadmissible a communication which in substance constitutes an abuse of the right of submission and is incompatible with the provisions of the Covenant. The State party thus requests the Committee to recall its contention that Mr. Musaev's rights under article 14, paragraph 5, of the Covenant were violated.

In the light of the above, the State party concludes that it has provided Mr. Musaev with an effective remedy, including: conduct of an impartial, effective an thorough investigation on the torture allegations (no criminal case was opened as neither the allegations of use of unlawful methods of investigation nor occurrence of violations of the Criminal Procedure Code were confirmed); since the Supreme Court of Uzbekistan has recognised the court decisions in this case to be lawful and grounded no new trial was ordered and Mr. Musaev was not released or rehabilitated or compensated.

Finally, as far as the individual opinion regarding the fact that two of the criminal cases were examined by a military court, the State party notes that nothing in Covenant prohibits military jurisdiction as such, and there is no reference to military courts whatsoever. Under Uzbek law, military courts are competent to examine cases related to State secrets and other cases as specified by law. Thus, the fact that a military court has dealt with Mr. Musaev's case was lawful and did not contradict the provisions of the Covenant.

The State party's submission was transmitted to the author for comments on 15 January 2013.

The author submitted comments on 9 February 2013, contesting the State party's subjective assessment of the judicial process in the case. The author reiterates that her son's rights under articles article 14, paras 3 (b), 3 (g) and 5, of the Covenant were violated, and requests to ensure that the remedies provided for in the Views are implemented.

The author's submission was transmitted to the State party for observations on 22 February 2013 (one-month deadline). The Committee will await receipt of further information before finally deciding on the matter.

A meeting will be requested with representatives of the State party on follow-up to Views (to take place during the Committee's 108th session).

The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.

State party	**Zambia**
Case	***Chongwe*, 821/1998**
Views adopted on	25 October 2000
Violations	Articles 6, paragraph 1, and 9, paragraph 1, of the Covenant.

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

Previous follow-up information: A/67/40

On 29 June and 6 November 2012, the author informed the Committee that he spoke to a number of government officials with regard to a settlement concluded in 2009, but that none of his efforts resulted in the actual payment of any compensation.

The author's submission was transmitted to the State party, for observations, on 17 December 2012 (one-month deadline). The Committee will await receipt of further information before finally deciding on the matter.

The Committee considers the follow-up dialogue on-going, while noting that, to date, its recommendation has not been satisfactorily implemented.

B. Meetings on follow-up on Views with States parties' representatives

261. During the Committee's 105th, 106th and 107th sessions, the Special Rapporteur for follow-up to Views and the Committee's Chair met with representatives of Australia, France, Kyrgyzstan, Spain, Sri Lanka and Ukraine. During the 107th session, the Committee has also unsuccessfully been seeking to arrange meetings with representatives of Algeria and Cameroon.

VII. Follow-up to concluding observations

262. In chapter VII of its annual report for 2003,[34] the Committee described the framework that it has set out for providing for more effective follow up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its previous annual report,[35] an updated account of the Committee's experience in this regard over the previous year was provided. The current chapter again updates the Committee's experience to 30 March 2012.

263. Over the period covered by the present annual report, Ms. Christine Chanet acted as the Committee's Special Rapporteur for follow-up on concluding observations. At the Committee's 105th, 106th and 107th sessions, the Special Rapporteur presented progress reports to the Committee on intersessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State.

264. For all reports of States parties examined by the Committee under article 40 of the Covenant over the past year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table. Over the reporting period, nineteen States parties have submitted information to the Committee under the follow-up procedure (Azerbaijan, Belgium, Bulgaria, Cameroon, Colombia, Hungary, Israel, Jamaica, Kazakhstan, Kuwait (twice), Mexico, Mongolia, Norway, Poland, Slovakia, Togo (twice), Turkmenistan, United Republic of Tanzania, Uzbekistan (twice)) as well as the United Interim Administration Mission in Kosovo (UNMIK), and seven States parties (Dominican Republic, El Salvador, Ethiopia, Guatemala, Iran (Islamic Republic of), Nicaragua, Yemen) failed to provide any information in relation to follow-up to concluding observations. Eight States parties (Argentina, Ecuador, Estonia, Jordan, the Netherlands, Republic of Moldova, Rwanda and Tunisia) have not provided additional information required by the Committee to clarify their follow-up responses. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the preparation of the next periodic report by the State party.

265. The reports below were adopted by the Human Rights Committee at its 105th, 106th and 107th sessions and reflect the decisions taken with regard to the follow-up report or complementary information provided by States parties during the period under review. The follow-up table (annex V) reflects the status of the follow-up procedure for all States parties that have been considered under this procedure since the eighty-sixth session (March 2006).

A. Follow-up report adopted by the Committee during its 105th session

266. The following information was contained in the report of the Special Rapporteur for follow-up on concluding observations adopted by the Committee at its 105th session.

[34] *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40*, vol. I (A/58/40 (vol. I)).

[35] Ibid., *Sixty-sixth Session, Supplement No. 40*, vol. I (A/66/40 (vol. I)).

267. It has been the Human Rights Committee's practice to submit three follow-up reports each year in which it analyses the replies sent by States parties between one session and the next. In view of the brevity of the intervals between the March, July and October sessions and given the time constraints associated with deadlines for submission of documents to the translation services, the Special Rapporteur has decided to submit only two follow-up reports per year, during the March and October sessions. This new procedure is expected to allow all the parties concerned to deal with the relevant material in greater depth at each stage in the follow-up process.

268. In order to ensure that the new timetable for reports does not delay the consideration of a situation which is of an urgent nature (either for procedural reasons or because of the seriousness of developments in a State party), the Special Rapporteur will, however, submit a partial report on those cases in which she believes that a decision needs to be taken as a matter of urgency. Comprehensive information on the follow-up action undertaken by the Committee since its eighty-seventh session (July 2006) is in the follow-up table that will be included as an annex to the next progress report of the Special Rapporteur for follow-up to concluding observations.

Assessment criteria	
Reply/action satisfactory	
A	Response largely satisfactory
Reply/action partially satisfactory	
B1	Substantive action taken, but additional information required
B2	Initial action taken, but additional information required
Reply/action not satisfactory	
C1	Response received but actions taken do not implement the recommendation
C2	Response received but not relevant to the recommendations
No cooperation with the Committee	
D1	No response received within the deadline, or no reply to a specific question in the report
D2	No response received after reminder(s)

Ninety-ninth session (July 2010)

State party: Israel

COB: CCPR/C/ISR/CO/3

State party's first reply: Expected: 29 July 2011; Received: 31 October 2011.

Follow-up paragraphs: 8, 11, 22, 24

NGO information:

Six reports received in August 2011: ADALAH – The Legal Center for Arab Minority Rights in Israel; ADALAH, Al Mezan Centre for Human Rights; Physicians for Human

Rights – Israel (PHR-Israel); BADIL Resource Center for Palestinian Residency and Refugee Rights; Defence for Children International – Palestine Section (DCI-P); Negev Coexistence Forum for Civil Equality; Public Committee Against Torture in Israel (PCATI).

Paragraph 8: The State party should lift its military blockade of the Gaza Strip, insofar as it adversely affects the civilian population. The State party should invite an independent, international fact-finding mission to establish the circumstances of the boarding of the flotilla, including its compatibility with the Covenant.

Summary of State party's reply: The District Coordination and Liaison Office in the Erez Crossing assists in all matters related to residents of the Gaza Strip in need of medical treatment in Israel or elsewhere. They do not have a "right" to enter Israel. The real victims of the terrorist exploitation of this humanitarian channel are the Palestinian residents who have their crossing delayed. In many cases there is also a "deficiency in the transfer of requests by the Palestinian Authority (PA), since the PA is ultimately responsible for the necessary funding to cover the relevant costs in the Israeli hospitals".

Other actions taken by the State party:

- Approval and coordination to bring in medical equipment and medications;
- Offer to the Palestinian Authority to help raise the level of competence of the health infrastructure in the Gaza Strip.

All water supply and sewage systems in Gaza are under Palestinian control since 2005. It was agreed that Israel would transfer and sell an additional 5 million cubic metres/year of water to Gaza during the period of the Agreement on the West Bank and the Gaza Strip (1995). The supply pipeline was laid up to the border of the Gaza Strip and awaits the Palestinian Authority's approval.

The State party has proposed to the Palestinians to purchase water for the Gaza Strip directly from the desalination plant at Ashkelon. The State party does not prevent the flow of surface water or groundwater to the Gaza aquifer.

Programmes exist for the treatment of wastewater, but the Palestinians are not advancing for their implementation. The number of wells has doubled.

The Turkel Commission appointed in June 2010 to examine the conformity of the actions taken in connection with the flotilla incident with the norms and requirements of international law consisted of independent Israeli experts, two international observers and two experts in International Law: actions taken by the Commission are hearing of testimony from central governmental and non-governmental sources; review of all the available documentary evidence and submissions made.

Conclusion of the Commission (interim report): the imposition and enforcement of the naval blockade and the land crossings policy complied with international law, in view of the security circumstances and Israeli efforts to fulfil its humanitarian obligations. The actions by Israel during the flotilla incident led to the loss of human life and physical injuries. Despite a limited number of uses of force for which no conclusion was reached, the actions were found to be in conformity with international law. The Commission is currently working on the second part of its report. The Secretary-General's Panel of Inquiry on the 31 May 2010 Flotilla Incident published its report in September 2011. It confirms the Israeli position on the legality and proportionality of the naval blockade and the flotilla incident.

NGO information:

ADALAH: The Turkel Commission was established by the Government of Israel and is not independent, impartial or transparent.

ADALAH, Al Mezan and PHR-Israel: The military blockade of Gaza remains in place, resulting in an unemployment rate of 37 per cent, 52 per cent of the population suffering from food insecurity, and 41,200 new housing units needed. From January to June 2011, PHR-Israel documented 226 cases and appeals from Gaza patients who were denied permits or delayed access to medical treatment. Since January 2007, as part of the blockade:

- Fishermen's access to the sea has been further restricted, and they are often subject to harassment;
- Families in Gaza have not been allowed to visit their relatives in Israeli prisons.

BADIL: Israel has not lifted the blockade of Gaza, and has not eased any of the humanitarian conditions for the civilians. Gaza still suffers tremendously from the blockade (denial of basic needs, goods, food, medicines, infrastructure materials, and access to education). Israel has also refused to cooperate with international efforts for an impartial, international, independent investigation into the flotilla incident.

Committee's evaluation:

[**C1**] The State party makes no reference to any steps taken to lift the military blockade of the Gaza Strip. The actions taken do not implement the recommendation.

[**B2**] The Turkel Commission, being a national body with only national observers, does not answer to the recommendation for an international mission. The Panel of Inquiry, while international, is not a fact-finding mission, given that its only means of obtaining information is through diplomatic channels.

Paragraph 11: The State party should incorporate into its legislation the crime of torture, as defined in article 1 of the Convention against Torture and in conformity with article 7 of the Covenant. It also reiterates its previous recommendation (CCPR/CO/78/ISR, para. 18), that the State party should completely remove the notion of "necessity" as a possible justification for the crime of torture. The State party should also examine all allegations of torture, cruel, inhuman or degrading treatment pursuant to the Manual on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment (Istanbul Protocol).

Summary of State party's reply: All acts of torture are criminal acts under Israeli legislation. In H.C.J. 5100/94 *The Public Committee against Torture in Israel v. The State of Israel*, the Supreme Court agreed that the "necessity defense" could arise in instances of "ticking bombs" but that this did not constitute a source of authority to utilize physical means. The Court held that any future directives governing the use of these means during interrogations had to be anchored in an authorization prescribed by law and not in defences to criminal liability. To date no such directives have been introduced.

The current wording of the Penal Law is in accordance with international law. The Israeli Security Agency (ISA) conducts its interrogations according to the relevant guidelines and regulations. They are monitored regularly. Internal guidelines have been prepared by the ISA on how high-ranking ISA officials should be consulted when the circumstances of an interrogation support the necessity requirement.

The participation of medical doctors or personnel in unlawful activities occurs only in exceptional cases. Israel Prison Service (IPS) physicians will not approve and will not take

part in any activity of investigation or punishment of an inmate.

The Inspector for Complaints against ISA interrogators operates independently under the supervision of the Inspector's Supervisor in the Ministry of Justice. Decisions of a sensitive nature are further examined by the Attorney General and the State Attorney. Every complaint of improper treatment is examined by the Supervisor. The Attorney General announced in November 2010 that the Inspector would become part of the Ministry of Justice. Statistics are provided on the number of examinations conducted by the Inspector. None of the examinations between 2006 and 2011 ended with criminal charges, all interrogations were performed in accordance with the law and no torture or ill-treatment took place. However, procedures and interrogation techniques were modified as a result of some of the examinations.

NGO information:

ADALAH, Al Mezan and PHR-Israel: Solitary confinement is widely used in Israeli prisons, and the IPS has not issued sufficient directives to regulate its use. Israel has not removed the "necessity defense" for criminal responsibility for torture and cruel, inhuman and degrading treatment. The transfer of the Inspector to the Ministry of Justice has yet to take place. In July 2011, the Ministry of Health reported on the establishment of a Committee for Medical Staff to Report harm to Detainees under Interrogation, which will be mandated to receive complaints from medical staff regarding the suspected torture or cruel, inhuman and degrading treatment.

PCATI: No action has been taken to adopt appropriate legislation establishing a crime of torture or clarifying that the "necessity defense" shall not apply to those who perpetrate torture and other ill-treatment. The transfer of the Inspector to the Ministry of Justice has not yet been implemented and the modalities of the new mechanism remain shrouded in secrecy.

Committee's evaluation:

[**C1**] The State party does not provide any information on new measures to incorporate the crime of torture into its legislation or on the removal of the notion of "necessity" as a possible justification for the crime of torture. The State party does not describe any concrete measures to make the examination of allegations of torture compliant with the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), with the possible exception of the planned move of the Inspector to the Ministry of Justice that has yet to take place.

Paragraph 22: The State party should:

(a) Ensure that children are not tried as adults;

(b) Refrain from holding criminal proceedings against children in military courts, ensure that children are only detained as a measure of last resort and for the shortest possible time, and guarantee that proceedings involving children are audiovisually recorded and that trials are conducted in a prompt and impartial manner, in accordance with fair trial standards;

(c) Inform parents or close relatives of where the child is detained and provide the child with prompt access to free and independent legal assistance of its own choosing;

(d) Ensure that reports of torture or cruel, inhuman or degrading treatment of detained children are investigated promptly by an independent body.

Summary of State party's reply:

The obligation to record the investigation of suspects has been gradually implemented. Since January 2010, it includes offences punishable by a minimum of 10 years, with the exception of security offences.

The Security Directives Order (Temporary Order) established a Juvenile Military Court (JMC) in the West Bank in 2009, separating minors from adult detainees. The Amendment of the Security Provisions Order raised the age of majority in Judea and Samaria from 16 to 18 years. The JMC is authorized to appoint a lawyer for a minor. In 99.9 per cent of the cases the accused is represented by a defence attorney. Inmates are entitled to have meetings with their lawyers behind a divider, or in exceptional cases without a divider. The JMC is authorized to order that minors' parents be present in every hearing. Parents have the right to act on behalf of the minor in filing applications and questioning witnesses and may plead together with, or instead of, the minor. The JMC may also order the preparation of a Probation Officer Report.

The parents of the minor should be notified a soon as possible. After a reasonable effort has been made to contact the parents, another relative or adult known to the minor may be contacted, except when the minor has expressed his objection on reasonable grounds. The Officer in Charge can order the summoning of a minor suspect for questioning, in a "reasoned written decision", without giving notice to his/her parents if: (i) it may harm the physical or mental well-being of the minor or another person; (ii) there is reasonable suspicion that the parent or a relative was an accessory to the offence; (iii) the minor is suspected of a security offence.

After eight hours, or when the reason for not notifying the parents has ceased to exist, notification shall be given without delay.

The Order prescribes that the minor is notified, in a language that he understands considering his age and degree of maturity, of his right to consult with a lawyer in private.

Every complaint regarding torture or cruel, inhuman or degrading treatment of detainees, adults and children alike, are investigated promptly. Supervision and oversight mechanisms are provided for in the Security Agency Law 5762-2002. Police officers are subject to continuous scrutiny by the Department for the Investigation of Police Officers in the Ministry of Justice and by the courts.

NGO information:

ADALAH, Al Mezan and PHR-Israel: Palestinian minors continue to be detained and interrogated alongside adult detainees in ISA facilities located in Israel and the West Bank. They are subjected to conditions of confinement that constitute cruel, inhuman and degrading treatment, alongside adult detainees, in order to put pressure on them.

DCI-P: Each year approximately 700 Palestinian children are prosecuted in Israeli military courts. Over 90 per cent of these are denied bail and over 80 per cent receive custodial sentences (compared to 6.5 per cent in the civilian juvenile justice system). Children as young as 12 years receive custodial sentences. The JMC uses the same facilities and court staff used by the adult military court, and children are brought into court by groups of two and three, wearing leg chains and the same brown prison uniforms as adults. On occasion, adults and children are brought into court together. There is still no provision in the military orders to guarantee the audiovisual recordings of children's interrogations. The primary evidence against children in the military courts is a confession, either of the accused child or that of another interrogated child, and since most children are denied bail, the quickest way out of the system is to plead guilty in all cases. There is no official mechanism to inform parents on the place where their child is detained. The overwhelming majority of children see a lawyer for the first time after interrogation and confession. Between 2001

and 2010, 645 complaints were filed against ISA interrogators. No criminal investigation has been opened.

PCATI: There is no independent examination mechanism.

Committee's evaluation:

[**B2**] Apart from the separation of adults and children in the court room following the establishment of a juvenile military court, no information is provided on other measures to ensure that minors are not tried as adults. The actual application of the separation is questioned by NGO reports (DCI-P).

Suggested questions:

- What measures have been taken to ensure that children are not tried as adults in the Juvenile Military Court?
- How will the existence of a separate court for juveniles be ensured at the expiration of the Amendment of the Security Provisions Order on 29 September 2012?

(a) [**C1**] No information is provided on policies governing the use of military courts in proceedings against children or on how it is guaranteed that the detention of children is only used as a measure of last resort for the shortest possible time. No information is provided on how audiovisual recordings of proceedings involving children are guaranteed in cases that are not punishable by a minimum of 10 years' imprisonment and that do not constitute a security offence. There is no information on specific measures to ensure that trials are conducted in a prompt and impartial manner, in accordance with fair trial standards, other than those relevant to recommendation;

(b) [**B2**] Information is provided on the existing legal provisions related to the notification of parents, but these provisions have widely applicable exceptions, and there is no information on their implementation. Information should be requested on State party plans to revise its legislation to guarantee that the accused can systematically see their lawyers at an early stage of the proceedings;

Suggested question:

What changes are envisaged after 29 September 2012 in order to maintain current reforms and further ensure that parents or close relatives are always promptly informed after the arrest of a minor and that the child is provided with prompt access to free and independent legal assistance of his/her own choice?

(c) [**C1**] No information is provided on new measures aimed at ensuring that reports of torture or cruel, inhuman or degrading treatment of detained children are investigated promptly by an independent body.

Paragraph 24: In its planning efforts in the Negev area, the State party should respect the Bedouin population's right to their ancestral land and their traditional livelihood based on agriculture. The State party should also guarantee the Bedouin population's access to health structures, education, water and electricity, irrespective of their whereabouts on the territory of the State party.

Summary of State party's reply: In 2007, the Advisory Committee on the Policy regarding Bedouin Towns (Goldberg Committee) was established. The plan to provide for the status of communities, and the plan for the economic development of the Bedouin population in the Negev were submitted to the Government in May 2011 and approved in September.

They aim at improving education in the Negev and Abu-Basma for the Bedouin population. Counselling and psychological services are available in the education system and new

educational programmes, tuition grants and scholarships have been introduced. In the unauthorized Bedouin villages, three high schools have been established and 14 positions for school inspectors for Bedouin localities have been created since 2004.

Difficulties arise with the Bedouin living in unauthorized villages, especially in terms of water supply. The duty to supply them with services such as water is not questioned, but it is practically impossible to do so. According to the Supreme Court, unrecognized villages have the right to "minimum access to water".

In terms of health:

- As of May 2010, 51 health clinics and independent physicians were serving the Bedouin population, with four of them in the unauthorized villages. The Bedouin have access to a special health service and to a number of physician specialty services;
- A university course has been opened for nurses from the Bedouin population, but there is still a substantial shortage of qualified nurses;
- Immunization coverage of the Bedouin population has seen improvements in the last decade. There are two mobile immunization teams that provide services to infants outside the permanent towns;
- Of the 46 mother and infant health-care stations in the southern district, 27 serve the Bedouin population. Unauthorized villages are attended by health-care stations, the stations in Bedouin towns and Jewish localities, and one mobile station.

An attempt has been made to extend the Electricity Supply Law (Temporary Order) 5756-1996, which ceased in May 2007, providing for the electricity supply to Arab and Druze citizens whose houses were built without permits. The Israel Electric Corporation began connecting schools in unauthorized villages following a petition to the High Court of Justice by Adalah in July 2009.

NGO information:

Adalah: No Bedouins were included in the elaboration of the governmental plan from May 2011 that would displace over 30,000 Bedouin from their ancestral land. Despite a rising rate in infant mortality, one clinic was closed in unrecognized villages, and two were only partially reopened after a petition to the Supreme Court. The State committed before the Supreme Court in 2007 to opening the first high school in the unrecognized villages by 2009, but now refuses to do so since the land planning or the village is not completed. The dropout rate for Bedouin students is around 70 per cent. The Water Authority has made no indication of implementing the Supreme Court decision on the right of unrecognized villages to a "minimum access to water".

NCF: The number of home demolitions has dramatically increased since June 2010. The village of Al-Araqeeb has been completely demolished 25 times (each time it was rebuilt) and in July 2011 the State filed a lawsuit against the residents to cover the demolition costs. The Prawer Plan contradicts the findings and recommendations of the Goldberg Committee, recognizing less than a third of the land claimed by the Bedouin, and forcing resettlement in failed Government-planned towns. Most affected citizens have no opportunity to be involved in the review of the plan. Twenty-five villages remain without the opportunity to seek clinics, schools or other essential community structures, since they are not mentioned in the regional plan regarding temporary structures for vital services. The State has recently announced a decrease in the rate of infant mortality, but it has actually risen.

Less Bedouin infants are vaccinated than babies of Jewish parents. In March 2010, the State announced a new programme to increase vaccination among the Bedouin by providing

incentives to nurses to work in clinics serving the Bedouin population. The Supreme Court ruling from June 2011 failed to define the "reasonable access" to water it prescribed. The State has completely failed to adopt the recommendation regarding electricity access and Bedouin have had to install their own power systems.

BADIL: No efforts have been made to preserve Bedouin agricultural livelihoods. Israeli authorities have sprayed Bedouin agricultural lands with herbicides and ploughed over them. The State continues to outsource its discriminatory planning and development policies to organizations like the Jewish National Fund in order to evade scrutiny and accountability. The report includes information similar to the one included in the NCF report.

Committee's evaluation:

[**C1**] Apart from including Bedouin members in the Goldberg Committee, no measures have been described that ensure the respect of the right of the Bedouin to their ancestral land and their traditional livelihood based on agriculture, and to otherwise take into account the interests of the Bedouin. The measures taken do not guarantee the Bedouin population's access to health structures, education, water and electricity.

Recommended action:

Letter reflecting the analysis of the Committee. The Committee should include its follow-up questions in the list of issues prior to reporting and request the State party to provide the requested complementary information in its reply thereto.

Next periodic report:

List of issues prior to reporting to be adopted by the Committee in July 2012

101st session (March 2011)

State party: Togo

COB: CCPR/C/TGO/CO/4

Follow-up paragraphs: 10, 15 and 16

State party's first reply: Expected: 28 March 2012; Received: 17 April 2012.

Paragraph 10: With a view to combating the impunity that persists in Togo, the State party should continue its efforts to bring the work of the Truth, Justice and Reconciliation Commission to an early conclusion. Independent and impartial investigations must also be conducted in order to shed light on the human rights violations committed in 2005 and prosecute those responsible. In this connection, the Committee emphasizes that the establishment of a transitional system of justice cannot serve to dispense with the criminal prosecution of serious human rights violations.

Summary of State party's reply: Combating impunity is one of the principal concerns of the Government. The Truth, Justice and Reconciliation Commission has taken 22,415 statements. The recommendations made to the Government will enable it to take steps to ensure that compensation is provided for the harm suffered.

NGO information:

The Truth, Justice and Reconciliation Commission's mandate was extended twice in 2011, and the Commission undertook to submit its report by 31 March 2012. (Note from the

secretariat of the Human Rights Committee: A three-part report was submitted by the Commission on 3 April 2012). No investigation has been undertaken in the cases in the Lomé or Amlamé jurisdictions. The investigation into the Atakpame cases has been suspended, with no explanation for that step being given.

Committee's evaluation:

[**B2**] The Truth, Justice and Reconciliation Commission has completed its report. Steps now have to be taken to ensure that its recommendations are put into effect.

[**C1**] No information has been provided on investigations aimed at shedding light on the human rights violations committed in 2005. This recommendation has therefore not been acted upon.

Paragraph 15: The State party should adopt criminal legislation defining torture on the basis of international standards and legislation criminalizing and penalizing acts of torture with penalties commensurate with their gravity. The State party should ensure that any act of torture or cruel, inhuman or degrading treatment is prosecuted and penalized in a manner commensurate with its gravity.

Summary of State party's reply: The preliminary draft of the Criminal Code, which provides for the penalization of acts of torture in accordance with international standards, is to be approved in April 2012 for transmittal to the Government for adoption by the Council of Ministers.

NGO information:

The Government has been working on the revision of the Criminal Code and the Code of Criminal Procedure since 2007, but little progress has been made for budgetary reasons. Under a timetable put forward by the Ministry of Justice, the Criminal Code and the Code of Criminal Procedure would be adopted by late 2012 or early 2013. No one has been prosecuted on charges of torture or inhuman or degrading treatment.

Committee's evaluation:

[**C1**] The State party should be requested to provide updated information on:

- The progress made towards the adoption of the draft revised versions of the Criminal Code and the Code of Criminal Procedure and the content of the provisions dealing with torture;
- The steps taken to ensure that any act of torture or inhuman or degrading treatment is prosecuted and appropriately penalized.

Paragraph 16: The State party should take steps to investigate all allegations of torture and ill-treatment and all deaths in detention. Such investigations should be conducted expeditiously in order to bring the perpetrators to justice and provide effective compensation to victims.

Summary of State party's reply: The Government instructed the National Human Rights Commission to conduct an inquiry into allegations of torture levelled at the National Intelligence Agency. The Commission's report was presented to the Government on 27 February 2012 and was approved by the Council of Ministers. A total of 15 measures have been adopted in order to put the recommendations into effect.

NGO information:

The Commission's report was made public in February 2012 following an attempt to manipulate its contents in order to exculpate the State. The Commission found that acts of torture had been committed by members of the National Intelligence Agency and recommended that they should be prosecuted. The Government has adopted 15 measures to

follow up on the Commission's report. No inquiry had been opened at the time of writing.

Committee's evaluation:

[**B2**] The issuance of the Commission's report and its adoption by the Government are positive initial steps. Additional actions to implement the recommendations made in that report are needed (see the measures outlined in the State party's follow-up report), as is information on the steps taken to that end.

Recommended action:

Letter reflecting the analysis of the Committee. In view of the scandal caused by the falsification of the report concerning the torture and exile of the author, the Special Rapporteur should meet with the Head of Mission during the October session.

Next periodic report: 1 April 2015

B. Follow-up report adopted by the Committee during its 106th session

269. The following report sets out the information received by the Special Rapporteur for follow-up on concluding observations of the Human Rights Committee between the 105th and 106th sessions pursuant to the Committee's rules of procedure, and the analyses and decisions adopted by the Committee during its 106th session. All the available information concerning the follow-up procedure used by the Committee since its eighty-seventh session (July 2006) is outlined in the table appended to this report.

Assessment criteria	
Reply/action satisfactory	
A	Reply largely satisfactory
Reply/action partially satisfactory	
B1	Substantive action taken, but additional information required
B2	Initial action taken, but additional information required
Reply/action not satisfactory	
C1	Reply received but actions taken do not implement the recommendation
C2	Reply received but not relevant to the recommendations
No cooperation with the Committee	
D1	No reply received within the deadline, or no reply to a specific question in the report
D2	No reply received after reminder(s)

Eighty-seventh session (July 2006)

United Nations Interim Administration Mission in Kosovo (UNMIK)

COB: CCPR/C/UNK/CO/1, adopted on 27 July 2006

Follow-up paragraphs: 12, 13, 18

Follow-up history:

April–September 2007: Three reminders were sent.

10 December 2007: Request by the Special Rapporteur to meet with the Secretary-General's Special Representative or his designated representative.

11 March 2008: First follow-up reply from UNMIK. Reply incomplete with regard to paragraphs 13 and 18.

11 June 2008: Request by the Special Rapporteur to meet with a UNMIK representative.

22 July 2008: Meeting with Mr. Roque Raymundo.

7 November 2008: Second follow-up reply: incomplete. Request for supplementary information on paragraphs 13 and 18.

12 November 2009: Third follow-up reply: incomplete.

28 September 2010: Letter from the Committee requesting additional information.

10 May 2011: Request by the Special Rapporteur to meet with the Secretary-General's Special Representative for Kosovo.

20 July 2011: The Special Rapporteur met with the Director of the UNMIK Office of Legal Affairs (Mr. Tschoepke), who indicated that information would be forwarded by UNMIK before the October 2011 session.

9 September 2011: Letter from UNMIK stating that, while its institutional mandate no longer permitted it to implement the Committee's recommendations, it was committed to collecting information from international organizations involved in the situation.

10 December 2011: Letter from the Committee acknowledging the commitment by UNMIK to collect information on the implementation of the Committee's recommendations.

22 December 2011: Letter from the Committee to the Office of Legal Affairs (Ms. O'Brien) requesting advice on the general status of Kosovo and on the strategy to adopt in the future to maintain a dialogue with Kosovo.

13 February 2012: Additional reply from UNMIK.

Paragraph 13: UNMIK, in cooperation with the Provisional Institutions of Self-Government, should effectively investigate all outstanding cases of disappearances and abductions and bring perpetrators to justice. It should ensure that the relatives of disappeared and abducted persons have access to information about the fate of the victims, as well as to adequate compensation.

Summary of reply by UNMIK:

- The International Committee of the Red Cross records list 1,795 persons as still missing. Altogether 4,225 cases have been closed, including those of 2,640 persons

confirmed dead and buried by their families. UNMIK has not been involved since April 2010. Its activities have been taken over by EULEX, which works with forensic doctors of Kosovo and with the Department of Forensic Medicine (DFM) of the Ministry of Justice. EULEX DFM is working to identify 200 remains held at the DFM mortuary;

- The investigation, prosecution and punishment of outstanding cases has been transferred to the EULEX Police Component. Altogether 114 cases have been resolved; 65 are still pending and 69 are at the preliminary stage;
- According to the 2011 Act on the status and rights of […] civilian victims of war and their families, the close family members of a civilian who disappeared between January 1998 and December 2000 are entitled to a monthly pension of 135 euros. Compensation is now also offered in cases where a person disappeared after June 1999, the last date of disappearance for which the 2006 law granted compensation. Under the Missing Persons Act of August 2011, once remains have been identified, the State will cover burial costs.

Evaluation:

[**D1**] No reply to the question regarding relatives' access to information on the fate of victims and to adequate compensation.

Paragraph 18: UNMIK, in cooperation with the provisional institutions, should intensify efforts to ensure safe conditions for the sustainable returns of displaced persons, in particular those belonging to minorities. In particular, it should ensure that they may recover their property, receive compensation for damage and be entitled to rental schemes for property temporarily administered by the Kosovo Property Agency (KPA).

Summary of reply by UNMIK:

- The Kosovo Property Agency (KPA) has taken over from UNMIK the restitution of tenancy rights and has registered 41,687 claims. In 98.9 per cent of cases, claimants are invoking their ownership rights. KPA has reviewed the cases and requested additional information in about 1,110 cases;
- Criteria and procedures for determining rights and compensation were adopted in July 2011 and KPA, with UNMIK's help, is currently seeking funding for the programme. Some owners of property destroyed during the conflict have received compensation under programmes administered by the EULEX War Crimes Investigation Unit. Victims of forced displacement have not received any type of compensation. The Kosovo authorities need to address the issue;
- A voluntary rental scheme administered by KPA allows the rental of property which owners do not wish to occupy (in exchange for regular rental income) or whose owners have not been identified;
- Despite various efforts and the implementation of programmes costing millions of euros, only 10 per cent of displaced persons from minority communities have returned to Kosovo, and the sustainability of returns is uncertain. The majority of displaced persons have expressed a wish to resettle locally, without returning to Kosovo, although many are still seeking compensation for the loss or partial destruction of their property in Kosovo;

- Specific legislation has been adopted to enhance the economic development and stabilization of minority communities. Local authorities are responsible for implementing municipal return strategies, which include activities to inform displaced persons about the situation in their places of origin and on the assistance available to them upon return. The results of such programmes vary from region to region, mainly depending on local authorities' capacities and level of commitment. Inhibiting factors include discrimination faced by members of minority communities, lack of progress on reconciliation among communities, and acts of violence against displaced persons and their property.

Evaluation:

[**B2**] Efforts have yielded disappointing results, mainly as regards the return of displaced persons. Additional information is needed on actions taken to create safe conditions for the sustainable return of displaced persons, an issue on which no information has been provided.

Recommended action:

Letter reflecting the Committee's analysis and requesting UNMIK to provide the necessary additional information concerning paragraphs 13 and 18.

Next periodic report:

No date for UNMIK. CCPR/C/SRB/CO/2: The Committee notes that, as the State party continues to accept that it does not exercise effective control over Kosovo, and in accordance with Security Council resolution 1244 (1999), civil authority continues to be exercised by the United Nations Interim Administration Mission in Kosovo (UNMIK). The Committee considers that the International Covenant on Civil and Political Rights continues to apply in Kosovo, and it therefore encourages UNMIK to provide it, in cooperation with the institutions of Kosovo, and without prejudice to the final legal status of Kosovo, with a report on the human rights situation in Kosovo since July 2006.

Ninety-sixth session (July 2009)

State party: Azerbaijan

COB: CCPR/C/AZE/CO/3

Follow-up paragraphs: 9, 11, 15, 18

State party's first reply: Date information due: 28 July 2010. Date information received: 24 June 2010.

Evaluation:

The procedure has been completed with respect to the following issues:

(a) Compulsory training for newly recruited prison officials (para. 11);

(b) Recognition of the right of foreign radio stations to broadcast directly on Azerbaijani territory (para. 15).

Additional information was requested concerning the other recommendations (letter of 20/10/2011).

Second reply:

Date information received: 31 May 2012

Paragraph 9: The State party should not extradite, expel, deport or forcibly return aliens to a country where they would face the real risk of torture or ill-treatment. The Committee recalls that article 2 of the Covenant requires that States parties should respect and ensure Covenant rights for all persons in their territory and all persons under their control, whence the obligation not to extradite, deport, expel or otherwise remove a person from their territory, where there are substantial grounds for believing that there is a real risk of irreparable harm, such as that contemplated by articles 6 and 7 of the Covenant, either in the country to which removal is to be effected or in any country to which the person may subsequently be removed (general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant). The Committee further recalls that the relevant judicial and administrative authorities should be made aware of the need to ensure compliance with the Covenant obligations in such matters. The State party should also establish a mechanism allowing aliens who claim that their forced removal would put them at risk of torture or ill-treatment to file an appeal with suspensive effect.

Follow-up questions (letter of 30 October 2011):

- Number of extradition requests submitted to the State party during the last five years, and number of refusals;
- Existence or establishment of a mechanism allowing aliens who allege that their forced removal would put them at risk of torture or ill-treatment to file an appeal with suspensive effect; content of diplomatic assurances in cases of extradition to countries where persons would be at risk of torture or ill-treatment.

Summary of State party's reply:

	Extradition requests	*Number of refusals*
2007	4	
2008	2	1 (criminal action statute-barred)
2009	1	
2010	13	
2011	2	

According to the 2001 Act on the extradition of persons who have committed crimes, extradition may be refused if there is a risk of torture or ill-treatment. In its extradition requests, the Ministry of Justice guarantees that the person being extradited will not be exposed to torture or ill-treatment.

Evaluation:

[**D1**] The information does not reply to the question asked.

Paragraph 11: The State party should establish without delay an independent body with authority to receive and investigate all complaints of use of force incompatible with the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169) and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990), and other abuses of power by law enforcement officials. The State party should ensure that all complaints relating to torture or ill-treatment are examined promptly and thoroughly and that the victims receive compensation.

Those responsible should be prosecuted and punished. The State party should also ensure that all places of detention are subject to regular independent inspection. The State party should provide adequate training to its law enforcement and prison officials and ensure that Covenant rights are fully protected. The introduction of the systematic use of audio and video equipment in police stations and detention facilities should also be seriously considered.

Follow-up questions (letter of 30 October 2011):

(a) Number of cases in which reparations have been granted to victims of torture or ill-treatment over the last five years and the nature of those reparations;

(b) Progress made in the implementation of the programme for the development of the Azerbaijani justice system for 2009–2013 and of the bill on safeguarding the rights and freedoms of pretrial detainees;

(c) Since the systematic use of audiovisual recordings at police stations and places of detention is not guaranteed, the recommendation has not been implemented.

Summary of State party's reply:

Subparagraphs (a) and (b): In 2011, 15 prisons underwent renovation and new ones meeting international standards were built. Other projects are currently being developed, including some under the 2009–2013 Programme for Development of the Justice System.

A study has been undertaken to identify the legislative reforms needed to promote the rights of prisoners. The bill on "the protection of the rights and freedoms of prisoners" is currently in the final review stage. The National Action Programme for increasing the effectiveness of the protection of human rights and freedoms was approved in December 2011 and includes a programme for improving prison conditions and preventing torture.

Subparagraph (c): The right of police officials to use audiovisual recordings is set out in articles 232–234 of the Criminal Procedural Code. During the past five years, 26 detention centres have been rebuilt. Other projects are under way, and audiovisual equipment has been installed in 61 detention centres. In 2010 and 2011, a total of 523 inspection visits to temporary detention centres were conducted by representatives of international organizations (United Nations, Council of Europe, International Committee of the Red Cross) and national human rights institutions. During the past five years 1,068 officials have been disciplined in cases of ill-treatment, and 800 police officers have received training in the prevention of torture and ill-treatment.

Evaluation:

[**D1**] No information has been provided on (a) the grant of reparations to victims of torture or ill-treatment over the past five years or the nature of those reparations; (b) action taken to guarantee the independence of bodies responsible for the registration and examination of cases and for monitoring the enforcement of sentences.

Paragraph 15: The Committee urges the State party to take the necessary measures to put an end to direct and indirect restrictions on freedom of expression. Legislation on defamation should be brought into line with article 19 of the Covenant by ensuring a proper balance between the protection of a person's reputation and freedom of expression. In this respect, the State party is urged to consider finding a balance between information on the acts of so-called "public figures", and the right of a democratic society to be informed on matters of public interest. The State party is also urged to effectively protect media workers against attempts on their integrity and life, and to pay special attention and react vigorously if such acts occur. The State party

should not unreasonably restrain independent newspapers, as well as local broadcasting of radio stations. Finally, the State party should treat users of non-conventional media in strict compliance with article 19 of the Covenant.

Follow-up questions (letter of 30 October 2011):

Measures taken to effectively protect media workers against attempts on their integrity and life.

Summary of State party's reply:

- Under article 163 of the Criminal Code, any form of obstruction of the work of media representatives and journalists is punishable. The necessary measures are in place to guarantee the safety of all concerned, and to enhance relations with civil society and the media. Round-table talks have been held between representatives of the Ministry of the Interior and journalists in the framework of the project on "the improvement of relations between the police and the media";
- The Ministry of the Interior and the Press Council are working to develop their relations and their "interactions". A Press Council commission is currently investigating cases involving the restriction of journalists' professional activity. Journalists have been provided with jackets for their identification and protection during public and mass events.

Evaluation:

[**B1**] Further information is needed on court decisions and measures taken in cases of attacks on the integrity or life of media workers, or of restriction of their professional activity.

Paragraph 18: The State party should simplify its address registration procedure so as to enable all individuals who reside legally in Azerbaijan, including internally displaced persons, to fully exercise their rights and freedoms under the Covenant.

Follow-up questions (letter of 30 October 2011):

(a) Measures taken to ensure that temporary identity documents and registration of the Ministry of the Interior as the address for homeless Azerbaijani citizens do not become factors of discrimination;

(b) Numbers of cases involving address registration for aliens or displaced persons over the last five years.

Summary of State party's reply:

Between 2006 and 2011, the police authorities issued 238,054 registration certificates to foreigners applying for a temporary residence permit. The Committee on Affairs of Refugees and Internally Displaced Persons oversees registration of refugees and internally displaced persons in the country's regions and cities.

Evaluation:

[**D1**] No reply regarding measures taken to ensure that temporary identity documents and registration of the Ministry of the Interior as the address for homeless Azerbaijani citizens do not become factors of discrimination.

Recommended action:

Letter reflecting the Committee's analysis.

Next periodic report: 1 August 2013

100th session (October 2010)

State party: Poland

COB: CCPR/C/POL/CO/6

Follow-up paragraphs: 10, 12, 18

State party's first reply: Date information due: 26 October 2010. Date information received: 3 April 2012.

Paragraph 10: The State party should amend the Act on Domestic Violence to empower police officers to issue immediate restraining orders at the scene. It should incorporate domestic violence issues into the standard training offered to law enforcement and judicial officials. It should ensure that victims of domestic violence have access to assistance, including legal and psychological counselling, medical help and shelter.

Summary of State party's reply:

(a) Measures taken:

- Adoption of the Act of June 2010 amending the law on preventing domestic violence. The amendments introduced were presented to the Committee during consideration of the sixth periodic report. Since then, the regulations implementing the provisions of the 2010 Act have been adopted;
- Actions to disseminate the 2010 Act and its regulations among the implementing institutions and the general public (a telephone helpline, a guidebook, application forms, a charter of domestic violence victims' rights, creation of a database of institutions combating domestic violence and promotion of cooperation among such institutions, adaptation of the databases of judiciary institutions to the new legislative provisions).

(b) Out of the total of complaints, 35.6 per cent involving cases where evidence is insufficient are shelved. The General Prosecution Authority will shortly be surveying a representative sample of dismissed cases from various regions to analyse the reasons for dismissal.

(c) Most proceedings last no more than three months, a period that can be extended in the case of child victims to ensure that confidentiality can be maintained and psychosocial support provided during hearings and court appearances. The Committee's recommendation to empower police officers to issue immediate restraining orders is not justified; the relevant legislation allows the police to arrest the offender immediately if the victim is in danger. Coercive measures can be used only to prevent the commission of another crime. Under the Act of 2010, the police can issue a restraining order against a perpetrator of domestic violence if the person is likely to commit other violent acts, especially if he or she has threatened to do so. Such an injunction can be issued for up to three months and extended for another three. While these measures have been applied frequently, it is too early to assess their effectiveness. Domestic violence issues are systematically included in training provided to police officers and judiciary workers, particularly since the adoption of the 2010 Act. Victims of domestic violence have access to specialized assistance centres providing medical, social, psychological and legal assistance. Reception facilities are managed by the committees, the State or the municipalities. Their numbers vary depending according to local requirements.

NGO information:

15 February 2012: Helsinki Foundation for Human Rights/CCPR Centre: The procedure is governed by the Criminal Procedure Code of 1997. Restraining orders can be issued only by prosecutors or judges during pretrial proceedings. No change has been made to enable police officers to issue restraining orders. It is too early to evaluate the effects of the 2010 Act on domestic violence.

Evaluation:

[**B1**] **Progress has been made. Information should be requested on the following:**

(a) Progress made in the survey of dismissed cases by the General Prosecution Authority;

(b) Statistical data on the capacity of assistance centres to meet the requirements of domestic violence victims;

(c) The provision of the Act of 2010 that enables the police to issue a restraining order if the individual in question is likely to commit other violent acts;

(d) The effective implementation of the 2010 Act making it possible to issue a restraining order against perpetrators of violence, and outcomes of criminal prosecutions of domestic violence cases, rulings handed down and preventive measures taken.

Paragraph 12: The State party should urgently review the effects on women of the restrictive provisions of the anti-abortion Act. It should conduct research into and provide statistics on the use of illegal abortion. It should introduce regulations to prohibit the improper use and performance of the "conscience clause" by the medical profession. The State party should also drastically reduce the response time allowed to medical commissions in abortion cases. Lastly, the State party should strengthen measures aimed at the prevention of unwanted pregnancies, such as making a full range of contraceptives widely available at an affordable price and including them on the list of subsidized medicines.

Summary of State party's reply:

- The legislation governing abortion (1993 Act) has not been changed. Its impact and the criteria for authorizing abortions are reviewed regularly. The reports are made public and are available on the Internet;
- The "conscience clause" may be invoked by individual doctors but not collectively by a health-care facility. A doctor invoking the clause must refer the person requesting an abortion to a colleague, justify the decision, and record it in the patient's medical file;
- Under the Act of 2008, the Medical Commission is obliged to issue a decision within 30 days, and within a period that will not cause detriment to the woman seeking an abortion;
- Contraceptives can be obtained easily at affordable prices. As a matter of principle, they are not refunded, except for contraceptive pills, which can also be used to treat menstrual pain. The Ombudsman for the Rights of the Patient has produced campaigns for patients to promote awareness of their rights.

NGO information:

No research on illegal abortions has been carried out and no statistics are available. No steps have been taken to prohibit the improper use of the "conscience clause". It is used not

only by individual doctors but in some cases by entire health care facilities. The relevant law has not been amended. The deadlines remain unchanged and the burden of proof can be very heavy for patients. Contraceptives are not refunded and access to them remains limited.

Evaluation:

[**C1**] There has been no reform in this area; the Committee reiterates its recommendation and requests additional information on the following points:

- Legal provisions prohibiting collective use of the "conscience clause";
- Criteria used by the Medical Commission to ensure that response deadlines do not cause detriment to the women concerned; remedies available to women who suffer such detriment; and the consequences in the event of the non-observation of the 30-day deadline by the Medical Commission;
- Steps taken to give adolescent girls and indigent women access to contraceptives.

Paragraph 18: The State party should take measures to ensure that the detention of foreigners in transit zones is not excessively protracted and that, if the detention needs to be extended, the decision is taken by a court. The State party should ensure that the regime, services and material conditions in all deportation detention centres are in conformity with minimum international standards. Lastly, the State party should ensure that detained foreigners have easy access to information on their rights, in a language they can understand, even if this requires the provision of a qualified interpreter.

Summary of State party's reply:

- The detention of foreigners is regulated by the Aliens Act of 2003. Detention is possible (a) when there are reasons for issuing a deportation order; (b) when the foreigners do not comply with a deportation order (the only situation where detention can be extended after the deportation deadline);
- The grounds for deportation (and thus indirectly detention) can arise only from illegal entry to or residence in Polish territory, non-compliance with a deportation order (2003 Act, art. 88), or criminal proceedings (in which case the detained persons enjoy guarantees applicable under the Criminal Procedure Code);
- Only the police and border guards are authorized to detain foreigners. Detention may not exceed 48 hours starting from the moment of deprivation of liberty. Detained persons are informed of their rights and obligations. If necessary, they may be provided with an interpreter. If the detention is considered illegal, the court will order the foreigners' immediate release;
- Detained foreigners will also be released immediately if: (a) they have not been brought before a court within 48 hours of being detained; (b) within 24 hours of being brought before a court, they have not been placed under guard or arrested pending expulsion; (c) the reasons for their detention have ceased to apply;
- The decision to place persons under guard or under arrest must be taken by a court and is subject to judicial review. A bill on foreigners is currently under discussion, which would authorize the enforcement judge to monitor conditions of detention. In the case of unjustifiable placement under guard, an individual can claim reparation or compensation. Under current legislation, prolonged detention is not possible in transit zones after the deportation deadline and without a court order. Detention applies only to foreigners who are already on Polish territory;

- Airport transit zones can be used only by foreigners not authorized to enter Polish territory. Their stay in such zones cannot exceed the time of waiting for the next return flight of the airline that brought them to Poland. Their movements may be restricted only if there is a risk that they may cross the border;
- The information concerning the alleged poor quality of medical care in centres for asylum seekers is unfounded. The head of the Office of Foreigners is obliged to provide adequate medical care as required to asylum seekers, who have the same rights as Polish citizens covered by the general social security scheme (except with regard to sanatorium and rehabilitation care). The limitations encountered by asylum seekers are due to the general state of the health-care system;
- Living conditions in centres for asylum seekers are strictly prescribed by law. They are monitored and assessed regularly by the government authorities and by independent institutions, including NGOs. Audits have confirmed that they meet international standards;
- Relevant information is provided to foreigners at various stages of the procedure in a language they can understand. Difficulties may arise in isolated cases, if foreigners come from countries with which Poland has limited contacts and speak only their mother tongue. In such cases information awaits the arrival of a qualified interpreter, at the earliest possible moment.

NGO information:

- Generally speaking, legal and health-care services in detention facilities are inadequate. Detainees have a limited choice of activities and often suffer from health problems;
- Children have no access to formal education. Courses are taught by non-professional teachers but do not follow standard curricula;
- Detention of migrants in an irregular situation is used routinely, not as a measure of last resort. Justifications issued by the courts are not always sufficient or clear;
- Interpretation services are not available. Legal documents relating to asylum-seeking procedures are only partially translated. Deportation-related orders are not translated.

Evaluation:

[**C1**] **No new measures have been taken to implement the recommendation:** The prevailing legislation dates from 2003 and the described services have not changed since the adoption of the concluding observations. Additional information is needed on the following points:

- Progress on the discussion and adoption of the “new foreigners’ Act” (mentioned on p. 13 of the State party’s follow-up report) and the main reforms introduced;
- The capacity of legal and health-care services to respond to demand;
- The proportion of foreigners in an irregular situation who have been detained during the past five years;
- The capacity of interpretation services to meet the needs of detained or interned foreigners (including the number of foreigners who request interpretation services, by language; number of interpreters available, by language; languages requested for which interpretation services have not been available).

Recommended action: Letter reflecting the Committee's analysis.

Next periodic report: 26 October 2015

Ninety-eighth session (March 2010)

State party: Uzbekistan

COB: CCPR/C/UZB/CO/3, adopted on 24 March 2010

Follow-up paragraphs: 8, 11, 14, 24

State party's first reply: Date information due: 24 March 2011. Date information received: 30 January 2012.

Paragraph 8: The State party should conduct a fully independent investigation and ensure that those responsible for the killings of persons in the Andijon events are prosecuted and, if found guilty, punished, and that victims and their relatives are given full compensation. The State party should review its regulations governing the use of firearms by the authorities, in order to ensure their full compliance with the provisions of the Covenant and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990).

Summary of State party's reply:

The Andijon events led to the following actions:

- Investigation by an objective and impartial investigation group led by qualified staff of the country's judicial services;
- Establishment of an independent parliamentary commission;
- Formation of a working group composed of high-level representatives of the diplomatic corps to monitor events;
- Discussion of the matter during meetings between a group of experts of Uzbekistan and a delegation of European Union experts in December 2006 and April 2007. The latter were informed of the results of the investigation and received answers to their questions. They unanimously concluded that the Andijon events were due to a serious terrorist attack against Uzbekistan;
- Consideration by the country's courts of six criminal cases involving 39 internal affairs officials and members of the military. They were found guilty of complicity and negligence in the performance of their duties, were sentenced to terms of deprivation of liberty and to punitive deduction of earnings, and were assigned to a disciplinary unit.

Evaluation:

[**B2**] The State party describes the actions taken to investigate the Andijon events and the decisions taken with regard to 39 internal affairs officers and members of the military. Nevertheless, **no new actions have been taken** since consideration of the State party by the Committee in March 2010.

[**D1**] **No information has been provided** on the amendment of the regulations governing the use of firearms by the authorities. The recommendation has therefore not been implemented.

Paragraph 11:

The State party should:

(a) Make sure that an inquiry is conducted by an independent body in each case of alleged torture;

(b) Strengthen its measures to put an end to torture and other forms of ill-treatment, initiate judicial proceedings for and investigate each case and prosecute and punish all offenders, in order to combat impunity;

(c) Compensate the victims of torture and ill-treatment;

(d) Consider introducing audiovisual recording of interrogations in all police stations and places of detention;

(e) Ensure that the specialized medical-psychological examination of alleged cases of ill-treatment is carried out in line with the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol);

(f) Review all criminal cases based on allegedly forced confessions and use of torture and ill-treatment and verify whether these allegations were properly addressed.

Summary of State party's reply:

Subparagraph (a): The Further Training Centre for Lawyers has courses including modules for judges and lawyers on judgements in cases involving torture. Other courses are frequently offered on the same topic.

Subparagraph (b): Under article 329 of the Criminal Procedure Code, complaints concerning unlawful actions committed by law enforcement officers, including torture, must be registered and resolved without delay. The legality of motives and the validity of grounds for bringing a criminal case must be verified within 10 days. Representatives of the Human Rights Commissioner of the Oliy Majlis (Ombudsman) and the National Centre for Human Rights take part in the investigations.

The investigation of complaints concerning the use of unlawful methods by members of the law enforcement agencies is the responsibility of the special internal security units (special staff inspection units), which are attached to the Ministry of the Interior. These units are independent, since they are not subordinate to anti-crime agencies and services.

An interdepartmental working group set up in 2004 is tasked with monitoring the observance of human rights by law enforcement agencies.

Under an order by the Procurator-General, the prosecution services are obliged to implement the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Prosecutors verify the legality of the detention of prisoners held in police cells and the conditions of detention in remand units. In the event of unlawful actions, appropriate measures are taken. The prosecution services keep a database of cases where unlawful treatment or punishment has been used.

The Supreme Court is planning to conduct a review of judicial practice in order to identify acts of torture and of evidence obtained through physical or psychological coercion and to compensate victims of torture for harm suffered during the period 2011–2012.

Altogether 2,374 complaints were lodged during the first nine months of 2011, compared to 2,283 in the first nine months of 2010. Some 130 of these cases involved the use of torture or other cruel, inhuman or degrading treatment. Nine criminal cases were brought against law enforcement officials under article 235 of the Criminal Code.

Subparagraph (c): The Criminal Procedure Code provides for personal rehabilitation and sets out the grounds and procedures for rehabilitation and for granting compensation for any harm suffered. In the case of unlawful arrest or remand in custody, unlawful suspension from duties in connection with being charged with a crime, or unlawful internment in a medical establishment, the person affected is entitled to compensation and to reparation for moral injury.

Subparagraph (d): In accordance with the Criminal Procedure Code, investigators make use of audio and video recordings for interrogations, witness confrontations, verification of statements taken at the crime scene, expert evaluations, identity parades and identification of important physical evidence, and crime scene inspections, among others. Consideration is currently being given to the option of equipping holding cells and isolation cells with additional audio and video monitoring equipment.

Subparagraph (e): During the period 2010–2011, 55 doctors from the prison system of the Ministry of the Interior received training in forensic aspects of determining biological signs of torture and other cruel, inhuman or degrading treatment or punishment.

Quarterly reviews are received and analysed by the services of the Ministry of the Interior and territorial authorities. Despite the measures adopted, cases do still occur. Training and media campaigns are conducted for the general population and Ministry of the Interior staff to explain existing domestic and international norms for safeguarding human rights and prohibiting torture and other ill-treatment.

The use of evidence obtained under duress is prohibited (art. 17 and art. 22, para. 2, of the Criminal Procedure Code). All evidence must be verified and evaluated (art. 112 of the Criminal Procedure Code). Jurisprudence confirms the relevant instructions issued by the Supreme Court.

If the defendant alleges that he confessed under torture or other unacceptable treatment, the court is obliged, if there are sufficient grounds, to initiate criminal proceedings (Criminal Procedure Code, art. 321). Criminal proceedings may also be opened if there is evidence that an offence has been committed (Criminal Procedure Code, art. 322).

NGO information:

Subparagraph (a): There is no independent body responsible for investigating alleged cases of torture. The interministerial working group is not representative since civil society is represented only by pro-government organizations. The investigative bodies follow procedures that are not known to the public, and they do not have sufficient human or material resources to do their work.

The Office of the Human Rights Commissioner can conduct its own investigations into cases of human rights violations and can order national bodies to take the necessary measures to prevent such violations and compensate victims. In practice, the Commissioner does not conduct investigations but merely sends a letter to the alleged perpetrator and his or her supervisor to inform them that a complaint has been received and that they should respond to it.

Subparagraphs (b) and (c): To gain access to places of detention, civil society organizations must obtain special authorization through a procedure that is not clear. Few organizations receive such authorization.

There is no system for compensating or rehabilitating torture victims. The resistance of courts and other judicial bodies to recognizing acts of torture or ill-treatment and declaring testimony and other evidence obtained by torture inadmissible is preventing the establishment of such a system. While the rehabilitation centres of each region's or district's administrative centres help former prisoners to find work and to deal with health and reintegration issues, they do not offer any post-torture rehabilitation.

The State party asserts that it has established several mechanisms for ensuring that complaints of torture are handled appropriately. Nevertheless, impunity for perpetrators remains as common as the practice of torture. Statistics are shown indicating that since 2004 an average of 2 per cent of complaints have resulted in trials.

Victims, their families, human rights defenders, journalists and lawyers have been subjected to threats and persecution, which makes it dangerous to disseminate information on the topic. Perpetrators of torture or ill-treatment are also sometimes amnestied.

Subparagraphs (d) and (e): There is no clear information on the audiovisual equipment available in police stations and places of detention. Interrogations are filmed only at the request of the inspector in charge of the investigation. The 2009 Act on forensic medical examinations does not allow the defence to use the results of medical-psychological examinations as evidence.

Subparagraph (f): The legal prohibition against using coercion to obtain confessions and against the use of torture and other ill-treatment is not observed in practice. Examples are given.

Evaluation:

Subparagraphs (a) and (b): [**B2**] **Additional actions are needed.** The information provided does not guarantee the independence of the body investigating cases of torture and ill-treatment because such cases are "checked" by the special internal security units, which are attached to the Ministry of the Interior, on which staff members of the police and security services also depend. The training mentioned appears to be the only measure taken to combat impunity. There is no description of the implementation of the principles advocated in the course of the training.

Subparagraph (c): [**B2**] **More information is needed** on the proportion of cases in which victims were compensated and on the amount of the compensation, as well as on the State party's plans to institute compensation or rehabilitation for the psychological and social impact of torture and other cruel, inhuman or degrading treatment. The State party refers to rehabilitation measures for victims, but information is still needed on the psychological and social support they actually receive.

Subparagraph (d): [**B1**] **More information is needed** on the implementation of the principles enshrined in the Criminal Procedure Code with regard to the recording of interrogations conducted at police stations and detention centres, such as the proportion of police stations and detention centres equipped with recording devices, and the proportion of cases in which recordings are actually made.

Subparagraph (e): [**C1**] **Recommendation not implemented:** The information provided does not make it possible to evaluate the implementation of the Istanbul Protocol, in particular in connection with specialized medical and psychological examinations.

Subparagraph (f): [**B1**] **More information is needed** on the implementation of the legal prohibition against the use of coercion, torture and ill-treatment to obtain confessions. Information should be provided on the number of complaints filed against the use of coercion, torture or ill-treatment to obtain confessions, and about the follow-up decisions adopted.

Paragraph 14:

The State party should:

(a) Amend its legislation to ensure that length of custody is fully in line with the provisions of article 9 of the Covenant;

(b) Ensure that the legislation governing judicial control of detention (habeas corpus) is fully applied throughout the country, in compliance with article 9 of the Covenant.

Summary of State party's reply:

The prevailing legislation and the application of habeas corpus were analysed. Given that in most countries detention in custody is limited to 48 hours, and given the growing use of information technology in law enforcement, "it would be desirable to reduce the period of custody to 48 hours".

Since 2008 the authority to order remand in custody as a preventive measure has rested not with the prosecutors but with the courts.

The results of the study of the application of habeas corpus were sent to all the Ministry of the Interior structural units and all territorial authorities with a request for proposals for legislative reform.

Evaluation:

[**B2**] **The recommendation has not been implemented. Additional actions are needed** for the adoption of legislative reforms with regard to the duration of detention in custody and judicial oversight of detention.

Paragraph 24: The State party should allow representatives of international organizations and NGOs to enter and work in the country and guarantee journalists and human rights defenders in Uzbekistan the right to freedom of expression in the conduct of their activities. It should also:

(a) Take immediate action to provide effective protection to journalists and human rights defenders who were subjected to assaults, threats, and intimidation due to their professional activities;

(b) Ensure the prompt, effective, and impartial investigation of threats, harassment and assaults on journalists and human rights defenders and, when appropriate, prosecute and institute proceedings against the perpetrators of such acts;

(c) Provide the Committee with detailed information on all cases of criminal prosecutions relating to threats, intimidation and assaults of journalists and human rights defenders in the State party in its next periodic report;

(d) Review the provisions on defamation and insult (arts. 139 and 140 of the Criminal Code) and ensure that they are not used to harass, intimidate or convict journalists or human rights defenders.

Summary of State party's reply:

- In 2010 and the first nine months of 2011, no cases of threats, intimidation or attacks on journalists or human rights defenders were investigated by the Public Prosecutor, the National Security Service or the internal affairs agencies. The Ministry of Justice is not aware of cases of entry into Uzbekistan being refused to representatives of national or international organizations, or of journalists or human rights defenders being deprived of liberty, physically assaulted, harassed or intimidated;

- No criminal cases arising from threats, intimidation or attacks directed at journalists have been brought by the internal affairs agencies, the National Security Service or the Public Prosecutor, and the courts have examined no such cases;
- Under the Non-Profit Non-Governmental Organizations Act, the Ministry of Justice accredits foreign staff of international and foreign NGOs, as well as dependent members of their families;
- Particular attention is paid to ensuring the development of the media and conditions of transparency and freedom for their work. A solid legal and regulatory framework has been developed for the media in line with international norms and principles;
- The number of non-State media, which include more than 50 per cent of all television and radio channels, is growing;
- The enhancement and strengthening of press activity are priorities for the "presidential strategy for further extending democratic reforms and developing a civil society in the country".

Evaluation:

[**D1**] **No information is provided on:**

- Measures taken to prevent cases of harassment and threats against journalists and human rights defenders. Additional actions are needed to identify, recognize and prevent assaults, threats and acts of intimidation against journalists and human rights defenders such as those reported to the Committee;
- The review of the provisions on defamation and insult (articles 139 and 140 of the Criminal Code) and the steps taken to ensure that they are not used to harass, intimidate or convict journalists and human rights defenders.

The recommendation has therefore not been implemented.

Recommended action: Letter reflecting the Committee's analysis.

Next periodic report: 30 March 2013

101st session (March 2011)

State party: Slovak Republic

COB: CCPR/C/SLV/CO/3, adopted on 28 March 2011

Follow-up paragraphs: 7, 8, 13

State party's first reply: Date information due and received: 28 March 2012.

Paragraph 7: The State party is encouraged to ensure that such a bill is enacted into law to provide a remedy to persons who allege an infringement of their rights arising from the incompatibility of provisions of national law with international treaties that the State party has ratified.

Summary of State party's reply:

The Ministry of Justice has abandoned work on the bill as its adoption would have necessitated a constitutional reform.

Evaluation:

[**C1**] The decision adopted is contrary to the Committee's recommendation. Information is needed on the remedies available to victims.

Paragraph 8: The State party should strengthen its efforts to combat racist attacks committed by law enforcement personnel, particularly against Roma, by, inter alia, providing special training to law enforcement personnel aimed at promoting respect for human rights and tolerance for diversity. The State party should also strengthen its efforts to ensure that police officers suspected of committing such offences are thoroughly investigated and prosecuted, and, if convicted, punished with appropriate sanctions, and that the victims are adequately compensated.

Summary of State party's reply:

Under the Act on compensation for the victims of crimes of violence, financial compensation is provided to victims without discrimination. The Ministry of the Interior has taken steps to implement the recommendations of United Nations and European Commission bodies, including the following:

Permanent control of the activities of the internal control department and inspection services of the Ministry of the Interior in cases of alleged injuries caused by police action, subject to an annual report.

Implementation of the "government strategy for dealing with problems of the national Roma minority". This includes training for members of the police force.

The development of compulsory training programmes for the police on the prevention of racism and discrimination, including against the Roma minority (see inter alia the courses organized in the framework of the 2011–2014 plan to fight extremism).

The Ministry of the Interior taking part in the activities of the Committee on the Elimination of Racial Discrimination.

Implementation of a methodology of intervention in cases of criminal activity motivated by questions of extremism and racism.

Evaluation of the implementation of the recommendations of the Committee against Torture and the European Committee for the Prevention of Torture. Any shortcomings found will lead to sanctions being passed against the members of the police forces involved.

Adoption of a cooperation and information exchange agreement between the Ministry of the Interior and the Ministry of Justice on cases of acts of violence committed by police and prison staff in 2009, renewed in 2012. Sanctions and prevention measures must be adopted within five days of the acts of violence being identified.

Evaluation:

[**B2**] Action and information is needed regarding compensation provided to victims of racist acts committed by law enforcement personnel and with regard to implementing mechanisms for investigating, prosecuting and punishing police officers suspected of having committed such offences.

Paragraph 13: The State party should take the necessary measures to monitor the implementation of Act No. 576/2004 to ensure that all the necessary procedures are followed in obtaining the full and informed consent of women, particularly Roma women, who seek sterilization services at health facilities. In this regard, the State party should introduce special training for health personnel aimed at raising awareness about the harmful effects of forced sterilization.

Summary of State party's reply:

- Existing legislation prohibits all forms of discrimination in the provision of health care. If these provisions are violated the affected person can complain to the Health Care Surveillance Authority. To ensure that full and informed consent is obtained prior to sterilization, a consent form in the Roma language is now available throughout the country. Campaigns have been conducted to inform all medical staff of the harmful effects of forced sterilization and of their criminal liability if sterilization is performed without prior consent;
- Access by women from socially disadvantaged communities, to which Roma women generally belong, to sexual and reproductive rights, and full and informed consent are among the priorities of the Ministry of Labour, Social Affairs and the Family and the Socially Excluded Communities Act;
- The Committee for Gender Equality participates in prevention, information and education activities to improve access to health care for all.

Evaluation:

[**C1**] Positive steps have been taken. Nevertheless, **no information is provided on measures taken** to monitor implementation of the provisions of Act No. 576/2004. The recommendation has therefore not been implemented.

Recommended action: Letter reflecting the Committee's analysis.

Next periodic report: 1 April 2015

State party: Mongolia

COB: CCPR/C/MNG/CO/5, adopted on 30 March 2011

Follow-up paragraphs: 5, 12, 17

State party's first reply: Date information due: 30 March 2012. Date information received: 21 May 2012.

Paragraph 5: The State party should strengthen its efforts to ensure that the National Human Rights Commission enjoys independence by providing it with adequate funding and human resources, and revising the appointment process of its members.

Summary of State party's reply:

Since the adoption of the Committee's concluding observations, the Commission's budget has increased by 38 per cent, and six new posts have been created. A further increase would be necessary. The Commission is also developing a project "to build national capacity for supervising human rights", financed by the United Nations Development Programme.

NGO information:

Chinese Human Rights Defenders-Globe International/CCPR Centre, January 2012: The budget increase is not sufficient to enable the Commission's level of activity to match the growing demand for assistance.

Evaluation:

[**B2**] Additional information is needed on the measures taken (a) to provide the National Human Rights Commission with adequate funding to enable it to do its work properly, and (b) to safeguard the Commission's independence.

[**D1**] No information is provided on reforming the procedure for appointing Commission members. The recommendation has therefore not been implemented.

Paragraph 12: The State party should take the necessary measures to thoroughly investigate all allegations of human rights violations committed during the state of emergency of July 2008, including in the cases where compensation has been paid to the families. It should also ensure that those involved are prosecuted and, if convicted, punished with appropriate sanctions, and ensure that the victims are adequately compensated.

Summary of State party's reply:

- The 2009 Act on Granting Compensation to Victims was adopted to combat human rights violations and restore victims' rights. Compensation totalling MNT 17.1 billion (US$ 12,122,284.13) has been paid to victims and a total of MNT 442.5 million (US$ 313,690.69) to the police officers affected;
- The 2009 Amnesty Act dismissed a criminal case concerning actions by four police officers during the state of emergency. The cases were reopened in November 2010. The investigation was conducted by the Procurator-General's Office and transferred to Sühbaatar District Court for the hearing, which is ongoing.

NGO information:

The investigation is in progress but has not yet yielded results.

Evaluation:

[**B2**] The reopening of the case against four police officers involved in the state of emergency is a positive step. Information is needed on the outcomes of ongoing cases (court rulings and compensation provided to victims).

[**D1**] No information is provided on the measures taken with regard to other complaints about human rights violations during the state of emergency. The recommendation has therefore not been implemented.

Paragraph 17: The State party should adopt the reform project of the judiciary after having reviewed its full compliance with the Covenant and making sure that the structures and mechanisms introduced guarantee the transparency and independence of its institutions. The State party should make sure that the project is drafted, adopted and implemented through a process that integrates the consultation of specialized sectors, including civil society actors. The State party should also take all the necessary measures to guarantee the thorough investigation of all allegations of corruption of the judiciary.

Summary of State party's reply:

The Parliament has adopted bills on the courts, the legal status of judges and the legal status of lawyers. The bills contain provisions on the organization of judicial institutions, their independence and access to them; it updates the procedure for selecting judges by enhancing its transparency as well as that of court rulings (publication on the Internet). It introduces new disciplinary mechanisms.

NGO information:

The reform is being pursued seriously and legislative proposals have been made following an exemplary consultation process. Allegations of corruption are examined by the Judicial Disciplinary Committee and, in cases of criminal offences, by a specialized unit of the Procurator-General's Office. This unit, established in 2010, lacks the necessary financial and human resources to do its work properly.

Evaluation:

[**A**] Progress has been made in reforming the criminal justice system. Information must be provided in the next periodic report on the adoption and implementation of the projects referred to.

[**D1**] No information is provided on the investigation of allegations of corruption in the judicial system. The recommendation has therefore not been implemented and additional information is required.

Recommended action: Letter reflecting the Committee's analysis.

Next periodic report: 1 April 2015

103rd session (October 2011)

State party: Kuwait

COB: CCPR/C/KWT/CO/2, adopted on 2 November 2011

Follow-up paragraphs: 18, 19, 25

State party's first reply: Date information due: 2 November 2012. Date information received: 27 April 2012.

Paragraph 18: The State party should abandon the sponsorship system and should enact a framework that guarantees respect for the rights of migrant domestic workers. The State party should also create a mechanism that actively controls the respect for legislation and regulations by employers and investigates and sanctions their violations, and that does not depend excessively on the initiative of the workers themselves.

Summary of State party's reply:

- All employment relationships involve employees and employers. Employers have rights that certain narrow-minded people have tried to exploit and that certain States and human rights organizations have used as a pretext for interfering in the internal affairs of States;
- The rights granted to employers are subject to precise rules to prevent abuse of those rights. The State takes all appropriate measures to guarantee the rights of migrant domestic workers;
- The Domestic Workers Office oversees adherence to the law by employers, investigates abuses and punishes wrongdoers, and its powers have been broadened since its conversion into a directorate;
- Act No. 6/2010 updating the Private Sector Labour Act established a public body to regulate issues relating to labour, including migrant workers, with the aim of eliminating the negative aspects of the sponsorship system.

Evaluation:

[**C2**] The recommendation has not been implemented. Additional information should be requested on the measures adopted by the body established under Act No. 6/2010 to "eliminate the negative aspects of the sponsorship system" since the adoption of the Committee's concluding observations (actual existence of the body; measures adopted by the body; scope of its competence with regard to domestic workers).

Paragraph 19: The State party should adopt legislation to ensure that anyone arrested or detained on a criminal charge is brought before a judge within 48 hours. The State party should also guarantee that all other aspects of its law and practice on pretrial detention are harmonized with the requirements of article 9 of the Covenant, including by providing detained persons with immediate access to counsel and contact with their families.

Summary of State party's reply:

- Kuwaiti legislation conforms to article 9 of the Covenant, given that persons who are arrested or detained enjoy all the fair trial guarantees, including the opportunity to contact their family, to engage a defence attorney and to be brought promptly before an independent judicial authority;
- The Government has already presented a bill that would reduce the maximum length of police custody to 24 hours, and the maximum duration of pretrial detention from three weeks to one week.

Evaluation:

[**B2**] Additional information should be requested on progress in the adoption of the draft legislation on the length of police custody and pretrial detention.

[**D1**] No information is provided on the measures taken to ensure that all persons who are arrested or detained are brought before a judge within 48 hours.

Paragraph 25: The State party should revise the Press and Publication Law and related laws in accordance with the Committee's general comment No. 34 (2011) in order to guarantee all persons the full exercise of their freedoms of opinion and expression. The State party should also protect media pluralism, and should consider decriminalizing defamation.

Summary of State party's reply:

The matter lies within the competence of the Ministry of the Interior. No information is provided on the subject.

Evaluation:

[**C1**] The Committee should remind the State party that "The obligations of the Covenant in general and article 2 in particular are binding on every State Party as a whole. All branches of government (executive, legislative and judicial), and other public or governmental authorities, at whatever level — national, regional or local — may engage the responsibility of the State party. The executive branch, which generally represents the State party internationally, including before the Committee, may not argue that an action incompatible with the provisions of the Covenant was carried out by another branch of government as a means of relieving the State party from responsibility for the action and consequent incompatibility." This understanding flows directly from the principle contained in article 27 of the Vienna Convention on the Law of Treaties, according to which a State Party "may not invoke the provisions of its internal law as justification for its failure to perform a treaty".

Recommended action: Letter reflecting the Committee's analysis.

Next periodic report: 1 April 2015

C. Follow-up report adopted by the Committee during its 107th session

270. The following report sets out the information received by the Special Rapporteur for follow-up on concluding observations between the 106th and 107th sessions pursuant to the Human Rights Committee's rules of procedure, and the analyses and decisions adopted by the Committee during its 107th session. All the available information concerning the follow-up procedure used by the Committee since its eighty-seventh session, held in July 2006, is outlined in the table appended to this report.

Assessment criteria	
Reply/action satisfactory	
A	Response largely satisfactory
Reply/action partially satisfactory	
B1	Substantive action taken, but additional information required
B2	Initial action taken, but additional information and measures required
Reply/action not satisfactory	
C1	Response received but actions taken do not implement the recommendation
C2	Response received but not relevant to the recommendations
No cooperation with the Committee	
D1	No response received within the deadline, or no reply to a specific question in the report
D2	No response received after reminder(s)
The measures taken are contrary to the Committee's recommendations	
E	The response indicates that the measures taken are contrary to the Committee's recommendations

Ninety-sixth session (July 2009)

State party: Tanzania

COB: CCPR/C/TZA/CO/4, 28 July 2009

Follow-up paragraphs: 11, 16, 20

First State party's reply: Due 28 July 2010 – Received 9 Oct. 2012

Action taken by the Committee: Reminders in Dec. and April 2011. Meetings requested in Feb. and Oct. 2012. No reply received.

NGO information: Tanganyika Law Society – CCPR Centre: 16 January 2012

Paragraph 11: The State party should adopt effective and concrete measures to combat female genital mutilation vigorously, in particular in those regions where the practice remains widespread, and ensure that the perpetrators are brought to justice. It should also amend its legislation with a view to criminalizing female genital

mutilation regarding women above the age of 18.

Summary of State party's reply:

FGM upon anyone under the age of 18 is punishable by imprisonment (5 to 15 years) and a fine (US$ 200). Female genital mutilation of women above 18 is not criminalized, but adult women can pursue the perpetrator of FGM for assault or grievous bodily harm. In December 2010 one mutilator was sentenced to 10 years' imprisonment for performing FGM on 86 girls.

Trainings are organized for local leaders, local community councillors and parliamentarians, religious organizations and the media. Persons who used to promote the practice of FGM have participated. Awareness campaigns are carried out (example: "Say no to Violence" and the annual FGM Day).

Gender desks in police stations and a National Multi Sectoral Committee on Violence against Women were established. A National Gender Based Violence Committee was created in Zanzibar. A National Plan of Action on the Eradication of Violence against Women (2001–2015) was adopted, together with the "Tanzania Chapter" (part of the Eastern Africa Network on the elimination of FGM).

NGO information:

No change since 2008. Fearing criminal prosecution, perpetrators now mutilate infants during their first months. The practice has increased in some regions (example: Mara). Hardly any of the perpetrators have been prosecuted, even when their practice is known.

Committee's evaluation:

[**C1**] The recommendation has not been implemented. Measures remain necessary to:

- Criminalize FGM of adult women;
- Ensure that the perpetrators of FGM are brought to justice (only one case is referred to in the report);
- Reinforce activities in those regions where FGM remains widespread.

Paragraph 16: The State party should take measures towards the abolition of corporal punishment as a lawful sanction. It should also promote non-violent forms of discipline as alternatives to corporal punishment within the educational system and carry out public information campaigns about its harmful impact.

Summary of State party's reply:

Corporal punishment is part of the national penal system. It is not applicable to persons who are older than fifty five years. The procedure is strictly controlled. The sentence has not been administered for more than one decade.

Caning is administered in schools for acts of gross indiscipline. Is viewed as a legitimate form of punishment. Alternative punishments such as guidance and counselling are encouraged by the Education Policy.

Corporal punishment is prohibited in alternative care settings. At home, parents and guardians are advised not to administer corporal punishment. The Law Reform Commission conducted a study on the use of corporal punishment. Its recommendations have been submitted to the Government. The United Nations Children's Fund (UNICEF) is overseeing a pilot project monitoring selected schools that do not practice caning.

In Zanzibar, corporal punishment is prohibited by law. A unit called "Alternative forms of Discipline" holds awareness campaigns. A pilot scheme is run by Save the Children in 20 schools.

NGO information:

Corporal punishment is still permitted and widely practiced in the school system. National legislation still permits the use of corporal punishment by law enforcement agents.

Committee's evaluation:

[**B2**] Additional measures remain necessary to prohibit formally the application of corporal punishment as a judicial punishment, at home, and within the education system.

Paragraph 20: The State party should comply with article 11 of the Covenant by amending its legislation providing for imprisonment for the failure to pay a debt.

Summary of State party's reply:

The Civil Procedure Code provides for civil imprisonment for the failure to pay a debt. The Law Reform Commission is currently reviewing the civil justice system legislation. Will probably take into account the principles of Article 11 of the Covenant.

NGO information: Nothing has changed.

Committee's evaluation:

[**C1**] Recommendation not implemented. Information remains necessary on the progress realized by the Law Reform Commission to ensure the compatibility of its legislation with article 11 of the Covenant.

Recommended action: A letter should be sent reflecting the analysis of the Committee. The requested information should be included in the next periodic report.

Next periodic report: 1 August 2013

Ninety-eighth session (March 2010)

State party: Colombia

COB: CCPR/C/COL/CO/6, 23 March 2010

Follow-up paragraphs: 9, 14, 16

State party's first reply: Due 23 March 2011 – Received 8 August 2011.

Committee's evaluation: Additional information required on paragraphs 9 [**C1**], 14 [**B2** and **D1**] and 16 [**B2**].

Second reply: Reply to the Committee's letter of 30 April 2012, received on 27 August 2012.

Other sources of information:

United Nations: Special Procedures and Office of the High Commissioner for Human Rights.

Paragraph 9: The State party must comply with its obligations under the Covenant and other international instruments, including the Rome Statute of the International Criminal Court, and investigate and punish serious violations of human rights and international humanitarian law with appropriate penalties which take into account their grave nature.

Follow-up question:

- The Committee is still concerned about the limited results of Act No. 975, about impunity, about the difficulties in implementing Act No. 1424, and the risks it has introduced in terms of access by victims to justice, truth and reparation;
- Information is required on the measures taken to ensure that the reforms under way address the causes of impunity and deal with them adequately.

Summary of State party's reply:

The human rights violations committed during the Colombian armed conflict are irreparable. The reparation afforded under Act No. 1448 of 2011 must seek to be consistent, rather than to "restore victims to a situation similar to that which obtained before the violation or offence".

Programmes of reparation implemented:

(i) Act No. 1448: mechanisms for assistance, attention reparation and protection for victims. Decree No. 4800 (2011) determines the necessary procedures for victims to have access to these mechanisms. The effective application of the Act depends, however, on the allocation of sufficient funds and on the level of participation of victims, which has been undermined by the continuation of the armed conflict, insecurity and the shortage of lawyers in the Ombudsman's Office.

(ii) Mechanisms to provide access to the courts: efforts to reach reconciliation agreements require a degree of flexibility in implementing the principles on the role of the judiciary. For example: the shortening of the custodial sentence in the case of Act No. 975. In March 2012, some 33,407 victims had participated in procedures under the Justice and Peace Act and investigations had been carried out into 322,370 incidents.

Multiple activities need to be taken into account in order to evaluate the application of Act No. 975, and not simply the number of decisions taken. An overview of these activities is given in the report.

Act No. 1424 of 2010 introduces a "non-judicial truth mechanism" the purpose of which is to complement and contribute to the judicial investigations. The State provides in annex a list of 124 persons prosecuted under the Justice and Peace Act.

Committee's evaluation:

[**B2**] Updated information should be provided in the next periodic report on: (1) the results obtained pursuant to the reforms of Act No. 975 and (2) the coordination mechanisms introduced to avoid duplication of the interventions undertaken and to guarantee their efficacy.

Paragraph 14: The State party should take effective measures to discontinue any directive of the Ministry of Defence that can lead to serious violations of human rights, such as extrajudicial executions, and fully comply with its obligation to ensure that serious human rights violations are impartially investigated by the regular justice system and that those responsible are punished. The Committee underlines the responsibility of the High Council of the Judiciary when it comes to resolving conflicts of jurisdiction. The Committee also emphasizes the importance of ensuring that such

crimes remain clearly and effectively outside the jurisdiction of military courts.

The State party should guarantee the safety of witnesses and relatives in this type of case.

The State party should put into effect the recommendations made by the Special Rapporteur on extrajudicial, summary or arbitrary executions after his mission to Colombia in 2009 (A/HRC/14/24/Add.2).

Follow-up question:

- The Committee expresses its concern about the project to establish a presumption of competence for the military courts in cases involving members of the armed forces and the police. Information is required on the measures taken to avert such a retrograde step;
- No information has been provided on the measures taken to guarantee the safety of witnesses and relatives in this type of case.

Summary of State party's reply:

The mode of operation of the military criminal courts has been determined by the national situation of armed internal conflict. Its purpose is to enable the armed forces to operate in conformity with the Constitution. The following elements are introduced:

(1) Definition of clear criteria for establishing the competence of the military criminal courts or of the ordinary courts.

(2) Creation of a technical coordinating commission with representatives of both branches of the courts, which is charged with intervening in case of doubt over the competence of the military criminal courts.

(3) Constitutional recognition for the "military criminal investigation police".

(4) Creation of a public fund for the technical and specialized defence of the members of the forces of law and order.

(5) Development of reforms by way of statutory law, to ensure their continuity.

(6) Creation of special criminal police courts and adoption of a police code.

(7) Introduction of a specific and independent career path for the members of the "military criminal police".

Note by the secretariat:

The constitutional reform of military criminal justice was adopted on 27 December 2012.

Information from the United Nations:

In 2012, the Special Procedures mandate holders of the United Nations and of the Office of the United Nations High Commissioner for Human Rights made public declarations in which they called for the revision or withdrawal of the reform of the military criminal law. After the adoption of the reform on 27 December 2012, the representatives of OHCHR and of the European Union in Colombia publicly expressed their concern.

Committee's evaluation:

[**E**] The measures taken are contrary to the recommendations made by the Committee: the reform of the military criminal law adopted on 27 December 2012 calls into question the progress made by the Government towards guaranteeing that violations of human rights by the forces of law and order are subject to an investigation in conformity with the principles of a fair trial and ensuring that the responsibility of the perpetrators is established. The field of action of the military criminal courts must be strictly limited to military action by serving

personnel.

[**D1**] No information has yet been provided on the measures taken to guarantee the safety of witnesses and the relatives of victims.

Paragraph 16: The State party should create robust controls and oversight systems for its intelligence service and establish a national mechanism to purge intelligence files, in consultation with victims and relevant organizations and in coordination with the Procurator-General. The State should investigate, try and punish with appropriate penalties the persons responsible for those crimes.

Follow-up question:

- The Committee is still concerned about the persistence of cases of illegal surveillance brought to its attention;
- Additional information is required on the measures taken to regulate the military intelligence services and on the implementation of the project to purge the intelligence files.

Summary of State party's reply:

The investigations initiated against Department of National Security officials concerning illegal wiretaps and surveillance have advanced. Some officials have already been punished.

The Procurator-General is overseeing the project to purge the intelligence files, which have been sealed by a specialist and are currently being transported and put into storage. The files will then be classified, put into order and purged. The procedure is following the recommendations made by the special rapporteurs on freedom of expression of the United Nations, the Organization of American States and the Organization for Economic Cooperation and Development.

Committee's evaluation:

[**B2**] There is still a need for action in respect of (i) progress in storing and purging the files and (ii) progress in all the investigations started against former officials of the Department of National Security (to be provided in the next periodic report).

Recommended action: Letter to reflect the Committee's analysis, requesting that the information sought be included in the next periodic report.

Next periodic report: 1 April 2014

Ninety-ninth session (July 2010)

State party: Mexico

COB: CCPR/C/MEX/CO/5, 23 March 2010

Follow-up paragraphs: 8, 9, 15, 20

State party's first reply: Due 23 March 2011 – Received 21 March 2011.

Committee's evaluation: Additional information is required in respect of paragraphs 15 and 20. Information on paragraphs 8 and 9 needs to be updated in the next periodic report.

Second reply: Reply to the letter from the Committee dated 20 September 2011, received on 30 July 2012.

NGO report: Ligue des droits de l'homme and CCPR Centre, January 2012.

Paragraph 15: In the light of the 2005 decision of the Supreme Court regarding the unconstitutionality of "*arraigo penal*" and its classification as arbitrary detention by the Working Group on Arbitrary Detention, the State party should take all necessary measures to remove "*arraigo*" detention from legislation and practice at both federal and state levels.

Follow-up question:

Additional information is required on the following: the number of cases in which *arraigo* has been applied in the last five years; the crimes for which it has been applied and its duration; the measures taken to guarantee respect for the rights of the defence; the conditions under which the judge responsible for monitoring *arraigo* may intervene.

Summary of State party's reply:

The judge may order *arraigo* only when the evidence brought forward by the prosecutor makes it possible to establish with a high degree of certainty that the suspect has committed the offence. Only information directly gathered by the police has probative value.

Monitoring of *arraigo* is the responsibility of the federal prosecutor and of the National Human Rights Commission. The judge may, at any time, either on his or her own initiative or at the request of the detainee in question, visit the place of detention to ensure that the fundamental rights of the detainee are being respected.

If the grounds for the *arraigo* order still obtain, the federal prosecutor may ask the federal courts to grant an extension up to a maximum of 80 days. Detainees may also apply for the suspension of the measure or enter an appeal for an action of *amparo*. The authorities have 10 days to take a decision. Nonetheless, this may prolong the legal process.

Committee's evaluation:

[**C1**] The recommendation has not been implemented. The Committee reiterates it.

Paragraph 20: The State party should guarantee the right of journalist and human rights defenders to freedom of expression in the conduct of their activities. It should also:

(a) Take immediate steps to provide effective protection to journalists and human rights defenders whose lives and security are under threat due to their professional activities, including by the timely adoption of the bill on crimes committed against freedom of expression exercised through the practice of journalism;

(b) Ensure the prompt, effective, and impartial investigation of threats, violent attacks and assassinations perpetrated against journalists and human rights defenders and, where appropriate, prosecute and institute proceedings against the perpetrators of such acts;

(c) Provide the Committee with detailed information on all cases of criminal prosecutions relating to threats, violent attacks and assassinations perpetrated against journalists and human rights defenders in the State party in its next periodic report;

(d) Take steps to decriminalize defamation in all states.

Follow-up question:

Additional information is required on the following: measures designed to offer effective protection for journalists and human rights defenders; the progress made towards the adoption of the bill on crimes committed against freedom of expression.

Summary of State party's reply:

(1) The Special Prosecutor's Office for Crimes against Freedom of Expression (*Fiscalía Especial para la Atención de Delitos Cometidos en Contra de la Libertad de Expresión*) was created in July 2010.

(2) A new special prosecutor was appointed in February 2012 and reforms have been adopted (which are described in the report).

(3) The Consultative Committee that predated the adoption of the 2011 Act held nine meetings at which it assessed seven applications for protection measures and developed protocols for risk assessment and concerning the obligations of beneficiaries. From January 2011 to June 2012, the Attorney-General's Office requested protective measures in 108 cases on behalf of journalists, victims' families and media centres. Information is provided on the proceedings and the decisions adopted.

(4) Steps to decriminalize defamation: the status of provisions in criminal law at the state level dealing with the offences of defamation, slander and other "offences against honour" is described: it has been decriminalized in 16 states; it is still a crime in 15 states; 2 states have amended their legislation without decriminalizing it.

Committee's evaluation:

[**B2**] Measures are still required (i) to ensure the implementation of the laws adopted and measures taken by the Prosecution Service and (ii) to guarantee decriminalization of defamation in all federal states.

Recommended action: Letter reflecting the Committee's analysis and requesting additional information in the next periodic report.

Next periodic report: 30 March 2014

100th session (October 2010)

State party: Belgium

COB: CCPR/C/BEL/CO/5, 26 October 2010

Follow-up paragraphs: 14, 17, 21

State party's first reply: Due 26 October 2011 – Received 18 November 2011.

Committee's evaluation: The procedure has been completed in respect of the investigations into the incidents of 29 September and 1 October 2010. Additional information is required on the other recommendations.

Second reply: Reply to the Committee's letter of 29 April 2012, received on 20 July 2012.

NGO report: Ligue des droits de l'homme and CCPR Centre, January 2012.

Paragraph 14: The State party should take all the necessary steps to guarantee that when the members of the police use force they act in conformity with the United Nations Principles on the Use of Force and Firearms by Law Enforcement Officials and to ensure that arrests are carried out in strict adherence to the provisions of the Covenant. The State party should, in the event of complaints of alleged mistreatment, systematically undertake investigations and prosecute and punish those responsible in a manner commensurate with the acts in question. The State party should inform the Committee of the action taken in respect of the complaints lodged following the

demonstrations that were held from 29 September to 1 October 2010.

Follow-up question:

No mention is made of any new measure. Additional information is required on measures taken to (i) improve the situation as regards the use of force by the police, (ii) guarantee systematic investigations into complaints alleging ill-treatment and (iii) prosecute and punish the perpetrators.

Summary of State party's reply:

The "new" measures consist of continuing to train officers on how to deal with incidents in conformity with international principles. Statistics on procedures before the courts are annexed to the report.

In conformity with the Act of 18 July 1991, Committee P supervises the processing of complaints and their outcome. It carries out monitoring investigations of the police in 30 precincts and supervises the application of circular CP3. There is no overall evaluation of the system for dealing with complaints against members of the police.

NGO information:

Since October 2010, Belgium has taken no action to ensure that police officers act in conformity with the United Nations Basic Principles on the Use of Force and to ensure that arrests are made in conformity with the provisions of the Covenant. Cases of extreme brutality by the law enforcement forces are still being reported (see examples).

Monitoring of the police forces has not been reinforced. It only takes place in case of complaints, which are often not pursued (see examples).

Committee's evaluation:

[**B1**] Information is required on (i) the outcome of the investigations being conducted by P Committee in 30 police precincts and (ii) the procedures introduced to ensure the transparency and autonomy of the system for dealing with complaints against members of the police force.

Paragraph 17: The State party should take all the necessary steps to guarantee access to legal counsel within the first few hours after a person is deprived of his or her liberty, whether by being placed under judicial or administrative arrest or by being taken into police custody, and to guarantee the right of access to a doctor on a systematic basis.

Follow-up question:

Additional information is still required on the measures taken to implement the legislation on access to a lawyer and to a doctor within the first few hours of deprivation of liberty.

Summary of State party's reply:

The implementation of the Salduz Act (2011) is accompanied by permanent evaluation by the criminal policy service of the Public Federal Justice Service. Since the Act came into force, it has submitted three reports (http://www.dsb-spc.be/web/). The final report is due at the end of January 2013. A review of the system of free legal assistance is under way. A text explaining the Act is annexed to the report.

NGO information:

The Act of 20 July 2011 is not in conformity with the case law of the European Court of Human Rights. Essential rights are not ensured (access to the case file before questioning, the assistance of a lawyer from the time of the first hearing, access to legal assistance). A

reform of the 2011 Act is still necessary.

Committee's evaluation:

[**B1**] Additional information is required on (i) the measures adopted to implement the conclusions and recommendations of the criminal policy service of the Public Federal Justice Service, principally as regards the necessary infrastructure and human resources, (ii) the control mechanisms planned after the submission of the final report of the Public Federal Justice Service in January 2013 and (iii) the measures taken to ensure the implementation of the 2011 Act ("*Salduz v. Turkey*").

Paragraph 21: The State party should ensure that the relevant oversight bodies monitor the deportation of foreign nationals more closely and should ensure those bodies' independence and objectivity.

Follow-up question:

Information is required on the measures taken to maintain the level of control over expulsions when the European Commission project expires in 2013.

Summary of State party's reply:

The application for an extension of the grant from the European Fund until June 2015 is being completed. Renewal of the protocol should not pose any problems.

The Inspectorate-General of the Federal and Local Police (AIG) has been confirmed as the body responsible for supervising forced returns (Act of January 2012). Its competence should be expanded to encompass the procedure of forced returns.

The number of checks carried out by the Inspectorate-General of the Police is still increasing. The number of complaints filed remains fairly stable (AIG: 6 from 2006 to 2012; Committee P: 6 complaints in 2010 and 4 in 2011).

NGO information:

A bill provides for the introduction of supervision by a body that should be wholly independent from the police force. AIG, which is currently responsible for supervision, should not be appointed. Cases of extreme brutality during expulsions continue to be reported.

Committee's evaluation:

[**B2**] Additional information is required on the outcome of the submission of the project to extend until June 2015 the grant from the European Fund. The Committee also considers it necessary for the State party to establish a body responsible for monitoring forced expulsions that is wholly independent from the police force and requests that information be transmitted to it on the measures taken in that regard.

Recommended action: Letter reflecting the Committee's analysis and requesting the inclusion of additional information in the next periodic report.

Next periodic report: 30 October 2015

State party: Hungary

COB: CCPR/C/HUN/CO/5, 29 October 2010

Follow-up paragraphs: 6, 15, 18

State party's first reply: Due 26 October 2011 – Received 15 August 2012, after a reminder was sent on 30 April 2012.

NGO report: Hungarian Liberties Union and CCPR Centre, January 2012.

Paragraph 6: The State party should review the provisions of Act LXIII on the Protection of Personal Data and Public Access to Data of Public Interest to ensure that it is in line with the Covenant, particularly article 17, as expounded by the Committee in its general comment No. 16. The State party should ensure that the protection afforded to personal data should not hinder the legitimate collection of data that would facilitate the monitoring and evaluation of programmes that have a bearing on the implementation of the Covenant.

Summary of State party's reply:

Act No. CXII of 2011 on Informational Self-Determination and Freedom of Information abrogated, with effect from 1 January 2012, Act No. LXIII. Henceforth, personal data concerning racial or national origin constitute special data, which can be processed only if the person concerned gives permission in writing, and in the specific circumstances set forth in the report. No personal data concerning racial or national origin are collected by the authorities. Data reflecting the impact on redistribution of interventions for the integration of the Roma population are however necessary. A project provides for the collection of ethnic data on the basis of voluntary self-evaluation.

NGO information:

The tension between the need for proper information on discrimination against ethnic minorities and the right to privacy is widely recognized in Hungary; however, it has not yet been resolved.

Committee's evaluation:

[**B1**] Information is required on (i) the implementation of Act No. CXII of 2011, and in particular on the evaluation of programmes with an impact on the implementation of the Covenant and (ii) the measures taken to ensure that the system used to collect data on ethnicity (to evaluate the redistribution of interventions for the integration of the Roma) is compatible with the principles of the Covenant.

Paragraph 15: The State party should strengthen its efforts to improve the living conditions and treatment of asylum seekers and refugees and ensure that they are treated with human dignity. Asylum seekers and refugees should never be held in penal conditions. The State party should fully comply with the principle of non-refoulement and ensure that all persons in need of international protection receive appropriate and fair treatment at all stages, and that decisions on expulsion, return or extradition are dealt with expeditiously and follow the due process of the law.

Summary of State party's reply:

The detention of aliens may be ordered only on the grounds set out in the 2007 Act on the Admission and Rights of Residence of Third-Country Nationals (2007).

If the reason for ordering detention is the risk of absconding or obstructing the enforcement of the deportation or transfer, the authorities are required to consider alternatives to detention.

Each detention order is preceded by an individual case assessment. Unaccompanied minors may not be placed in detention but are held in a specialized institution.

The legality of the implementation of a detention order is assessed every two weeks by the prosecutor's office. The maximum duration of detention is 72 hours, which may however be extended by the competent court. The right of detainees to legal representation is guaranteed. A review of the conditions under which aliens may be detained is scheduled for

the autumn of 2012.

Prison facilities that fail to meet the standards set by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment were closed down in 2010. Currently, 8 guarded facilities with an overall capacity of 635 persons operate in the country.

The police, in collaboration with UNHCR, the International Organization for Migration (IOM) and NGOs, ensure that the living conditions of aliens held in guarded accommodation are adequate. The services available are specified. An action plan, which was completed in March 2012, will help the police to continue its efforts to improve the conditions of detention for aliens.

Aliens placed in detention may file a complaint with the prosecutor or the Parliamentary Commissioner against the measures taken against them.

Refugees or asylum seekers may be placed in detention only within the framework of criminal proceedings. Asylum seekers are accommodated in reception centres. They have the same rights as Hungarian citizens, as well as special benefits, which are described in the report.

As regards the refoulement of Somali and Afghan asylum seekers, Hungarian regulations on extradition procedure (the Act of 1996) are in conformity with international standards. Persons entitled to temporary protection, to a residence permit or who have applied for refugee status may not be extradited to the country from which they have fled.

A tripartite border-monitoring agreement, signed in 2007 between the Hungarian police, UNHCR and the Hungarian Helsinki Committee allows the Committee to ascertain how the police apply the principle of non-refoulement and to publish an annual report. Hungary is not aware of any cases of refoulement of asylum seekers to Ukraine while asylum procedure was under way.

NGO information: No information on this point.

Committee's evaluation:

[**B2**] There is still a need for action in respect of the following points:

(i) The review of the conditions of detention of aliens, scheduled for the autumn of 2012;

(ii) The measures taken under the March 2012 action plan to help the police to improve the conditions of detention of aliens;

(iii) The countries identified as "safe" by the act on asylum.

[**D1**] No information has been provided on the cases of unlawful expulsion of Afghan and Somali asylum seekers.

Paragraph 18: The State party should adopt specific measures to raise awareness in order to promote tolerance and diversity in society and ensure that judges, magistrates, prosecutors and all law enforcement officials are trained to be able to detect hate and racially motivated crimes. The State party should ensure that members or associates of the current or former Magyar Gàrda are investigated, prosecuted, and if convicted, punished with appropriate sanctions. Furthermore, the State party should remove impediments to the adoption and implementation of legislation combating hate speech that complies with the Covenant.

Summary of State party's reply:

In May 2011, the legislation on violence against ethnic communities was amended.

Penalties apply to behaviour that creates a climate of fear. Members of parliament are not protected by immunity.

Measures to raise awareness: 2012 was declared Raoul Wallenberg Year. Activities to help combat prejudice, racism, anti-gypsy sentiment and the rejection of democracy are recognized by the award of annual prizes.

Allegations of racial profiling by the police: no personal data concerning racial or national origin are collected by the authorities. Consequently, the police use no methods of racial profiling. Complaints against any checks that violate fundamental rights may be lodged with the body that took the disputed decision, with the Independent Police Complaints Board or with the police chief commissioner. Decisions taken by the police chief commissioner are subject to judicial review. Under the STEPSS programme, (Strategies for Effective Police Stop and Search), police officers and civilians have examined the conditions and effectiveness of identity checks and whether they affect certain social groups.

The police have taken firm measures to end the racist anti-Roma demonstrations, which are increasingly virulent. The investigations launched by the police into the racially-motivated Roma homicide cases committed in 2008–2009 have been successfully completed and the perpetrators prosecuted.

The far-right "Magyar Gárda" organization has been prohibited in a final judgement, which also ordered it to be disbanded. Its uniform and symbols are also banned. Police have been assigned to the communities that were attacked. An ad hoc parliamentary commission has been set up to investigate the incidents that took place in the village of Gyöngyöspata. A report submitted in May 2012 concluded that the Government had taken the measures necessary.

The reforms of the Criminal Code that were adopted in 2011 reinforce the penalties against openly antisocial individuals whose behaviour is motivated by a person's actual or perceived membership of a national, ethnic, racial or religious group, disability or sexual identity or orientation.

Initiatives to improve the situation of the Roma minority: cooperation between the Organization for Security and Cooperation in Europe (OSCE) and the Hungarian Ministry of the Interior; cooperation with the Roma local governments and Roma civil organizations; raising representation of Roma people in the law enforcement authorities (training programmes and scholarships); public-service employment programme for the long-term unemployed and persons living in extreme poverty; training officials about racism, communication with minorities and tolerance.

NGO information:

There are serious deficiencies in the application of laws in Hungary when it comes to hate crimes. There is still no protocol for due classification and effective investigation of hate crimes. There is still no monitoring system for incidents that may constitute racial violence, and there is still no special training for law enforcement officers in this field.

In spite of the efforts made, the leaders and the members of paramilitary groups have not been duly investigated and convicted. The charges never reflect the seriousness of the acts.

Committee's evaluation:

[**B2**] Information is required on the following points:

(i) The training provided for judges, magistrates and prosecutors;

(ii) The main conclusions of the STEPSS programme concerning the methods and effectiveness of identity checks and the extent to which they affect certain social

groups;

(iii) The number of complaints lodged and decisions taken in respect of "openly antisocial behaviour motivated by a person's actual or perceived membership of a particular group".

[**D1**] No information is provided on the investigations, prosecution and punishment of members of the Magyar Gàrda.

Recommended action: Letter reflecting the Committee's analysis.

Next periodic report: 29 October 2014

101st session (March 2011)

State party: Serbia

COB: CCPR/C/SRB/CO/2, adopted 29 March 2011

Follow-up paragraphs: 12, 17, 22

First State party's reply: Due 29 March 2012 – Received 25 July 2012

NGO information: Belgrade Center for Human Rights, May 2012.

Paragraph 12: The State party should urgently take action to establish the exact circumstances that led to the burial of hundreds of people in Batajnica region, and to ensure that all individuals responsible are prosecuted and adequately sanctioned under the criminal law. The State party should also ensure that relatives of the victims are provided with adequate compensation.

Summary of State party's reply:

The Office of the War Crimes Prosecutor has prioritized the investigation of the Batajinca events. Over 80 witnesses have been interviewed. Albanian witnesses gave statements to the prosecutor and investigating judge, but none agreed to repeat their statements in court. The investigations of all war crimes committed in Kosovo are ongoing.

NGO information:

The Office of the Prosecutor has faced serious setbacks during the trial because only a few witnesses have agreed to testify in court. Investigation is complicated by the interconnected nature between the crimes committed in Suva Reka and the mass grave and corpses found in Batajnica. The Belgrade Higher Court's War Crimes Department convicted Chief of Police Radojko Repanovic to 20 years prison, concluding that he had ordered the killing of civilians and the loading of the bodies into a truck. On 12 October 2010, the Belgrade Appellate Court ruled that the grounds for his conviction were unclear and quashed the verdict.

Committee's evaluation:

[**B2**] Additional information remains necessary on the measures taken (i) to expedite the investigations and (ii) to encourage witnesses to testify in court; and on the reasons of Belgrade Appellate Court's ruling to quash the verdict against Radojko Repanovic.

[**D1**] No information is provided on the compensations awarded to the relatives of the victims.

Paragraph 17: The State party should ensure strict observance of the independence of

the judiciary. It should also ensure that judges who were not re-elected in the 2009 process are given access to a full legal review of the process. The State Party should also consider undertaking comprehensive legal and other reforms to make the functioning of its courts and general administration of justice more efficient.

Summary of State party's reply:

In December 2010, new amendments to the Law on Judges were enacted, prescribing the review of decisions for the appointment of unelected judges by members of the High Judicial Council.

In May 2011, the High Judicial Council established criteria to evaluate the competence and qualifications of judges. In June 2011, it started to review the appointments. Its decisions are public and unelected judges have a right to appeal to the Constitutional Court.

A new network of courts has been established since January 2010 to improve access to justice. The 2011 Law on Public Notaries gives more power to public notaries to officialise documents, reducing the workload of courts.

To promote speedy trials, court presidents are responsible to ensure the timely work of the court. Individual complainants can bring their case to the president of the Supreme Court of Cassation and the High Judicial Council in cases of obstruction of justice.

According to the 2012 law on Civil Procedure, judges must set a timeframe for the end of trial at the beginning of each procedure. Cases can only be prolonged to gather more evidence and if the judge is prevented from attending the hearing. In January 2012, a new provision of the Code of Criminal Procedure was enacted to speed up prosecutorial investigations of organized crime and war crime cases.

NGO information:

Laws were passed to improve the administration of justice, through which the government has acknowledged shortcomings in its procedures and recognized that every individual appointment needed to be re-examined. Mechanisms are also necessary to ensure the transparency of High Judicial decisions and adequate appeal procedures for their speedy review.

Committee's evaluation:

[**B2**] Additional action is required to enhance the independence of the judiciary, including with regard to the large power retained by the High Judicial Court over the appointment of judges. On the procedures to facilitate speedy trials, additional information is necessary on the guarantees in place to protect the access to justice of all parties to a case.

Paragraph 22: The State party should strengthen its efforts to eradicate stereotypes and widespread abuse against Roma by, among others, conducting more awareness-raising campaigns to promote tolerance and respect for diversity. The State party should also adopt measures to promote access by Roma to various opportunities and services at all levels, including, if necessary, through appropriate temporary special measures.

Summary of State party's reply:

Awareness-raising campaigns have been developed promoting tolerance and respect for diversity (TV programs; organization of a Roma day). 5 million RSD have been granted to projects for the promotion of human rights, including Roma rights.

Six of the 87 existing political parties advocate for the interests of the Roma national minority, thereby promoting their political access.

To improve access to housing for the Roma, the Ministry of Environment plans to finance

10 informal settlements in 8 municipalities. Construction has not yet begun. In 2012, the Government adopted the National Strategy of Social Housing and the Action Plan for its implementation.

A new law on Permanent and Temporary Residence was adopted ensuring all citizens access to a registered residence. When living in informal settlements, persons can register their address with the Social Welfare Centre to access social benefits.

Administrative fees for birth registration were abolished in July 2010.

Vocational education and trainings were introduced to improve access to education for members of the Roma community. Special temporary measures have been implemented since 2003 to improve the Roma community's access to education (no information is provided on these measures).

NGO information:

Access of the Roma to education and health services has improved. However, hardly any tangible progress is observed the fields of employment and housing.

Procedures for the referral of Roma children to schools for children with developmental difficulties were revised to promote equal education for all. The effect of this revision is still unknown.

Committee's evaluation:

[**B2**] Additional actions remain necessary (i) to improve the access of the Roma to employment and housing, (ii) to eradicate negative stereotypes on the Roma population and (iii) to ensure the integration of Roma children in mainstream education.

Recommended action: A letter should be sent reflecting the analysis of the Committee.

Next periodic report: 1 April 2015

State party: Togo

COB: CCPR/C/TGO/CO/4, adopted on 28 March 2011

Follow-up paragraphs: 10, 15, 16

State party's first reply: Due 28 March 2012 – Received 17 April 2012.

Action taken by the Committee: Follow-up letter sent on 31 July 2012.

Meeting between the Special Rapporteur and the Ambassador of the Permanent Mission on 18 October 2012.

Second reply: October 2012.

Paragraph 10: With a view to combating the impunity that persists in Togo, the State party should continue its efforts to bring the work of the Truth, Justice and Reconciliation Commission to an early conclusion. Independent and impartial investigations must also be conducted in order to shed light on the human rights violations committed in 2005 and prosecute those responsible. In this connection, the Committee emphasizes that the establishment of a transitional system of justice cannot serve to dispense with the criminal prosecution of serious human rights violations.

Follow-up question:

Information is required on the measures taken to ensure the implementation of the recommendations made by the Truth, Justice and Reconciliation Commission.

No information has been provided regarding the investigations carried out into the cases of human rights violations committed in 2005. The Committee therefore reiterates its recommendation.

Summary of State party's reply:

Implementation of the recommendations of the Truth, Justice and Reconciliation Commission is going ahead: information is provided on the relevant activities.

In the wake of the investigation conducted by the United Nations fact-finding mission and that carried out by the independent special commission of inquiry into the acts of violence and vandalism that took place in April 2005, the Togolese authorities set up the Truth, Justice and Reconciliation Commission to investigate those acts, as well as those committed between 1958 and 2005.

Committee's evaluation:

[**B2**] Information is required on the decisions taken in respect of the human rights violations committed in 2005 and on their implementation.

Paragraph 15: The State party should adopt criminal legislation defining torture on the basis of international standards and legislation criminalizing and penalizing acts of torture with penalties commensurate with their gravity. The State party should ensure that any act of torture or cruel, inhuman or degrading treatment is prosecuted and penalized in a manner commensurate with its gravity.

Follow-up question:

Updated information is required on the following: (i) the progress made towards the adoption of the bills to amend the Criminal Code and the Code of Criminal Procedure, (ii) the content of the provisions relating to torture and (iii) the measures taken to guarantee the prosecution and proper punishment of acts of torture or inhuman and degrading treatment.

Summary of State party's reply:

The bills on the Criminal Code and the Code of Criminal Procedure were submitted to the cabinet office for examination and adoption by the Cabinet in April 2012. The definition and punishment of torture is in conformity with the provisions of the Convention against Torture.

Committee's evaluation:

[**B2**] Additional information is still required on (i) the content of the provisions of the Criminal Code relating to torture and (ii) the progress made towards the adoption of the bills by the Government.

Paragraph 16: The State party should take steps to investigate all allegations of torture and ill-treatment and all deaths in detention. Such investigations should be conducted expeditiously in order to bring the perpetrators to justice and provide effective compensation to victims.

Follow-up question:

Additional action is still required to implement the recommendations of the National Human Rights Commission, together with information on the allegations concerning the falsification of its report.

Summary of State party's reply:

The Government has implemented most of the recommendations made by the National Human Rights Commission (examples are provided).

Committee's evaluation:

[**B1**] Additional information will be required when measures have been adopted to continue the implementation of the recommendations of the National Human Rights Commission.

Recommended action: Letter reflecting the Committee's analysis.

Next periodic report: 1 April 2015

102nd session (July 2011)

State party: Kazakhstan

COB: CCPR/C/KAZ/CO/1, adopted on 26 July 2011

Follow-up paragraphs: 7, 21, 25, 26

State party's first reply: Due 26 July 2012 – Received 27 July 2012.

Action taken by the Committee: 25 March 2013: Meeting between the Special Rapporteur and the Permanent Mission.

NGO report:

20 November 2012: Kazakhstan International Bureau for Human Rights and Rule of Law; International Foundation for Protection of Freedom of Speech "Adil Soz"; Almaty Helsinki Committee; Children Foundation of Kazakhstan; Committee of Public Defence; Public Association Feminist League; CCPR Centre.

Paragraph 7: The State party should strengthen its efforts to ensure that the Commissioner for Human Rights enjoys full independence. In this regard, the State party should also provide it with adequate financial and human resources in line with the Paris Principles (General Assembly resolution 48/134, annex). The Committee further recommends that the Commissioner for Human Rights apply for accreditation to the Subcommittee on Accreditation of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. Finally, when establishing the National Preventive Mechanism as provided for under the Optional Protocol to the Convention against Torture, the State party should ensure that it does not compromise, but rather improves the execution of its core functions as a National Human Rights Institution in line with the Paris Principles.

Summary of State party's reply:

The bill which was submitted to Parliament in March 2012 strengthens the powers of the Commissioner for Human Rights and his or her role as the national mechanism to prevent torture. Accreditation of this institution is one of the measures to be implemented in 2013.

Additional information provided at the 25 March 2013 meeting: the institution was accredited with B status. Participation by the institution in the mechanisms of the Human Rights Council could help it to acquire A status, but such an outcome is not solely dependent on the will of the Commissioner for Human Rights. The strengthening of the Commissioner's powers when acting as national preventive mechanism must be accompanied by the necessary institutional capacity-building.

NGO information:

The most recent version of the bill on the national preventive mechanism provides for the strengthening of the Commissioner for Human Rights, particularly as regards human and

financial resources. Contrary to the requirements of the Optional Protocol to the Convention against Torture, no provision is made for an inspection mechanism. No information is available on the application for accreditation of the Office of the Commissioner.

Committee's evaluation:

[**B2**] Measures are still required for the adoption of the bill to establish the national preventive mechanism and for the provision of the material and human resources necessary to allow the Commissioner for Human Rights to perform the related functions.

Paragraph 21: The State party should take steps to safeguard, in law and practice, the independence of the judiciary and its role as the sole administrator of justice, and guarantee the competence, independence and tenure of judges. The State party should, in particular, take measures to eradicate all forms of interference with the judiciary and ensure prompt, thorough, independent and impartial investigations into all allegations of interference, including by way of corruption, and prosecute and punish perpetrators, including judges who may be complicit. The State party should review the powers of the Office of the Procurator-General to ensure that the office does not interfere with the independence of the judiciary.

Summary of State party's reply:

The Committee's observations on this point are incorrect. Measures are constantly being implemented to guarantee the independence of the judicial system:

(i) The transfer of the function of running the activities of the judicial system to a special body established for that purpose answering to the Supreme Court. Issues relating to staffing are currently the responsibility of the Higher Council of the Judiciary, thus guaranteeing the independence of judges.

(ii) The procedure for selecting judges is based on a qualifying examination and on the principle of non-discrimination. The final decision on the appointment of a judge of the Supreme Court is taken by the Senate.

(iii) The report describes the activities of the Supreme Court to investigate and prevent cases of corruption within the judicial system.

(iv) The Procurator-General exercises his power to suspend the decision of a court in only 0.005 per cent of cases, concerning issues such as unlawful evictions or unfounded demands for payment.

Additional information provided on 25 March 2013: the law on the Supreme Council of the Judiciary and the constitutional law were adopted in February 2012. They strengthen the powers of the Council, training activities for judges and the powers of the local courts, and reinforce judicial independence and immunity.

NGO information:

There has been no progress since the 2011 Constitutional Act on the Judicial System and the Status of Judges.

Committee's evaluation:

[**B2**] Additional measures remain necessary to strengthen the independence of the judiciary and its role as the sole administrator of justice, and to ensure that judges are competent, independent and enjoy security of tenure. The Committee reiterates its recommendation and remains concerned by the information received relating to the dismissal of 400 judges in the past two years.

Paragraph 25: The State party should ensure that journalists, human rights defenders

and individuals are able to freely exercise the right to freedom of expression in accordance with the Covenant. In this regard, the State party should review its legislation on defamation and insults to ensure that it fully complies with the provisions of the Covenant. Furthermore, the State party should desist from using its law on defamation solely for purposes of harassing or intimidating individuals, journalists and human rights defenders. In this regard, any restrictions on the exercise of freedom of expression should comply with the strict requirements of article 19, paragraph 3, of the Covenant.

Summary of State party's reply:

The Act of 21 January 2011 classifies defamation and insults in the section relating to offences against the person in order to protect the honour and dignity of all from illegal actions. The penalty of 6 months' imprisonment for public defamation has been abrogated. Other reforms adopted to strengthen freedom of expression are mentioned.

NGO information:

The current trend is to prosecute journalists, human rights defenders and political activists for incitement to hatred during public events. Examples are provided.

Committee's evaluation:

[**C1**] No amendment has been adopted. The Committee reiterates its recommendation.

Paragraph 26: The State party should re-examine its regulations, policy and practice, and ensure that all individuals under its jurisdiction fully enjoy their rights under article 21 of the Covenant. It should ensure that the exercise of this right is subjected to restrictions which comply with the strict requirements of article 21 of the Covenant.

Summary of State party's reply:

Administrative liability for the organization of public events is governed by article 373 of the Code of Administrative Offences. Such acts accounted for merely 0.1 per cent of administrative offences prosecuted between January and June 2011. Restrictions on the right to hold meetings, demonstrations, strikes or other public events have been introduced in the interests of national security, public order, health and the rights and freedoms of others. In 2011, more than 232 protest events were held, 50 per cent of which were unauthorized. Administrative action was taken against 227 persons who actively participated in the protests.

No additional information was provided on 25 March 2013.

NGO information:

The reform of the law of 1995 on freedom of assembly has yet to be adopted. Permits are often refused. People who participate in unauthorized assemblies or demonstrations are arrested by the police. They have to pay a fine or are imprisoned for 2 weeks. The police also practise "preventive" arrests of persons who intend to take part in a demonstration. Only public associations may apply for authorization to organize public meetings. The recommendation by local authorities to specify a place remote from the town centre where peaceful demonstrations are authorized is still considered to be legally binding.

Committee's evaluation:

[**C1**] No measure has been adopted. The Committee reiterates its recommendation.

Recommended action: Letter reflecting the Committee's analysis. The additional information requested should be included in the next periodic report.

Next periodic report: 29 July 2014

103rd session (October–November 2011)

State party: Norway

COB: CCPR/C/NOR/CO/6, adopted 18 November 2011

Follow-up paragraphs: 5, 10, 12

First State party's reply: Due 18 November 2012 – Received 3 December 2012

NGO information: Norwegian NGO-forum for Human Rights, 20 December 2012

Paragraph 5: The State party should ensure that the current restructuring of the national human rights institution effectively transform it, with the view to conferring on it a broad mandate in human rights matters. In this regard, the State party should ensure that the new institution will be fully compliant with the Paris Principles.

Summary of State party's reply:

In 2011, the ICC's Sub-Committee on Accreditation downgraded the Centre to a B status and gave the State party one year to provide documentation on the reforms instituted to comply with the Paris Principles. The University of Oslo terminated its relationship with the Centre. The Ministry of Foreign Affairs now provides support to the Centre to ensure its full functioning. An inter-ministerial working group was established to evaluate the reforms needed. One possibility is to create a new national institution. In March 2011, the Ministry of Foreign Affairs conducted an external review of the Centre. Concluded that several key reforms are needed.

NGO information:

The inter-ministerial working group recommended the appointment of the Parliamentary Ombudsman as the national human rights institution. NGOs have objected to this proposal. The Parliamentary Ombudsman and the Prison Supervisory Board are not adequate bodies to ensure neutral and effective monitoring of prisons and detainees. A new autonomous and independent body should be established through a process ensuring the participation of NGOs.

Committee's evaluation:

[**B2**] Additional information remain necessary on (i) the decision made by the inter-ministerial group on the shape of the new national human rights institution and (ii) the precise mandate, objectives, activities, and monitoring mechanisms of the new institution.

Paragraph 10: The State party should take concrete steps to put an end to the unjustified use of coercive force and restraint of psychiatric patients. In this regard, the State party should ensure that any decision to use coercive force and restraint should be made after a thorough and professional medical assessment that determines the amount of coercive force or restraint to be applied to a patient. Furthermore, the State party should strengthen its monitoring and reporting system of mental health-care institutions so as to prevent abuses.

Summary of State party's reply:

Measures have been taken to promote voluntariness in mental health service under the 1999–2008 Plan for Mental Health. Have not led to a significant decrease in the extent of coercion used. A report to Parliament will be submitted by the end of 2012 on how to reduce coercion in mental health care. More hospitals are introducing user-managed hospitalization programs that have reduced coercive hospitalization by more than 50 percent. New strategies have been adopted at national and regional levels (information in

the report).

NGO information:

In 2012, the Directorate of Health gave 7 million NOK (US$ 1,255,000) to NGOs and mental health services to implement projects to reduce the use of coercive measures. Data is lacking on the use of restraints, seclusion and electroconvulsive treatment in mental health institutions.

Committee's evaluation:

[**B2**] Additional action is required (i) to reduce the use of force against mental health patients and (ii) to strengthen the monitoring and reporting system in mental health care institutions. Data is required on the use of coercive force, including electroconvulsive treatment, in the mental health care system.

Paragraph 12: The State party should strictly limit the pretrial detention of juveniles and, to the extent possible, adopt alternative measures to pretrial detention.

Summary of State party's reply:

Under the January 2012 Law, pre-trial detention of children is permitted only in cases of "unconditional necessity". Children must be brought before a judge no later than the day after arrest.

NGO information:

The Ministry of Justice did not support the proposal for an absolute ban on the use of juvenile preventive detention. New legislation should be enforced, defining specific and strict criteria for its application. Concern remain that children almost always serve their sentence with adults. Only one juvenile detention centre with four cells is available.

Committee's evaluation:

[**B2**] Additional information is required on (i) the precise criteria for "unconditional necessity" of pretrial detention of children and (ii) the measures taken to ensure that children are systematically held separately from adults.

Recommended action: A letter should be sent reflecting the analysis of the Committee.

Next periodic report: 2 November 2016

State party: Jamaica

COB: CCPR/C/JAM/CO/3, adopted 17 November 2011

Follow-up paragraphs: 8, 16, 23

First State party's reply: Due 17 November 2011 – Received 19 November 2012

NGO information:

7 December 2012: Jamaica Forum for Lesbians, All-sexuals and Gays (on para. 8); 4 February 2013: Jamaicans for Justice and Jamaica FLAG.

Paragraph 8: The State party should amend its laws with a view to prohibiting discrimination on the basis of sex, sexual orientation and gender identity. The State party should also decriminalize sexual relations between consenting adults of the same sex, in order to bring its legislation into line with the Covenant and put an end to prejudices and the social stigmatization of homosexuality. In this regard, the State party should send a clear message that it does not tolerate any form of harassment, discrimination or violence against persons for their sexual orientation, and should

ensure that individuals, who incite violence against homosexuals, are investigated, prosecuted and properly sanctioned.

Summary of State party's reply:

All citizens have the right to equality before the law and to freedom from discrimination. The Jamaica Constabulary Force (JCF) adopted a Diversity Policy in August 2011. Guides members of the police in their professional dealings with persons of minority groups, including LGBT. A culture of non-violence is also promoted through the Anti-Bullying Initiative developed in schools and communities.

NGO information:

Strong negative attitudes towards homosexuality are still prevalent. The Government recently announced that the review of the buggery law is not a priority, and little effort is made to foster tolerance and non-violence.

From January to November 2012, J-Flag received 39 reports of discrimination, harassment and violence related to the sexual orientation or gender identity of the victims. Significant barriers prevent LGBT persons from seeking redress.

Trainings have been organized and homophobic crimes can be reported to a network of trained police officers. The police have provided security at all public demonstrations against homophobia and discrimination. Difficulties remain with some members of the police.

Committee's evaluation:

[**C1**] The recommendation has not been implemented: State party's legislation has not been amended to prohibit discrimination on the basis of sex, sexual orientation and gender identity; sexual relations between consenting adults of the same sex have not been decriminalized; no information is provided on the way the Anti-Bullying initiative is supported by the State party and on the measures taken to ensure that individuals who incite violence against homosexuals are investigated, prosecuted and properly sanctioned.

Paragraph 16: The State party should closely monitor allegations of extrajudicial killings and ensure that all such allegations are investigated in a prompt and effective manner with a view to eradicating such crimes, bringing perpetrators to justice and hence fighting impunity and providing effective remedies to victims. In this regard, the State party should ensure the Independent Commission of Investigations (INDECOM) is adequately resourced to be able to carry out independent and effective investigations into alleged cases of extrajudicial killings and assaults by law enforcement personnel.

Summary of State party's reply:

The INDECOM was established in 2010 to ensure the prompt and effective investigation of extra judicial killings. Its budget and human resources have substantially increased (data provided). Fiscal constraints remain a major obstacle. Funds for trainings and technical material will be provided by the UK Department for International Development for a three year period from June 2012.

The Government continues to take measures to ensure the extradition and prosecution of police officers implicated in extrajudicial killings and who have fled the country. A former police officer was found guilty for the murder of the 14 year old girl in October 2008. The Use of Force Policy continues to guide the Jamaica Constabulary Force in its interaction with the public.

NGO information:

Civilians are still killed by law enforcement agents, and impunity prevails. There were about 199 cases of extrajudicial killings for the year 2012.

Committee's evaluation:

[**B2**] Additional measures remain necessary to encourage the presentation of claims by the victims of extra judicial killings and to promote the investigation and sanction of these cases.

[**D1**] The State party does not provide information on the remedies provided to victims of extra judicial killings.

Paragraph 23: The State party should, as a matter of urgency, adopt effective measures against overcrowding in detention centres and ensure conditions of detention that respect the dignity of prisoners, in accordance with article 10 of the Covenant. The State party should put in place a system to segregate accused persons from convicted persons and minors from other prisoners. The State party should, in particular, take steps to ensure that the Standard Minimum Rules for the Treatment of Prisoners are respected. Furthermore, the State party should consider the wider application of alternative non-custodial sentences in order to alleviate the problem of overcrowding in prisons.

Summary of State party's reply:

Every effort is made to prevent overcrowding: transfers of inmates and opening of a low risk hostel for males. Options are analysed to build new prisons, but are limited by the present severe economic and financial conditions.

The system already includes the principle of separation of accused persons from convicted persons. Some facilities are being renovated to ensure that girls and women do not share common space. Boys are housed at the Metcalf Street remand centre.

Greater efforts are made to have children matters heard in Resident Magistrate Court in camera if the children's court is not in session. Efforts are made to implement the National Plan of Action on Child Justice (2010–2014), despite the lack of resources.

The Government continues to sensitizing the judiciary on alternative to imprisonment and non-custodial sentences. A review of parole system was conducted in 2011.

NGO information:

Conditions in correctional facilities are deplorable. There is little action to find alternative to imprisonment especially for children. Minors are kept in police lockups and in adult prisons.

Committee's evaluation:

[**B2**] Additional information remains necessary on (i) the proportion of detained girls who still have to share a common space with women and (ii) the measures taken to implement the National Plan of Action on Child Justice (2010–2014); (iii) the proportion of cases in which non-custodial sentences have been applied, and (iv) the results of the 2011 review of parole system.

Recommended action: A letter should be sent reflecting the analysis of the Committee.

Next periodic report: 2 November 2014.

Annexes

Annex I

States parties to the International Covenant on Civil and Political Rights and to the Optional Protocols, and States which have made the declaration under article 41 of the Covenant as at 28 March 2013

A. States parties to the International Covenant on Civil and Political Rights (167)

State party	*Date of receipt of the instrument of ratification*	*Date of entry into force*
Afghanistan	24 January 1983[a]	24 April 1983
Albania	4 October 1991[a]	4 January 1992
Algeria	12 September 1989	12 December 1989
Andorra	22 September 2006	22 December 2006
Angola	10 January 1992[a]	10 April 1992
Argentina	8 August 1986	8 November 1986
Armenia	23 June 1993[a]	23 September 1993
Australia	13 August 1980	13 November 1980
Austria	10 September 1978	10 December 1978
Azerbaijan	13 August 1992[a]	[b]
Bahamas	23 December 2008	23 March 2009
Bahrain	20 September 2006[a]	20 December 2006
Bangladesh	6 September 2000[a]	6 December 2000
Barbados	5 January 1973[a]	23 March 1976
Belarus	12 November 1973	23 March 1976
Belgium	21 April 1983	21 July 1983
Belize	10 June 1996[a]	10 September 1996
Benin	12 March 1992[a]	12 June 1992
Bolivia (Plurinational State of)	12 August 1982[a]	12 November 1982
Bosnia and Herzegovina	1 September 1993[c]	6 March 1992

State party	*Date of receipt of the instrument of ratification*	*Date of entry into force*
Botswana	8 September 2000	8 December 2000
Brazil	24 January 1992[a]	24 April 1992
Bulgaria	21 September 1970	23 March 1976
Burkina Faso	4 January 1999[a]	4 April 1999
Burundi	9 May 1990[a]	9 August 1990
Cambodia	26 May 1992[a]	26 August 1992
Cameroon	27 June 1984[a]	27 September 1984
Canada	19 May 1976[a]	19 August 1976
Cape Verde	6 August 1993[a]	6 November 1993
Central African Republic	8 May 1981[a]	8 August 1981
Chad	9 June 1995[a]	9 September 1995
Chile	10 February 1972	23 March 1976
Colombia	29 October 1969	23 March 1976
Congo	5 October 1983[a]	5 January 1984
Costa Rica	29 November 1968	23 March 1976
Côte d'Ivoire	26 March 1992[a]	26 June 1992
Croatia	12 October 1992[d]	8 October 1991[c]
Cyprus	2 April 1969	23 March 1976
Czech Republic	22 February 1993[c]	1 January 1993
Democratic People's Republic of Korea	14 September 1981[a]	14 December 1981
Democratic Republic of the Congo	1 November 1976[a]	1 February 1977
Denmark	6 January 1972	23 March 1976
Djibouti	5 November 2002[a]	5 February 2003
Dominica	17 June 1993[a]	17 September 1993
Dominican Republic	4 January 1978[a]	4 April 1978
Ecuador	6 March 1969	23 March 1976
Egypt	14 January 1982	14 April 1982
El Salvador	30 November 1979	29 February 1980
Equatorial Guinea	25 September 1987[a]	25 December 1987

State party	*Date of receipt of the instrument of ratification*	*Date of entry into force*
Eritrea	22 January 2002[a]	22 April 2002
Estonia	21 October 1991[a]	21 January 1992
Ethiopia	11 June 1993[a]	11 September 1993
Finland	19 August 1975	23 March 1976
France	4 November 1980[a]	4 February 1981
Gabon	21 January 1983[a]	21 April 1983
Gambia	22 March 1979[a]	22 June 1979
Georgia	3 May 1994[a]	[b]
Germany	17 December 1973	23 March 1976
Ghana	7 September 2000	7 December 2000
Greece	5 May 1997[a]	5 August 1997
Grenada	6 September 1991[a]	6 December 1991
Guatemala	5 May 1992[a]	5 August 1992
Guinea	24 January 1978	24 April 1978
Guinea-Bissau	1 November 2010	1 February 2011
Guyana	15 February 1977	15 May 1977
Haiti	6 February 1991[a]	6 May 1991
Honduras	25 August 1997	25 November 1997
Hungary	17 January 1974	23 March 1976
Iceland	22 August 1979	22 November 1979
India	10 April 1979[a]	10 July 1979
Indonesia	23 February 2006[a]	23 May 2006
Iran (Islamic Republic of)	24 June 1975	23 March 1976
Iraq	25 January 1971	23 March 1976
Ireland	8 December 1989	8 March 1990
Israel	3 October 1991	3 January 1992
Italy	15 September 1978	15 December 1978
Jamaica	3 October 1975	23 March 1976
Japan	21 June 1979	21 September 1979
Jordan	28 May 1975	23 March 1976

State party	*Date of receipt of the instrument of ratification*	*Date of entry into force*
Kazakhstan[e]	24 January 2006	
Kenya	1 May 1972[a]	23 March 1976
Kuwait	21 May 1996[a]	21 August 1996
Kyrgyzstan	7 October 1994[a]	[b]
Lao People's Democratic Republic	25 September 2009	25 December 2009
Latvia	14 April 1992[a]	14 July 1992
Lebanon	3 November 1972[a]	23 March 1976
Lesotho	9 September 1992[a]	9 December 1992
Liberia	22 September 2004	22 December 2004
Libya	15 May 1970[a]	23 March 1976
Liechtenstein	10 December 1998[a]	10 March 1999
Lithuania	20 November 1991[a]	20 February 1992
Luxembourg	18 August 1983	18 November 1983
Madagascar	21 June 1971	23 March 1976
Malawi	22 December 1993[a]	22 March 1994
Maldives	19 September 2006[a]	19 December 2006
Mali	16 July 1974[a]	23 March 1976
Malta	13 September 1990[a]	13 December 1990
Mauritania	17 November 2004[a]	17 February 2005
Mauritius	12 December 1973[a]	23 March 1976
Mexico	23 March 1981[a]	23 June 1981
Monaco	28 August 1997	28 November 1997
Mongolia	18 November 1974	23 March 1976
Montenegro[f]		3 June 2006
Morocco	3 May 1979	3 August 1979
Mozambique	21 July 1993[a]	21 October 1993
Namibia	28 November 1994[a]	28 February 1995
Nepal	14 May 1991[a]	14 August 1991
Netherlands	11 December 1978	11 March 1979
New Zealand	28 December 1978	28 March 1979

State party	*Date of receipt of the instrument of ratification*	*Date of entry into force*
Nicaragua	12 March 1980[a]	12 June 1980
Niger	7 March 1986[a]	7 June 1986
Nigeria	29 July 1993[a]	29 October 1993
Norway	13 September 1972	23 March 1976
Pakistan	23 June 2010	23 September 2010
Panama	8 March 1977	8 June 1977
Papua New Guinea	21 July 2008[a]	21 October 2008
Paraguay	10 June 1992[a]	10 September 1992
Peru	28 April 1978	28 July 1978
Philippines	23 October 1986	23 January 1987
Poland	18 March 1977	18 June 1977
Portugal	15 June 1978	15 September 1978
Republic of Korea	10 April 1990[a]	10 July 1990
Republic of Moldova	26 January 1993[a]	[b]
Romania	9 December 1974	23 March 1976
Russian Federation	16 October 1973	23 March 1976
Rwanda	16 April 1975[a]	23 March 1976
Saint Vincent and the Grenadines	9 November 1981[a]	9 February 1982
Samoa	15 February 2008[a]	15 May 2008
San Marino	18 October 1985[a]	18 January 1986
Senegal	13 February 1978	13 May 1978
Serbia[g]	12 March 2001	[c]
Seychelles	5 May 1992[a]	5 August 1992
Sierra Leone	23 August 1996[a]	23 November 1996
Slovakia	28 May 1993[c]	1 January 1993
Slovenia	6 July 1992[c]	25 June 1991
Somalia	24 January 1990[a]	24 April 1990
South Africa	10 December 1998	10 March 1999
Spain	27 April 1977	27 July 1977
Sri Lanka	11 June 1980[a]	11 September 1980

State party	*Date of receipt of the instrument of ratification*	*Date of entry into force*
Sudan	18 March 1986[a]	18 June 1986
Suriname	28 December 1976[a]	28 March 1977
Swaziland	26 March 2004[a]	26 June 2004
Sweden	6 December 1971	23 March 1976
Switzerland	18 June 1992[a]	18 September 1992
Syrian Arab Republic	21 April 1969[a]	23 March 1976
Tajikistan	4 January 1999[a]	[b]
Thailand	29 October 1996[a]	29 January 1997
The former Yugoslav Republic of Macedonia	18 January 1994[c]	18 September 1991
Timor-Leste	18 September 2003[a]	18 December 2003
Togo	24 May 1984[a]	24 August 1984
Trinidad and Tobago	21 December 1978[a]	21 March 1979
Tunisia	18 March 1969	23 March 1976
Turkey	23 September 2003	23 December 2003
Turkmenistan	1 May 1997[a]	[b]
Uganda	21 June 1995[a]	21 September 1995
Ukraine	12 November 1973	23 March 1976
United Kingdom of Great Britain and Northern Ireland	20 May 1976	20 August 1976
United Republic of Tanzania	11 June 1976[a]	11 September 1976
United States of America	8 June 1992	8 September 1992
Uruguay	1 April 1970	23 March 1976
Uzbekistan	28 September 1995[a]	[b]
Vanuatu	21 November 2008	21 February 2009
Venezuela (Bolivarian Republic of)	10 May 1978	10 August 1978
Viet Nam	24 September 1982[a]	24 December 1982
Yemen	9 February 1987[a]	9 May 1987
Zambia	10 April 1984[a]	10 July 1984
Zimbabwe	13 May 1991[a]	13 August 1991

Note: In addition to the States parties listed above, the Covenant continues to apply in Hong Kong, China and Macao, China.[h]

B. States parties to the Optional Protocol (114)

State party	*Date of receipt of the instrument of ratification*	*Date of entry into force*
Albania	4 October 2007[a]	4 January 2008
Algeria	12 September 1989[a]	12 December 1989
Andorra	22 September 2006	22 December 2006
Angola	10 January 1992[a]	10 April 1992
Argentina	8 August 1986[a]	8 November 1986
Armenia	23 June 1993[a]	23 September 1993
Australia	25 September 1991[a]	25 December 1991
Austria	10 December 1987	10 March 1988
Azerbaijan	27 November 2001[a]	27 February 2002
Barbados	5 January 1973[a]	23 March 1976
Belarus	30 September 1992[a]	30 December 1992
Belgium	17 May 1994[a]	17 August 1994
Benin	12 March 1992[a]	12 June 1992
Bolivia (Plurinational State of)	12 August 1982[a]	12 November 1982
Bosnia and Herzegovina	1 March 1995	1 June 1995
Brazil	25 September 2009[a]	25 December 2009
Bulgaria	26 March 1992[a]	26 June 1992
Burkina Faso	4 January 1999[a]	4 April 1999
Cameroon	27 June 1984[a]	27 September 1984
Canada	19 May 1976[a]	19 August 1976
Cape Verde	19 May 2000[a]	19 August 2000
Central African Republic	8 May 1981[a]	8 August 1981
Chad	9 June 1995[a]	9 September 1995
Chile	27 May 1992[a]	28 August 1992
Colombia	29 October 1969	23 March 1976
Congo	5 October 1983[a]	5 January 1984
Costa Rica	29 November 1968	23 March 1976
Côte d'Ivoire	5 March 1997	5 June 1997
Croatia	12 October 1995[a]	

State party	*Date of receipt of the instrument of ratification*	*Date of entry into force*
Cyprus	15 April 1992	15 July 1992
Czech Republic	22 February 1993[c]	1 January 1993
Democratic Republic of the Congo	1 November 1976[a]	1 February 1977
Denmark	6 January 1972	23 March 1976
Djibouti	5 November 2002[a]	5 February 2003
Dominican Republic	4 January 1978[a]	4 April 1978
Ecuador	6 March 1969	23 March 1976
El Salvador	6 June 1995	6 September 1995
Equatorial Guinea	25 September 1987[a]	25 December 1987
Estonia	21 October 1991[a]	21 January 1992
Finland	19 August 1975	23 March 1976
France	17 February 1984[a]	17 May 1984
Gambia	9 June 1988[a]	9 September 1988
Georgia	3 May 1994[a]	3 August 1994
Germany	25 August 1993[a]	25 November 1993
Ghana	7 September 2000	7 December 2000
Greece	5 May 1997[a]	5 August 1997
Guatemala	28 November 2000[a]	28 February 2001
Guinea	17 June 1993	17 September 1993
Guyana[i]	10 May 1993[a]	10 August 1993
Honduras	7 June 2005	7 September 2005
Hungary	7 September 1988[a]	7 December 1988
Iceland	22 August 1979[a]	22 November 1979
Ireland	8 December 1989[a]	8 March 1990
Italy	15 September 1978	15 December 1978
Kazakhstan	30 June 2009	30 September 2009
Kyrgyzstan	7 October 1994[a]	7 January 1995
Latvia	22 June 1994[a]	22 September 1994
Lesotho	6 September 2000[a]	6 December 2000
Libya	16 May 1989[a]	16 August 1989

State party	*Date of receipt of the instrument of ratification*	*Date of entry into force*
Liechtenstein	10 December 1998[a]	10 March 1999
Lithuania	20 November 1991[a]	20 February 1992
Luxembourg	18 August 1983[a]	18 November 1983
Madagascar	21 June 1971	23 March 1976
Malawi	11 June 1996[a]	11 September 1996
Maldives	19 September 2006[a]	19 December 2006
Mali	24 October 2001[a]	24 January 2002
Malta	13 September 1990[a]	13 December 1990
Mauritius	12 December 1973[a]	23 March 1976
Mexico	15 March 2002[a]	15 June 2002
Mongolia	16 April 1991[a]	16 July 1991
Montenegro[e]		23 October 2006
Namibia	28 November 1994[a]	28 February 1995
Nepal	14 May 1991[a]	14 August 1991
Netherlands	11 December 1978	11 March 1979
New Zealand	26 May 1989[a]	26 August 1989
Nicaragua	12 March 1980[a]	12 June 1980
Niger	7 March 1986[a]	7 June 1986
Norway	13 September 1972	23 March 1976
Panama	8 March 1977	8 June 1977
Paraguay	10 January 1995[a]	10 April 1995
Peru	3 October 1980	3 January 1981
Philippines	22 August 1989	22 November 1989
Poland	7 November 1991[a]	7 February 1992
Portugal	3 May 1983	3 August 1983
Republic of Korea	10 April 1990[a]	10 July 1990
Republic of Moldova	23 January 2008	23 April 2008
Romania	20 July 1993[a]	20 October 1993
Russian Federation	1 October 1991[a]	1 January 1992
Saint Vincent and the Grenadines	9 November 1981[a]	9 February 1982

State party	*Date of receipt of the instrument of ratification*	*Date of entry into force*
San Marino	18 October 1985[a]	18 January 1986
Senegal	13 February 1978	13 May 1978
Serbia[g]	6 September 2001	6 December 2001
Seychelles	5 May 1992[a]	5 August 1992
Sierra Leone	23 August 1996[a]	23 November 1996
Slovakia	28 May 1993[c]	1 January 1993
Slovenia	16 July 1993[a]	16 October 1993
Somalia	24 January 1990[a]	24 April 1990
South Africa	28 August 2002[a]	28 November 2002
Spain	25 January 1985[a]	25 April 1985
Sri Lanka	3 October 1997[a]	3 January 1998
Suriname	28 December 1976[a]	28 March 1977
Sweden	6 December 1971	23 March 1976
Tajikistan	4 January 1999[a]	4 April 1999
The former Yugoslav Republic of Macedonia	12 December 1994[c]	12 March 1995
Togo	30 March 1988[a]	30 June 1988
Tunisia	29 June 2011[a]	29 September 2011
Turkey	24 November 2006	24 February 2007
Turkmenistan	1 May 1997[a]	1 August 1997[b]
Uganda	14 November 1995[a]	14 February 1996
Ukraine	25 July 1991[a]	25 October 1991
Uruguay	1 April 1970	23 March 1976
Uzbekistan	28 September 1995[a]	28 December 1995
Venezuela (Bolivarian Republic of)	10 May 1978	10 August 1978
Zambia	10 April 1984[a]	10 July 1984

Note: Jamaica denounced the Optional Protocol on 23 October 1997, with effect from 23 January 1998. Trinidad and Tobago denounced the Optional Protocol on 26 May 1998 and re-acceded on the same day, subject to a reservation, with effect from 26 August 1998. Following the Committee's decision in case No. 845/1999 (*Kennedy v. Trinidad and Tobago*) of 2 November 1999, declaring the reservation invalid, Trinidad and Tobago again denounced the Optional Protocol on 27 March 2000, with effect from 27 June 2000.

C. States parties to the Second Optional Protocol, aiming at the abolition of the death penalty (75)

State party	*Date of receipt of the instrument of ratification*	*Date of entry into force*
Albania	17 October 2007[a]	17 December 2007
Andorra	22 September 2006	22 December 2006
Argentina	2 September 2008	2 December 2008
Australia	2 October 1990[a]	11 July 1991
Austria	2 March 1993	2 June 1993
Azerbaijan	22 January 1999[a]	22 April 1999
Belgium	8 December 1998	8 March 1999
Benin	5 July 2012[a]	5 October 2012
Bosnia and Herzegovina	16 March 2001	16 June 2001
Brazil	25 September 2009[a]	25 December 2009
Bulgaria	10 August 1999	10 November 1999
Canada	25 November 2005[a]	25 February 2006
Cape Verde	19 May 2000[a]	19 August 2000
Chile	26 September 2008	26 December 2008
Colombia	5 August 1997[a]	5 November 1997
Costa Rica	5 June 1998	5 September 1998
Croatia	12 October 1995[a]	12 January 1996
Cyprus	10 September 1999[a]	10 December 1999
Czech Republic	15 June 2004[a]	15 September 2004
Denmark	24 February 1994	24 May 1994
Djibouti	5 November 2002[a]	5 February 2003
Ecuador	23 February 1993[a]	23 May 1993
Estonia	30 January 2004[a]	30 April 2004
Finland	4 April 1991	11 July 1991
France	2 October 2007[a]	2 January 2008
Georgia	22 March 1999[a]	22 June 1999
Germany	18 August 1992	18 November 1992
Greece	5 May 1997[a]	5 August 1997

State party	*Date of receipt of the instrument of ratification*	*Date of entry into force*
Honduras	1 April 2008	1 July 2008
Hungary	24 February 1994[a]	24 May 1994
Iceland	2 April 1991	2 July 1991
Ireland	18 June 1993[a]	18 September 1993
Italy	14 February 1995	14 May 1995
Kyrgyzstan	6 December 2010	6 March 2011
Liberia	16 September 2005[a]	16 December 2005
Liechtenstein	10 December 1998[a]	10 March 1999
Lithuania	27 March 2002	26 June 2002
Luxembourg	12 February 1992	12 May 1992
Malta	29 December 1994[a]	29 March 1995
Mexico	26 September 2007[a]	26 December 2007
Monaco	28 March 2000[a]	28 June 2000
Mongolia	13 March 2012[a]	13 June 2012
Montenegro[e]		23 October 2006
Mozambique	21 July 1993[a]	21 October 1993
Namibia	28 November 1994[a]	28 February 1995
Nepal	4 March 1998[a]	4 June 1998
Netherlands	26 March 1991	26 June 1991
New Zealand	22 February 1990	22 May 1990
Nicaragua	21 February 2009	21 May 2009
Norway	5 September 1991	5 December 1991
Panama	21 January 1993[a]	21 April 1993
Paraguay	18 August 2003	18 November 2003
Philippines	20 November 2007	20 February 2008
Portugal	17 October 1990	17 January 1990
Republic of Moldova	20 September 2006[a]	20 December 2006
Romania	27 February 1991	27 May 1991
Rwanda	15 December 2008[a]	15 March 2009
San Marino	17 August 2004	17 November 2004

State party	*Date of receipt of the instrument of ratification*	*Date of entry into force*
Serbia[g]	6 September 2001[a]	6 December 2001
Seychelles	15 December 1994[a]	15 March 1995
Slovakia	22 June 1999	22 September 1999
Slovenia	10 March 1994	10 June 1994
South Africa	28 August 2002[a]	28 November 2002
Spain	11 April 1991	11 July 1991
Sweden	11 May 1990	11 July 1991
Switzerland	16 June 1994[a]	16 September 1994
The former Yugoslav Republic of Macedonia	26 January 1995[a]	26 April 1995
Timor-Leste	18 September 2003[a]	18 December 2003
Turkey	2 March 2006	2 June 2006
Turkmenistan	11 January 2000[a]	11 April 2000
Ukraine	25 July 2007[a]	25 October 2007
United Kingdom of Great Britain and Northern Ireland	10 December 1999	10 March 2000
Uruguay	21 January 1993	21 April 1993
Uzbekistan	23 December 2008[a]	23 March 2009
Venezuela (Bolivarian Republic of)	22 February 1993	22 May 1993

D. States which have made the declaration under article 41 of the Covenant (48)

State party	*Valid from*	*Valid until*
Algeria	12 September 1989	Indefinitely
Argentina	8 August 1986	Indefinitely
Australia	28 January 1993	Indefinitely
Austria	10 September 1978	Indefinitely
Belarus	30 September 1992	Indefinitely
Belgium	5 March 1987	Indefinitely
Bosnia and Herzegovina	6 March 1992	Indefinitely
Bulgaria	12 May 1993	Indefinitely

State party	*Valid from*	*Valid until*
Canada	29 October 1979	Indefinitely
Chile	11 March 1990	Indefinitely
Congo	7 July 1989	Indefinitely
Croatia	12 October 1995	Indefinitely
Czech Republic	1 January 1993	Indefinitely
Denmark	19 April 1983	Indefinitely
Ecuador	24 August 1984	Indefinitely
Finland	19 August 1975	Indefinitely
Gambia	9 June 1988	Indefinitely
Germany	27 December 2001	Indefinitely
Ghana	7 September 2000	Indefinitely
Guyana	10 May 1992	Indefinitely
Hungary	7 September 1988	Indefinitely
Iceland	22 August 1979	Indefinitely
Ireland	8 December 1989	Indefinitely
Italy	15 September 1978	Indefinitely
Liechtenstein	10 March 1999	Indefinitely
Luxembourg	18 August 1983	Indefinitely
Malta	13 September 1990	Indefinitely
Netherlands	11 December 1978	Indefinitely
New Zealand	28 December 1978	Indefinitely
Norway	31 August 1972	Indefinitely
Peru	9 April 1984	Indefinitely
Philippines	23 October 1986	Indefinitely
Poland	25 September 1990	Indefinitely
Republic of Korea	10 April 1990	Indefinitely
Russian Federation	1 October 1991	Indefinitely
Senegal	5 January 1981	Indefinitely
Slovakia	1 January 1993	Indefinitely
Slovenia	6 July 1992	Indefinitely

State party	*Valid from*	*Valid until*
South Africa	10 March 1999	Indefinitely
Spain	11 March 1998	Indefinitely
Sri Lanka	11 June 1980	Indefinitely
Sweden	26 November 1971	Indefinitely
Switzerland	16 April 2010	16 April 2015
Tunisia	24 June 1993	Indefinitely
Ukraine	28 July 1992	Indefinitely
United Kingdom of Great Britain and Northern Ireland	20 May 1976	Indefinitely
United States of America	8 September 1992	Indefinitely
Zimbabwe	20 August 1991	Indefinitely

[a] Accession.

[b] In the opinion of the Committee, the date of entry into force is that on which the State became independent.

[c] Succession.

[d] In a letter dated 27 July 1992, received by the Secretary-General on 4 August 1992 and accompanied by a list of multilateral treaties deposited with the Secretary-General, the Government of Croatia notified that:

> "[The Government of] … the Republic of Croatia has decided, based on the Constitutional Decision on Sovereignty and Independence of the Republic of Croatia of 25 June, 1991 and the Decision of the Croatian Parliament in respect of the territory of the Republic of Croatia, by virtue of succession of the Socialist Federal Republic of Yugoslavia of 8 October, 1991, to be considered a party to the conventions that Socialist Federal Republic of Yugoslavia and its predecessor states (the Kingdom of Yugoslavia, Federal People's Republic of Yugoslavia) were parties, according to the enclosed list. In conformity with the international practice, [the Government of the Republic of Croatia] would like to suggest that this take effect from 8 October, 1991, the date on which the Republic of Croatia became independent."

[e] Prior to the receipt by the Secretary-General of the instrument of ratification, the Committee's position was the following: although a declaration of succession had not been received, persons within the territory of the State which constituted a part of a former State party to the Covenant continued to be entitled to the guarantees provided in the Covenant, in accordance with the Committee's established jurisprudence (see *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 40* (A/49/40), vol. I, paras. 48 and 49).

[f] Montenegro was admitted to membership in the United Nations by General Assembly resolution 60/264 of 28 June 2006. On 23 October 2006, the Secretary-General received a letter dated 10 October 2006 from the Government of Montenegro, together with a list of multilateral treaties deposited with the Secretary-General, informing the Secretary-General that:

- The Government of the Republic of Montenegro had decided to succeed to the treaties to which the State Union of Serbia and Montenegro had been a party or signatory;
- The Government of the Republic of Montenegro was succeeding to the treaties listed in the attached annex and formally undertook to fulfil the conditions set out therein as from 3 June 2006, the date on which the Republic of Montenegro had assumed responsibility for its international relations and the Parliament of Montenegro had adopted the Declaration of Independence;

- The Government of the Republic of Montenegro maintained the reservations, declarations and objections, as set out in the annex to the instrument, that had been made by Serbia and Montenegro before the Republic of Montenegro assumed responsibility for its international relations.

[g] The Socialist Federal Republic of Yugoslavia ratified the Covenant on 2 June 1971, which entered into force for that State on 23 March 1976. The successor State (the Federal Republic of Yugoslavia) was admitted to membership in the United Nations by General Assembly resolution 55/12 of 1 November 2000. By virtue of a subsequent declaration by the Yugoslav Government, the Federal Republic of Yugoslavia acceded to the Covenant with effect from 12 March 2001. In accordance with the established practice of the Committee, persons subject to the jurisdiction of a State which had been part of a former State party to the Covenant continue to be entitled to the guarantees set out in the Covenant. Following the adoption of the Constitutional Charter of Serbia and Montenegro by the Assembly of the Federal Republic of Yugoslavia on 4 February 2003, the name of the Federal Republic of Yugoslavia became "Serbia and Montenegro". The Republic of Serbia succeeded the State Union of Serbia and Montenegro as a Member of the United Nations, including all organs and bodies of the United Nations system, on the basis of article 60 of the Constitutional Charter of Serbia and Montenegro, to which the Declaration of Independence adopted by the National Assembly of Montenegro on 3 June 2006 gave effect. On 19 June 2006, the Secretary-General received a communication dated 16 June 2006 from the Minister for Foreign Affairs of the Republic of Serbia informing him that: (a) the Republic of Serbia would continue to exercise its rights and honour its commitments under international treaties concluded by Serbia and Montenegro; (b) the Republic of Serbia should be considered a party to all international agreements in force, instead of Serbia and Montenegro; and (c) the Government of the Republic of Serbia would henceforth perform the functions formerly performed by the Council of Ministers of Serbia and Montenegro as a depositary for the corresponding multilateral treaties. The Republic of Montenegro was admitted to membership in the United Nations by General Assembly resolution 60/264 of 28 June 2006.

[h] For information on the application of the Covenant in Hong Kong, China, see *Official Records of the General Assembly, Fifty-first Session, Supplement No. 40* (A/51/40), chap. V, sect. B, paras. 78–85. For information on the application of the Covenant in Macao, China, see ibid., *Fifty-fifth Session, Supplement No. 40* (A/55/40), chap. IV.

[i] Guyana denounced the Optional Protocol on 5 January 1999 and re-acceded on the same day, subject to a reservation, with effect from 5 April 1999. Guyana's reservation elicited objections from six States parties to the Optional Protocol.

Annex II

Membership and officers of the Human Rights Committee, 2012–2013

A. Membership of the Human Rights Committee[a]

105th session	*Nationality*[b]	*Term ends 31 December*
Mr. Yadh **Ben Achour**[c]	Tunisia	2014
Mr. Lazahri **Bouzid**	Algeria	2012
Ms. Christine **Chanet**	France	2014
Mr. Ahmed Amin **Fathalla**	Egypt	2012
Mr. Cornelis **Flinterman**	Netherlands	2014
Mr. Yuji **Iwasawa**	Japan	2014
Ms. Zonke Zanele **Majodina**	South Africa	2014
Ms. Iulia Antoanella **Motoc**	Romania	2014
Mr. Gerald L. **Neuman**	United States of America	2014
Mr. Michael **O'Flaherty**	Ireland	2012
Mr. Rafael Rivas **Posada**	Colombia	2012
Sir Nigel **Rodley**	United Kingdom of Great Britain and Northern Ireland	2012
Mr. Fabián Omar **Salvioli**	Argentina	2012
Mr. Krister **Thelin**	Sweden	2012
Ms. Margo **Waterval**	Suriname	2014

106th session	*Nationality*[b]	*Term ends 31 December*
Mr. Yadh **Ben Achour**	Tunisia	2014
Mr. Lazahri **Bouzid**	Algeria	2012
Ms. Christine **Chanet**	France	2014
Mr. Ahmed Amin **Fathalla**	Egypt	2012
Mr. Cornelis **Flinterman**	Netherlands	2014
Mr. Yuji **Iwasawa**	Japan	2014

106th session	*Nationality*[b]	*Term ends 31 December*
Mr. Walter **Kälin**[d]	Switzerland	2014
Ms. Zonke Zanele **Majodina**	South Africa	2014
Ms. Iulia Antoanella **Motoc**	Romania	2014
Mr. Gerald L. **Neuman**	United States of America	2014
Mr. Michael **O'Flaherty**	Ireland	2012
Mr. Rafael Rivas **Posada**	Colombia	2012
Sir Nigel **Rodley**	United Kingdom of Great Britain and Northern Ireland	2012
Mr. Fabián Omar **Salvioli**	Argentina	2012
Mr. Marat **Sarsembayev**[e]	Kazakhstan	2012
Mr. Krister **Thelin**	Sweden	2012
Ms. Margo **Waterval**	Suriname	2014

[a] Mr. Lallah died on 3 June 2012, prior to the 105th session; his term was due to expire on 31 December 2012. This vacant position was filled during the regular elections held during the 32nd Meeting of States Parties in New York on 6 September 2012.

[b] In accordance with article 28, paragraph 3, of the International Covenant on Civil and Political Rights: "The members of the Committee shall be elected and shall serve in their personal capacity."

[c] Mr. Amor died on 2 January 2012, prior to the 104th session; his term was due to expire on 31 December 2014. Elections were held on 1 May 2012 for a replacement to continue this mandate until 31 December 2014. Mr. Yadh Ben Achour, from Tunisia, was elected by acclamation.

[d] Mr. Kälin was elected during by-elections held in New York on 17 January 2012 to fill two vacancies that arose from the resignations of Ms. Helen Keller and Mr. Mahjoub El Haiba, both effective 30 September 2011.

[e] Mr. Sarsembayev was elected during by-elections held in New York on 17 January 2012 to fill two vacancies that arose from the resignations of Ms. Keller and Mr. Mahjoub El Haiba, both effective September 2011.

107th session	*Nationality*	*Term ends 31 December*
Mr. Yadh **Ben Achour**	Tunisia	2014
Mr. Lazahri **Bouzid**	Algeria	2016[a]
Ms. Christine **Chanet**	France	2014
Mr. Ahmed Amin **Fathalla**	Egypt	2016[a]
Mr. Cornelis **Flinterman**	Netherlands	2014
Ms. Anja **Seibert-Fohr**	Germany	2016[a]
Mr. Yuji **Iwasawa**	Japan	2014
Mr. Walter **Kälin**	Switzerland	2014

107th session	*Nationality*	*Term ends 31 December*
Ms. Zonke Zanele **Majodina**	South Africa	2014
Mr. Kheshoe Parsad **Matadeen**	Mauritius	2016[a]
Ms. Iulia Antoanella **Motoc**	Romania	2014
Mr. Gerald L. **Neuman**	United States of America	2014
Sr. Victor Manuel Rodríguez-Rescia		
Sir Nigel **Rodley**	United Kingdom of Great Britain and Northern Ireland	2016[a]
Mr. Fabián Omar **Salvioli**	Argentina	2016[a]
Mr. Yuval **Shany**	Israel	2016[a]
Mr. Konstantine **Vardzelashvili**	Georgia	2016[a]
Ms. Margo **Waterval**	Suriname	2014

[a] These members were elected during the 32nd Meeting of States Parties held in New York on 6 September 2012.

B. Officers

The officers of the Committee, elected for a term of two years at the meeting, on 11 March 2013 (107th session), are the following:

Chairperson: Sir Nigel Rodley

Vice-Chairpersons: Ms. Margot Waterval
Ms. Iulia Antoanella Motoc
Mr. Yadh Ben Achour

Rapporteur: Mr. Cornelis Flinterman

Annex III

Submission of reports and additional information by States parties under article 40 of the Covenant (as at 28 March 2013)

State party	*Type of report*	*Date due*	*Date of submission*
Afghanistan[a]	Third	31 October 2013	Not yet due
Albania	Second	1 November 2008	25 August 2011
Algeria	Fourth	1 November 2011	Not yet received
Andorra	Initial	22 December 2007	Not yet received
Angola	Second	30 March 2017	Not yet due
Argentina	Fifth	30 March 2014	Not yet due
Armenia	Third	30 July 2016	Not yet due
Australia	Sixth	1 April 2013	Not yet due[b]
Austria	Fifth	30 October 2012	Not yet received
Azerbaijan	Fourth	1 August 2013	Not yet due
Bahamas	Initial	23 March 2010	Not yet received
Bahrain	Initial	20 December 2007	Not yet received
Bangladesh	Initial	6 December 2001	Not yet received
Barbados	Fourth	29 March 2011	Not yet received
Belarus	Fifth	7 November 2001	Not yet received
Belgium	Sixth	29 October 2015	Not yet due
Belize	Initial	9 September 1997	Not yet received
Benin	Second	1 November 2008	Not yet received
Bolivia (Plurinational State of)	Third	31 December 1999	16 August 2011
Bosnia and Herzegovina	Third	2 November 2016	Not yet due
Botswana	Second	31 March 2012	Not yet received
Brazil	Third	31 October 2009	Not yet received
Bulgaria	Fourth	29 July 2015	Not yet due
Burkina Faso	Initial	3 April 2000	Not yet received
Burundi	Second	8 August 1996	7 February 2013

State party	*Type of report*	*Date due*	*Date of submission*
Cambodia	Second	31 July 2002	28 December 2012
Cameroon[c]	Fifth	30 July 2013	Not yet due
Canada	Sixth	31 October 2010	Not yet received
Cape Verde	Initial	5 November 1994	Not yet received[d]
Central African Republic	Third	1 August 2010	Not yet received
Chad	Second	31 July 2012	20 July 2012
Chile	Sixth	27 March 2012	29 May 2012
Colombia	Seventh	1 April 2014	Not yet due
Congo	Third	31 March 2003	Not yet received
Costa Rica	Sixth	1 November 2012	Not yet received
Côte d'Ivoire	Initial	25 June 1993	19 March 2013
Croatia	Third	30 October 2013	Not yet due[e]
Cyprus	Fourth	1 June 2002	19 December 2012
Czech Republic	Third	1 August 2011	11 October 2011
Democratic People's Republic of Korea	Third	1 January 2004	Not yet received
Democratic Republic of the Congo	Fourth	1 April 2009	Not yet received
Denmark[f]	Sixth	31 October 2013	Not yet due
Djibouti	Initial	5 February 2004	3 February 2012
Dominica	Initial	16 September 1994	Not yet received[g]
Dominican Republic	Sixth	30 March 2016	Not yet due
Ecuador[h]	Sixth	30 October 2013	Not yet due
Egypt	Fourth	1 November 2004	Not yet received
El Salvador	Seventh	29 October 2014	Not yet due
Equatorial Guinea	Initial	24 December 1988	Not yet received[i]
Eritrea	Initial	22 April 2003	Not yet received
Estonia	Fourth	30 July 2015	Not yet due
Ethiopia	Second	29 July 2014	Not yet due
Finland	Sixth	1 November 2009	8 August 2011
France	Fifth	31 July 2012	3 August 2012

State party	*Type of report*	*Date due*	*Date of submission*
Gabon	Third	31 October 2003	Not yet received
Gambia	Second	21 June 1985	Not yet received[j]
Georgia	Fourth	1 November 2011	25 June 2012
Germany[k]	Seventh	2 November 2018	Not yet due
Ghana	Initial	8 February 2001	Not yet received
Greece	Second	1 April 2009	Not yet received
Grenada	Initial	6 September 1991	Not yet received[l]
Guatemala	Fourth	30 March 2016	Not yet due
Guinea	Third	30 September 1994	Not yet received
Guinea-Bissau	Initial	1 February 2012	Not yet received
Guyana	Third	31 March 2003	Not yet received
Haiti	Initial	30 December 1996	3 December 2012
Honduras	Second	31 October 2010	Not yet received
Hong Kong, China[m]	Fourth (China)	30 March 2018	Not yet due
Hungary	Sixth	29 October 2014	Not yet due
Iceland	Sixth	30 July 2018	Not yet due
India	Fourth	31 December 2001	Not yet received
Indonesia	Initial	23 May 2007	19 January 2012
Iran (Islamic Republic of)	Fourth	2 November 2014	Not yet due
Iraq	Fifth	4 April 2000	Not yet received
Ireland	Fourth	31 July 2012	25 July 2012
Israel	Fourth	30 July 2013	Not yet due[n]
Italy	Sixth	31 October 2009	Not yet received
Jamaica	Fourth	2 November 2014	Not yet due
Japan	Sixth	29 October 2011	26 April 2012
Jordan	Fifth	29 October 2014	Not yet due
Kazakhstan	Second	29 July 2014	Not yet due
Kenya	Fourth	30 July 2015	Not yet due
Kuwait	Third	2 November 2014	Not yet due
Kyrgyzstan	Second	31 July 2004	3 April 2012

State party	*Type of report*	*Date due*	*Date of submission*
Lao People's Democratic Republic	Initial	25 December 2010	Not yet received
Latvia	Third	1 November 2008	23 May 2012
Lebanon	Third	31 December 1999	Not yet received
Lesotho	Second	30 April 2002	Not yet received
Liberia	Initial	22 December 2005	Not yet received
Libya	Fifth	30 October 2010	Not yet received[o]
Liechtenstein	Second	1 September 2009	Not yet received
Lithuania	Fourth	30 July 2017	Not yet due
Luxembourg	Fourth	1 April 2008	Not yet received
Macao, China[m]	Second (China)	30 March 2018	Not yet due
Madagascar	Fourth	23 March 2011	Not yet received
Malawi	Initial	21 March 1995	3 April 2012[p]
Maldives	Second	30 July 2015	Not yet due
Mali	Third	1 April 2005	Not yet received
Malta	Second	12 December 1996	24 July 2012
Mauritania	Initial	17 February 2006	9 February 2012
Mauritius	Fifth	1 April 2010	Not yet received
Mexico	Sixth	30 March 2014	Not yet due
Monaco[q]	Third	28 October 2013	Not yet due
Mongolia	Sixth	1 April 2015	Not yet due
Montenegro[r]	Initial	23 October 2007	4 October 2012
Morocco	Sixth	1 November 2008	Not yet received
Mozambique[s]	Initial	20 October 1994	14 February 2012
Namibia	Second	1 August 2008	Not yet received
Nepal	Second	13 August 1997	21 February 2012
Netherlands (including Antilles and Aruba)	Fifth	31 July 2014	Not yet due
New Zealand[t]	Sixth	30 March 2015	Not yet due
Nicaragua	Fourth	29 October 2012	Not yet received
Niger	Second	31 March 1994	Not yet received

State party	*Type of report*	*Date due*	*Date of submission*
Nigeria	Second	28 October 1999	Not yet received
Norway[u]	Seventh	2 November 2016	Not yet due
Pakistan	Initial	23 September 2011	Not yet received
Panama	Fourth	31 March 2012	Not yet received
Papua New Guinea	Initial	21 October 2009	Not yet received
Paraguay	Fourth	30 March 2017	Not yet due
Peru	Sixth	30 March 2018	Not yet due
Philippines	Fifth	2 November 2016	Not yet due
Poland	Seventh	29 October 2015	Not yet due
Portugal	Fourth	1 August 2008	10 January 2011
Republic of Korea	Fourth	2 November 2010	Not yet received
Republic of Moldova[v]	Third	30 October 2013	Not yet due
Romania	Fifth	28 April 1999	Not yet received
Russian Federation	Seventh	1 November 2012	22 November 2012
Rwanda	Fourth	10 April 2013	Not yet due
Saint Vincent and the Grenadines	Second	31 October 1991	Not yet received[w]
Samoa	Initial	15 May 2009	Not yet received
San Marino	Third	31 July 2013	Not yet due[x]
Senegal	Fifth	4 April 2000	Not yet received
Serbia	Third	1 April 2015	Not yet due
Seychelles	Initial	4 August 1993	Not yet received[y]
Sierra Leone	Initial	22 November 1997	1 March 2013
Slovakia	Fourth	1 April 2015	Not yet due
Slovenia	Third	1 August 2010	Not yet received
Somalia	Initial	23 April 1991	Not yet received
South Africa	Initial	9 March 2000	Not yet received
Spain	Sixth	1 November 2012	27 December 2012
Sri Lanka	Fifth	1 November 2007	29 October 2012
Sudan	Fourth	26 July 2010	21 September 2012
Suriname	Third	1 April 2008	Not yet received

State party	*Type of report*	*Date due*	*Date of submission*
Swaziland	Initial	27 June 2005	Not yet received[z]
Sweden	Seventh	1 April 2014	Not yet due
Switzerland	Fourth	1 November 2015	Not yet due
Syrian Arab Republic	Fourth	1 August 2009	Not yet received[o]
Tajikistan	Second	31 July 2008	25 August 2011
Thailand	Second	1 August 2009	Not yet received
The former Yugoslav Republic of Macedonia	Third	1 April 2012	Not yet received
Timor-Leste	Initial	19 December 2004	Not yet received
Togo	Fifth	1 April 2015	Not yet due
Trinidad and Tobago	Fifth	31 October 2003	Not yet received
Tunisia	Sixth	31 March 2012	Not yet received
Turkey	Second	2 November 2016	Not yet received
Turkmenistan	Second	30 March 2015	Not yet due
Uganda	Second	1 April 2008	Not yet received
Ukraine	Seventh	2 November 2011	5 July 2011
United Kingdom of Great Britain and Northern Ireland	Seventh	31 July 2012	29 December 2012
United Kingdom of Great Britain and Northern Ireland (Overseas territories)	Seventh	31 July 2012	29 December 2012
United Republic of Tanzania	Fifth	1 August 2013	Not yet due
United States of America	Fourth	1 August 2010	31 December 2011
Uruguay[aa]	Fifth	21 March 2003	21 December 2012
Uzbekistan	Fourth	30 March 2013	Not yet due
Vanuatu	Initial	21 February 2010	Not yet received
Venezuela (Bolivarian Republic of)	Fourth	1 April 2005	18 December 2012
Viet Nam	Third	1 August 2004	Not yet received
Yemen	Sixth	30 March 2015	Not yet due
Zambia	Fourth	20 July 2011	Not yet received
Zimbabwe	Second	1 June 2002	Not yet received

[a] On 12 May 2011, Afghanistan accepted the new optional procedure on focused reports based on replies to the list of issues prior to reporting. In July 2012, during its 105th session, the Committee adopted a list of issues prior to reporting and sent it to the State party for a response by 31 October 2013. The State party's response will be considered its third periodic report.

[b] On 10 March 2011, Australia accepted to be considered in a future session under the optional procedure of focused reports based on replies to list of issues prior to reporting. During the 106th session, the Committee adopted list of issues prior to reporting on Australia with a deadline of 1 April 2013 for the State party's responses, which will be considered its sixth periodic report.

[c] On 2 February 2011, Cameroon accepted to be considered in a future session under the optional procedure of focused reports based on replies to list of issues prior to reporting. During the 103th session, the Committee adopted list of issues prior to reporting on Cameroon with a deadline of 30 July 2013 for the State party's responses, which will be considered its fifth periodic report.

[d] The Committee considered the situation of civil and political rights in Cape Verde at its 104th session.

[e] On 6 April 2011, Croatia accepted to be considered in a future session under the optional procedure of focused reports based on replies to list of issues prior to reporting. During the 105th session, the Committee adopted list of issues prior to reporting on Croatia with a deadline of 30 October 2013 for the State party's responses, which will be considered its third periodic report.

[f] On 2 March 2011, Denmark accepted to be considered in a future session under the optional procedure of focused reports based on replies to list of issues prior to reporting. During the 103rd session, the Committee adopted list of issues prior to reporting on Denmark with a deadline of 31 October 2013 for the State party's responses, which will be considered its sixth periodic report.

[g] The Committee scheduled Dominica for examination under article 70 of its rules of procedure, in the absence of a report, during its 102nd session in July 2011, but the examination was later postponed.

[h] On 1 March 2013, Ecuador informed the Committee that it wished to subscribe to the new optional reporting procedure and requested the Committee to draft a list of issues prior to reporting.

[i] The Committee considered the situation of civil and political rights in Equatorial Guinea under article 70 of its rules of procedure, in the absence of a report, at its seventy-ninth session (October, 2003).

[j] The Committee considered the situation of civil and political rights in the Gambia under article 70 of its rules of procedure, in the absence of a report, at its seventy-fifth session (July, 2002).

[k] On 28 March 2013, Germany informed the Committee that it wished to subscribe to the new optional reporting procedure and requested the Committee to draft a list of issues prior to reporting.

[l] The Committee considered the situation of civil and political rights in Grenada under article 70 of its rules of procedure, in the absence of a report, at its ninetieth session (July, 2007).

[m] Although China is not itself a party to the Covenant, the Government of China has honoured the obligations under article 40 with respect to Hong Kong, China and Macao, China, which were previously under British and Portuguese administration, respectively.

[n] On 9 May 2011, Israel accepted to be considered in a future session under the optional procedure of focused reports based on replies to list of issues prior to reporting. During the 105th session, the Committee adopted list of issues prior to reporting on Israel with a deadline of 30 July 2013 for the State party's responses, which will be considered its fourth periodic report.

[o] During its 101st and 102nd sessions, the Committee decided to send letters of reminder to the Libyan Arab Jamahiriya, and to the Syrian Arab Republic, respectively, for their periodic reports.

[p] The Committee considered the situation of civil and political rights in Malawi at its 103rd session, in the absence of a report (rule 70 of its rules of procedure). See chapter III, para. 97, of the present report. The report was subsequently provided.

[q] On 5 January 2011, Monaco accepted to be considered in a future session under the optional procedure of focused reports based on replies to list of issues prior to reporting. During the 103rd session, the Committee adopted list of issues prior to reporting on Cameroon with a deadline of 28 October 2013 for the State party's responses, which will be considered its third periodic report.

[r] Montenegro was admitted to membership in the United Nations by General Assembly resolution 60/264 of 28 June 2006. On 23 October 2006, the Secretary-General received a letter, dated 10 October 2006, from the Government of Montenegro, together with a list of multilateral treaties deposited with the Secretary-General, informing him that:

- The Government of the Republic of Montenegro had decided to succeed to the treaties to which the State Union of Serbia and Montenegro had been a party or a signatory;

- The Government of the Republic of Montenegro was succeeding to the treaties listed in the attached annex and formally undertook to fulfil the conditions set out therein as from 3 June 2006, the date on which the Republic of Montenegro had assumed responsibility for its international relations and the Parliament of Montenegro had adopted the Declaration of Independence;
- The Government of the Republic of Montenegro maintained the reservations, declarations and objections, as set out in the annex to the instrument, which had been made by Serbia and Montenegro before the Republic of Montenegro assumed responsibility for its international relations.

[s] The Committee scheduled Mozambique for examination under article 70 of its rules of procedure, in the absence of a report, during its 104th session in March 2012. See chapter III, para. 98 of the present report.

[t] On 28 January 2011, New Zealand accepted to be considered in a future session under the optional procedure of focused reports based on replies to list of issues prior to reporting.

[u] On 5 April 2013, Norway informed the Committee that it wished to subscribe to the new optional reporting procedure and requested the Committee to draft a list of issues prior to reporting.

[v] On 18 March 2011, the Republic of Moldova accepted to be considered in a future session under the optional procedure of focused reports based on replies to list of issues prior to reporting. During the 103rd session, the Committee adopted list of issues prior to reporting on the Republic of Moldova with a deadline of 30 October 2013 for the State party's responses, which will be considered its third periodic report.

[w] The Committee considered the situation of civil and political rights in Saint Vincent and the Grenadines, at its eighty-sixth session (March, 2006), in the absence of a report (rule 70 of its rules of procedure).

[x] On 23 February 2011, San Marino accepted to be considered in a future session under the optional procedure of focused reports based on replies to list of issues prior to reporting. During the 105th session, the Committee adopted list of issues prior to reporting on San Mario with a deadline of 31 July 2013 for the State party's responses, which will be considered its third periodic report.

[y] The Committee considered the situation of civil and political rights in the Seychelles at its 101st session in the absence of a report (March, 2011).

[z] During the 104th session, the Committee agreed to a request to extend the deadline for the initial report of Swaziland until the end of December 2012.

[aa] On 26 November 2010, Uruguay accepted to be considered in a future session under the optional procedure of focused reports based on replies to list of issues prior to reporting. During the 103rd session, the Committee adopted list of issues prior to reporting on Uruguay with a deadline of 5 December 2012. The State party's responses, which will be considered its fifth periodic report were received on 21 December 2012.

Annex IV

Status of reports and situations considered during the period under review, and of reports still pending before the Committee

A. Initial reports

State party	*Date due*	*Date of submission*	*Status*	*Reference documents*
Maldives	19 December 2007	17 February 2010	Considered at the 105th session.	CCPR/C/MDV/1 CCPR/C/MDV/Q/1 CCPR/C/MDV/Q/1/Add.1 CCPR/C/MDV/CO/1
Angola	9 April 1993	22 February 2010	Considered at the 107th session.	CCPR/C/AGO/1 CCPR/C/AGO/Q/1 CCPR/C/AGO/Q/1/Add.1 CCPR/C/AGO/CO/1
Turkey	16 December 2004	17 March 2011	Considered at the 106th session.	CCPR/C/TUR/1 CCPR/C/TUR/Q/1 CCPR/C/TUR/Q/1/Add.1 CCPR/C/TUR/CO/1
Macao, China	31 October 2001	11 May 2011	Considered at the 107th session.	CCPR/C/CHN-MAC/1 CCPR/C/CHN-MAC/Q/1 CCPR/C/CHN-MAC/Q/1/Add.1 CCPR/C/CHN-MAC/CO/1
Indonesia	23 May 2007	19 January 2012	In translation. Scheduled for consideration at a later session.	CCPR/C/IDN/1 CCPR/C/IDN/Q/1
Djibouti	5 February 2004	3 February 2012	In translation. Scheduled for consideration at a later session.	CCPR/C/DJI/1 CCPR/C/DJI/Q/1
Mauritania	17 February 2006	9 February 2012	In translation. Scheduled for consideration at a later session.	CCPR/C/MRT/1 CCPR/C/MRT/Q/1

State party	*Date due*	*Date of submission*	*Status*	*Reference documents*
Mozambique	20 October 1994	14 February 2012	In translation. Scheduled for consideration at a later session.	CCPR/C/MOZ/1 CCPR/C/MOZ/Q/1 CCPR/C/MOZ/Q/1/Add.1

B. Second periodic reports

State party	*Date due*	*Date of submission*	*Status*	*Reference documents*
Armenia	1 October 2001	27 April 2010	Considered during the 105th session.	CCPR/C/ARM/2 CCPR/C/ARM/Q/2 CCPR/C/ARM/Q/2/Add.1 CCPR/C/ARM/CO/2
Bosnia and Herzegovina	1 November 2010	17 November 2010	Considered during the 106th session.	CCPR/C/BIH/2 CCPR/C/BIH/Q/2 CCPR/C/BIH/Q/2/Add.1 CCPR/C/BIH/CO/2
Albania	1 November 2008	25 August 2011	In translation. Scheduled for consideration at a later session.	CCPR/C/ALB/2 CCPR/C/ALB/Q/2
Tajikistan	31 July 2008	25 August 2011	In translation. Scheduled for consideration at a later session.	CCPR/C/TJK/2 CCPR/C/TJK/Q/2
Nepal	13 August 1997	21 February 2012	In translation. Scheduled for consideration at a later session.	CCPR/C/NPL/2

C. Third periodic reports

State party	*Date due*	*Date of submission*	*Status*	*Reference documents*
Lithuania	1 April 2009	31 August 2010	Considered at the 105th session.	CCPR/C/LTU/3 CCPR/C/LTU/Q/3 CCPR/C/LTU/Q/3/Add.1 CCPR/C/LTU/CO/3
Kenya	1 April 2008	19 August 2010	Considered at the 105th session.	CCPR/C/KEN/3 CCPR/C/KEN/Q/3 CCPR/C/KEN/Q/3/Add.1 CCPR/C/KEN/CO/3

State party	*Date due*	*Date of submission*	*Status*	*Reference documents*
Paraguay	31 October 2008	31 December 2010	Considered at the 107th session.	CCPR/C/PRY/3 CCPR/C/ PRY/Q/3 CCPR/C/PRY/Q/3/Add.1 CCPR/C/PRY/CO/3
Hong Kong, China	1 January 2010	31 May 2011	Considered at the 107th session.	CCPR/C/CHN-HKG/3 CCPR/C/CHN-HKG/Q/3 CCPR/C/CHN-HKG/ Q/3/Add.1 CCPR/C/CHN-HKG/ CO/3
Bolivia (Plurinational State of)	31 December 1999	16 August 2011	In translation. Scheduled for consideration at a later session.	CCPR/C/BOL/3 CCPR/C/BOL/Q/3
Czech Republic	1 August 2011	11 October 2011	In translation. Scheduled for consideration at a later session.	CCPR/C/CZE/3 CCPR/C/CZE/Q/3

D. Fourth periodic reports

State party	*Date due*	*Date of submission*	*Status*	*Reference documents*
Philippines	1 November 2006	21 June 2010	Considered during the 106th session.	CCPR/C/PHL/4 CCPR/C/PHL/Q/4 CCPR/C/PHL/Q/4/Add.1 CCPR/C/PHL/CO/4
Portugal	1 August 2008	12 January 2011	Considered during the 106th session.	CCPR/C/PRT/4 CCPR/C/PRT/Q/4 CCPR/C/PRT/Q/4/Add.1 CCPR/C/PRT/CO/4
United States of America	1 August 2010	31 December 2011	In translation. Scheduled for consideration at a later session.	CCPR/C/USA/4 and Corr.1

E. Fifth periodic reports

State party	*Date due*	*Date of submission*	*Status*	*Reference documents*
Iceland	1 April 2010	30 April 2010	Considered at the 105th session.	CCPR/C/ISL/5 CCPR/C/ISL/Q/5 CCPR/C/ISL/Q/5/Add.1 CCPR/C/ISL/CO/5
Peru	31 October 2003	29 June 2011	Considered at the 107th session.	CCPR/C/PER/5 CCPR/C/PER/Q/5 CCPR/C/PER/Q/5/Add.1 CCPR/C/PER/CO/5

F. Sixth periodic reports

State party	*Date due*	*Date of submission*	*Status*	*Reference documents*
Germany	1 April 2009	18 April 2011	Considered at the 106th session.	CCPR/C/DEU/6 CCPR/C/DEU/Q/6 CCPR/C/DEU/Q/6/Add.1 CCPR/C/DEU/CO/6
Finland	1 November 2009	8 August 2011	In translation. Scheduled for consideration at a later session.	CCPR/C/FIN/6 CCPR/C/FIN/Q/6 CCPR/C/FIN/Q/6/Add.1

G. Seventh periodic reports

State party	*Date due*	*Date of submission*	*Status*	*Reference documents*
Ukraine	2 November 2011	5 July 2011	In translation. Scheduled for consideration at a later session.	CCPR/C/UKR/7 CCPR/C/UKR/Q/7 CCPR/C/UKR/Q/Add.1

Annex V

Table on follow-up to concluding observations*

Eighty-seventh session: July 2006

Central African Republic (second periodic report) CCPR/C/CAF/CO/2 paras. 11, 12, 13				
Status				
Due date for the follow-up report:		2007-07-27	Not submitted	Procedure discontinued: new periodic report due - no reply received from State party
Due date for the next periodic report:		2010-08-01	Not submitted	
List of issues prior to reporting (LOIPR) status		Not applicable		
History of the procedure				
28/09/2007-10/12/2007	**[HRC]** Reminders sent			
20/02/2008	**[HRC]** Request for State party meeting			
18/03/2008	**[HRC]** Request for State party meeting			
01/04/2008	**[MEET]** Meeting during ninety-second session		No responses provided.	
11/06/2008-22/09/2008	**[HRC]** Reminders sent			
16/12/2008	**[HRC]** Request for State party meeting			
29/05/2009	**[HRC]** Reminder sent			
02/02/2010-25/06/2010	**[HRC]** Request for State party meeting and reminder			
28/09/2010	**[HRC]** State party invited to reply to all follow-up questions in its next periodic report			
13/10/2010	**[MEET]** Meeting during 100th session.		No reply received.	
		Recommended action: none		
United States of America (second and third periodic report) CCPR/C/USA/CO/3/Rev.1 paras. 12, 13, 14, 16, 20, 26				
Status				
Due date for the follow-up report:		27/07/2007	Submitted	Procedure discontinued: new report due
Due date for the next periodic report:		01/08/2010	Submitted	
LOIPR status		Not applicable		

* For an explanation of the system used to indicate the assessment of State responses (A, B1, B2, C1, C2, D1, D2), see chap. VII, para. 268, of the present report.

Abbreviations: EXT, information from external sources, such as NGOs; HRC, Human Rights Committee; LOIPR, list of issues prior to reporting; MEET, meeting; SP, State party.

History of the procedure					
28/09/2007	**[HRC]** Reminder sent				
01/11/2007	**[SP]** Follow-up report	Para. 12	Incomplete		[B2]
		Para. 13	Incomplete		[B2]
		Para. 14	Incomplete		[B2]
		Para. 16	Incomplete		[B2]
		Para. 20	Complete		[A]
		Para. 26	Incomplete		[B2]
11/06/2008	**[HRC]** Request for State party meeting				
10/07/2008	**[MEET]** Meeting during 93rd session				
06/05/2009	**[HRC]** Reminder sent				
15/07/2009	**[SP]** Follow-up report	Para. 12	Satisfactory in parts		[B2]
		Para. 13	Satisfactory in parts		[B2]
		Para. 14	Incomplete		[B2]
		Para. 16	Incomplete		[B2]
		Para. 26	Incomplete		[B2]
26/04/2010	**[HRC]** State party invited to reply to all COB in next periodic report	**Recommended action:** none			
United Nations Interim Administration Mission in Kosovo (UNMIK) CCPR/C/UNK/CO/1 paras. 12, 13, 18					
Status					
Due date for the follow-up report:		27/07/2007	Submitted	Procedure continues	
Due date for the next periodic report:		01/08/2010	Not submitted		
LOIPR status		Not applicable			
History of the procedure					
Apr.–Sept. 2007	**[HRC]** Reminders sent (3)				
10/12/2007	**[HRC]** Request for State party meeting				
11/03/2008	**[UNMIK]** Follow-up report	Para. 12	Incomplete		[B2]
		Para. 13	Incomplete		[B2]
		Para. 18	Incomplete		[B2]
11/06/2008	**[HRC]** Request for State party meeting				
22/07/2008	**[MEET]** Meeting during ninety-third session		Additional information provided – incomplete		N/A
07/11/2008	**[UNMIK]** Follow-up report	Para. 12	Incomplete		[B2]
		Para. 13	Incomplete		[B2]
		Para. 18	Incomplete		[B2]
03/06/2009	**[HRC]** Additional information requested				
03/06/2009	**[HRC]** Reminder sent				
12/11/2009	**[UNMIK]** Follow-up report	Para. 12	Partially implemented		[B2]
		Para. 13	Partially implemented		[B2]
		Para. 18	Partially implemented		[B2]
28/09/2010	**[HRC]** Reminder sent				
10/05/2011	**[HRC]** Reminder sent and request for meeting				

20/07/2011	**[MEET]** Meeting during 102nd session.		Agreement: UNMIK will send additional information before the October 2011 session.		
09/09/2011	**[UNMIK]** Follow-up report				
10/12/2011	**[HRC]** Letter sent to UNMIK.	The Committee takes note of the Mission's inability to implement the recommendations of the Committee and of its commitment to coordinate the elaboration of a consolidated report.			
22/12/2011	**[HRC]** Letter to Office of Legal Affairs (Mrs. O'Brien)	Requesting advice on the general status of Kosovo and on the strategy to adopt in the future to maintain the dialogue of the Committee with Kosovo.			
13/02/2012	**[UNMIK]** Reply	Para. 13	Questions not replied		D1
		Para. 18	Recommended actions still pending		B2
12/11/2012	**[HRC]** Letter reflecting the analysis of the Committee	Deadline: 1 February 2013.			
12/02/2012	**[UNMIK]** Reply				
		Recommended action: reply to be analysed at the 108th session.			
Honduras (initial report) CCPR/C/HND/CO/1 paras. 9, 10, 11, 19					
Status					
Due date for the follow-up report:		27/10/2007	Submitted	Procedure discontinued: new report due	
Due date for the next periodic report:		31/10/2010	Not submitted		
LOIPR status		Not applicable			
History of the procedure					
07/01/2007	**[SP]** Follow-up report		Answer not relevant to recommendations		[C2]
20/01/2007	**[HRC]** Additional information requested				
01/01/2008-11/06/2008	**[HRC]** Reminders sent				
22/09/2008	**[HRC]** Request for meeting				
15/10/2008	**[SP]** Follow-up report		Initial actions taken – implementation still pending		[B2]
10/12/2008	**[HRC]** Letter sent	Additional information requested on all paragraphs			
06/05/2009-27/08/2009	**[HRC]** Reminder sent				
02/02/2010-28/09/2010	**[HRC]** Request for State party meeting and reminder				
Oct. 2010	**[EXT]** CCPR Centre – CPTRT	Para. 10			
21/10/2010	**[MEET]** Meeting during 100th session.		Progress made but additional action required		[B2]
16/12/2010	**[HRC]** Letter sent	Invitation to reply to the concluding observations as a whole in next periodic report.			
		Recommended action: none			
Bosnia and Herzegovina (initial report) CCPR/C/BIH/CO/1 paras. 8, 14, 19, 23					
Status					
Due date for the follow-up report:		01/11/2007	Submitted	Procedure discontinued: new report due	
Due date for the next periodic report:		01/11/2010	Submitted		
LOIPR status		Not applicable			
History of the procedure					
21/12/2007	**[SP]** Follow-up report	Paras. 8, 14, 19, 23	All incomplete		[B2]
17/01/2008	**[HRC]** Reminder sent				
22/09/2008	**[HRC]** Request for meeting				

Oct. 2008	**[EXT]** CCPR (Helsinki Committee)	Paras. 8, 14, 19, 23		
31/10/2008	**[MEET]** Meeting during 94th session		Reply to be submitted after government approval.	
01/11/2008	**[SP]** Follow-up report	Paras. 8, 14, 19, 23	All incomplete	[B2]
04/03/2009	**[SP]** Follow-up report	Paras. 8, 14, 19, 23	All incomplete	[B2]
29/05/2009	**[HRC]** Letter sent	Additional information requested on all paragraphs		
27/08/2009-11/12/2009	**[HRC]** Reminders sent			
14/12/2009	**[SP]** Follow-up report	Para. 8	Implementation begun but not completed	[B2]
		Para. 14	Partially satisfactory	[B2]
		Para. 19	Partially satisfactory	[B2]
		Para. 23	Cooperative but incomplete	[B2]
11/12/2009	**[HRC]** Invitation to reply to the concluding observations as a whole in next periodic report			
Sept. 2010	**[EXT]** TRIAL	Para. 14	Progress made but additional action required.	
		Recommended action: none		
Ukraine (sixth report) CCPR/C/UKR/CO/6 paras. 7, 11, 14, 16				
Status				
Due date for the follow-up report:		02/11/2007	Submitted	Procedure discontinued: new report due
Due date for the next periodic report:		02/11/2011	Submitted	
LOIPR status		Not applicable		
History of the procedure				
17/01/2008	**[HRC]** Reminder sent			
19/05/2008	**[SP]** Follow-up report	Paras. 7, 11, 14, 16	All incomplete	[B2]
06/05/2008	**[HRC]** Add. info requested			
Oct. 2008	**[EXT]** CCPR Centre – UHHRU, International Renaissance Foundation, Donetsk, Vinnytsya Human Rights protection group, Kharkiv Human Rights Group	Paras. 7, 11, 14, 16		
06/05/2009	**[HRC]** Reminder sent			
28/08/2009	**[SP]** Follow-up report	Para. 7	Part incomplete, part unimplemented	[B2]
		Para. 11	Part satisfactory, part incomplete	[B2]
		Para. 14	Incomplete	[B2]
		Para. 16	Part satisfactory, part incomplete	[B2]
26/04/2010	**[HRC]** Letter sent	Requesting supplementary information and underlining unimplemented recommendations		
28/09/2010-19/04/2011	**[HRC]** Reminders sent			
10/05/2011-02/08/2011	**[HRC]** Requests for meeting	No reply		
		Recommended action: none		

Republic of Korea (third periodic report) CCPR/C/KOR/CO/3 paras. 12, 13, 18					
Status					
Due date for the follow-up report:		02/11/2007	Submitted	Procedure discontinued: new report due – no reply received from State party	
Due date for the next periodic report:		02/11/2010	Not submitted		
LOIPR status		Undecided			
History of the procedure					
17/01/2008	**[HRC]** Reminder sent				
25/02/2008	**[SP]** Follow-up report	Para. 12	Incomplete		[B2]
		Para. 13	Incomplete		[B2]
		Para. 18	Unsatisfactory		[B2]
11/06/2008	**[HRC]** Request for meeting				
21/07/2008	**[MEET]** Meeting during ninety-third session		Additional information to be provided in next periodic report		
22/07/2008	**[HRC]** Letter summarizing outstanding issues sent				
06/05/2008-27/08/2009	**[HRC]** Reminders sent				
		Recommended action: none			

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Madagascar (third periodic report) CCPR/C/MDG/CO/3 paras. 7, 24, 25					
Status					
Due date for the follow-up report:		23/03/2008	Submitted	Procedure discontinued: new periodic report due	
Due date for the next periodic report:		23/03/2011	Not submitted		
LOIPR status		Not applicable			
History of the procedure					
11/06/2008-22/09/2008	**[HRC]** Reminders sent				
16/12/2008	**[HRC]** Request for meeting				
03/03/2009	**[SP]** Follow-up report	Para. 7	Incomplete		[B2]
		Para. 24	Incomplete		[B2]
		Para. 25	Incomplete		[B2]
29/05/2009	**[HRC]** Letter sent	Additional information requested on all paragraphs			
03/09/2009-10/05/2011	**[HRC]** Reminders sent				
25/06/2010	**[HRC]** Request for meeting				
28/09/2010-10/05/2011	**[HRC]** Reminders sent				
17/05/2011	**[SP]** Follow-up report (dated 29/09/2010)				
		Recommended action: The follow-up replies should be included in the analysis of the next periodic report.			
Chile (fifth periodic report) CCPR/C/CHL/CO/5 paras. 9, 19					
Status					
Due date for the follow-up report:		26/03/2008	Submitted	Procedure discontinued: new periodic report due	
Due date for the next periodic report:		01/04/2012	Submitted		
LOIPR status		Not applicable			

History of the procedure				
11/06/2008-22/09/2008	**[HRC]** Reminders sent			
21/10/2008	**[SP]** Follow-up report	Para. 9	Incomplete on certain issues	[B2]
31/10/2008		Para. 19	Incomplete on certain issues	[B2]
10/12/2008	**[HRC]** Additional information requested			
25/03/2009	**[EXT]** CCPR Centre – Centro de Derechos Humanos, Universidad Diego Portales; Observatorio de Derechos de los Pueblos Indígenas	Paras. 9 and 19		
22/06/2009	**[HRC]** Request for meeting		Part incomplete, part unimplemented	
28/07/2009	**[MEET]** Meeting.		Add. info in preparation to be sent ASAP.	
11/12/2009-23/04/2010	**[HRC]** Reminders sent			
28/05/2010	**[SP]** Follow-up report	Para. 9	Incomplete on certain issues	[B2]
		Para. 19	Incomplete on certain issues	[B2]
16/12/2010	**[HRC]** Letter sent	Specifying additional information needed and which recommendations had not been adequately implemented		
31/01/2011	**[SP]** Letter requesting clarifications on the additional information requested.			
20/04/2011	**[HRC]** Letter clarifying the additional information requested			
05/10/2011	**[SP]** Follow-up report	Para. 9	No information on the prohibition to exercise public functions for persons responsible for human rights violations	[D1] and [B1]
		Para. 19	Follow-up discontinued on the issue	[A]
24/04/2012	**[HRC]** Letter sent	Requesting additional information on the implementation of 7 and 9. To be included in the sixth report (deadline 1st April 2012)		
		Recommended action: none		
Barbados (third periodic report) CCPR/C/BRB/CO/3 paras. 9, 12, 13				
Status				
Due date for the follow-up report:		29/03/2008	Submitted	Procedure discontinued: new report due
Due date for the next periodic report:		29/03/2011	Not submitted	
LOIPR status		Not applicable		
History of the procedure				
11/06/2008-22/09/2008	**[HRC]** Reminders sent			
16/12/2008	**[HRC]** Request for meeting			
19/03/2009	**[EXT]** CCPR Centre – BONGO; GIEACPC; IGLHRC	Paras. 9, 12 and 13		
31/03/2009	**[SP]** Meeting during 95th session. Partial reply received.	Para. 9	Part largely satisfactory, part not implemented	[B1]
		Para. 12	Not implemented	[C1]
		Para. 13	Incomplete and not implemented	[C1]
29/07/2009	**[HRC]** Letter sent	Additional information requested on all paragraphs		

23/04/2010-28/09/2010	**[HRC]** Reminders sent			
10/05/2011	**[HRC]** Letter sent	Inviting State party to include requested additional information in next periodic report.		
		Recommended action: none		

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Zambia (third periodic report) CCPR/C/ZMB/CO/3 paras. 10, 12, 13, 23				
Status				
Due date for the follow-up report:		20/07/2008	Submitted	Procedure discontinued: new report due
Due date for the next periodic report:		20/07/2011	Not submitted	
LOIPR status		Not applicable		
History of the procedure				
Sep. 2008 - May 2009	**[HRC]** Reminders sent (3)			
07/10/2009	**[HRC]** Request for meeting			
28/10/2009	**[MEET]** Meeting.		Reply in preparation to be sent as soon as possible	
09/12/2009	**[SP]** Follow-up report	Para. 10	No reply	[D1]
		Para. 12	Incomplete	[B2]
		Para. 13	Incomplete	[B2]
		Para. 23	Incomplete	[B2]
25/01/2010	**[EXT]** CCPR Centre – AWOMI; WILDAF; ZCEA	Paras. 10, 12, 13 and 23		
26/04/2010	**[HRC]** Letter sent	Additional information requested on all paragraphs		
28/09/2010	**[HRC]** Reminder sent			
28/01/2011	**[SP]** Follow-up report	Para. 10	Implementation partially initiated (10a)	[B2]
		Para. 12	Further action required	[B2]
		Para. 13	Further action required	[B2]
		Para. 23	Implementation partially initiated (23b)	[B2]
20/04/2011	**[HRC]** Letter sent	Inviting State party to include requested additional information in next periodic report.		
		Recommended action: none		
Sudan (third periodic report) CCPR/C/SDN/CO/3 paras. 9, 11, 17				
Status				
Due date for the follow-up report:		26/07/2008	Submitted	Procedure discontinued: new report due
Due date for the next periodic report:		26/07/2010	Submitted	
LOIPR status		Not applicable		
History of the procedure				
22/09/2008-19/12/2008	**[HRC]** Reminders sent			
22/06/2009-19/10/2009	**[HRC]** Requests for meeting			
19/10/2009	**[SP]** Follow-up report. Annexes have not been received.	Para. 9	Incomplete	[B2]
		Para. 11	Incomplete	[B2]
		Para. 17	Incomplete	[B2]
19/10/2009	**[HRC]** Note verbale requiring the annexes			

26/02/2010	**[HRC]** Letter sent	Inviting State party to include requested additional information in next periodic report.		
		Recommended action: none		
Czech Republic (second periodic report) CCPR/C/CZE/CO/2 paras. 9, 14, 16				
Status				
Due date for the follow-up report:		25/07/2008	Submitted	Procedure discontinued: new report due
Due date for the next periodic report:		01/08/2011	Submitted	
LOIPR status		Not applicable		
History of the procedure				
June 2008	**[EXT]** CCPR Centre – Zvule Prava; Centre on Housing Rights and Evictions; European Roma Rights Centre; Peacework Development Fund	Para. 16		
11/06/2008	**[HRC]** Reminder sent			
18/08/2008	**[SP]** Follow-up report	Para. 9	Incomplete	[B2]
		Para. 14	Incomplete	[B2]
		Para. 16	Incomplete	[B2]
10/12/2008	**[HRC]** Additional information requested.			
06/05/2009-06/10/2009	**[HRC]** Reminders sent			
Feb. 2010	**[HRC]** Request for meeting			
22/03/2010 01/07/2010	**[SP]** Follow-up report	Para. 9	Incomplete	[B2]
		Para. 14	Incomplete	[B2]
		Para. 16	Incomplete	[B2]
20/04/2011	**[HRC]** Letter sent	Considering information satisfactory on 9 (c), 14 (a), 14 (c), 16 (c), 16 (d), 16 (f). Incomplete on 9 (a), 9 (b), 16 (e). 14 (b) not implemented.		
25/11/2011	**[HRC]** Letter sent	Stating that the requested information should be included in the next periodic report.		
		Recommended action: none		

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Georgia (third periodic report) CCPR/C/GEO/CO/3 paras. 8, 9, 11				
Status				
Due date for the follow-up report:		26/10/2008	Submitted	Procedure discontinued: new report due
Due date for the next periodic report:		01/11/2011	Submitted	
LOIPR status		Not applicable		
History of the procedure				
16/12/2008	**[HRC]** Reminder sent			
13/01/2009	**[SP]** Follow-up report	Para. 8	Incomplete	[B2]
		Para. 9	Incomplete	[B2]
		Para. 11	Incomplete	[B2]
29/05/2009	**[HRC]** Additional information requested.			
27/08/2009	**[HRC]** Reminder sent			
28/10/2009	**[SP]** Follow-up report	Para. 8	Incomplete	[B2]
		Para. 9	Incomplete	[B2]
		Para. 11	Incomplete	[B2]

28/09/2010	**[HRC]** Additional information requested.				
20/04/2011-02/08/2011	**[HRC]** Reminder sent				
24/11/2011	**[HRC]** Letter sent	Stating that the requested information should be included in the next periodic report.			
		Recommended action: none			
Libya (fourth periodic report) CCPR/C/LBY/CO/4 paras. 10, 21, 23					
Status					
Due date for the follow-up report:		30/10/2008	Submitted	Procedure discontinued: new report due	
Due date for the next periodic report:		30/10/2010	Not submitted		
LOIPR status		Not applicable			
History of the procedure					
30/10/2008	**[EXT]** Alkarama for Human Rights	Paras. 21, 23			
16/12/2008-09/06/2009	**[HRC]** Reminders sent				
24/07/2009	**[SP]** Follow-up report	Para. 10	Part implemented, part incomplete		[B2]
		Para. 21	Part implemented, part incomplete		[B2]
		Para. 23	Part implemented, part incomplete		[B2]
23/04/2010	**[HRC]** Reminder sent and request for meeting.				
28/09/2010	**[HRC]** Request for meeting				
12/10/2010	**[MEET]** Meeting during 100th session		Commitment to communicate the Committee's request to the Government		
18/11/2010	**[SP]** Confirmation letter of outcome of above meeting				
05/11/2010	**[SP]** Follow-up report (hard copy) received				
18/11/2010	**[HRC]** Request for follow-up report in Word format				
10/05/2011	**[HRC]** Reminder		Indicating that periodic report was five months overdue.		
		Recommended action: none			
Austria (fourth periodic report) CCPR/C/AUT/CO/4 paras. 11, 12, 16, 17					
Status					
Due date for the follow-up report:		30/10/2008	Submitted	Procedure discontinued: answers largely satisfactory	
Due date for the next periodic report:		30/10/2012	Not submitted		
LOIPR status		Not applicable			
History of the procedure					
15/10/2008	**[SP]** Follow-up report	Para. 11	Incomplete		[B2]
		Para. 12	Incomplete		[B2]
		Para. 16	Incomplete		[B2]
		Para. 17	Incomplete		[B2]
12/12/2008	**[HRC]** Additional information requested.				
29/05/2009	**[HRC]** Reminder sent				
28/10/2009	**[SP]** Follow-up report	Para. 11	Largely satisfactory		[A]
		Para. 12	Largely satisfactory		[A]
		Para. 16	Largely satisfactory		[A]
		Para. 17	Largely satisfactory		[A]

23/07/2009	**[EXT]** CCPR Centre – asylkoordination Österreich; Integrationshaus; SOS Mitmensch			
14/12/2009	**[HRC]** Letter sent	Stating follow-up procedure considered completed		
		Recommended action: none		
Algeria (third periodic report) CCPR/C/DZA/CO/3 paras. 11, 12, 15				
Status				
Due date for the follow-up report:		01/11/2008	Submitted	Procedure discontinued: new report due
Due date for the next periodic report:		01/11/2011	Not submitted	
LOIPR status		Not applicable		
History of the procedure				
07/11/2007	**[SP]** Follow-up report	Para. 11	Partial	[B2]
		Para. 12	Partial	[B2]
		Para. 15	Partial	[B2]
30/10/2008	**[EXT]** Algeria-Watch	Paras. 11, 12		
05/11/2008	**[EXT]** Alkarama for Human Rights	Paras. 11, 12 and 15		
16/12/2008	**[HRC]** Reminder sent			
2009-01-14 2009-10-12	**[SP]** Letter	Repeating position of memorandum, requesting memo to be issued as annex to annual report		
25/06/2010	**[HRC]** Request for meeting			
27/07/2010	**[SP]** Communication that State party representatives were available for the ninety-ninth session			
28/07/2010	**[HRC]** Request for meeting			
11/10/2010	**[MEET]** Meeting during 100th session		Request transmitted to Government. No reply received	
16/12/2010	**[HRC]** Invited State party to reply to COB in next periodic report			
		Recommended action: none		

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Tunisia (fifth periodic report) CCPR/C/TUN/CO/5 paras. 11, 14, 20, 21				
Status				
Due date for the follow-up report:		28/03/2009	Submitted	Procedure continues
Due date for the next periodic report:		31/03/2012	Not submitted	
LOIPR status		Not applicable		
History of the procedure				
07/11/2007	**[SP]** Follow-up report	Para. 11	Cooperation but incomplete	[B2]
		Para. 14	Not implemented	[C1]
		Para. 20	Acknowledged but imprecise info	[B2]
		Para. 21	Acknowledged but imprecise info	[B2]
11/03/2009	**[EXT]** Alkarama for Human Rights	Paras. 11 and 20		
23/07/2009	**[EXT]** CCPR Centre/FIDH – CNLT; LTDH	Paras. 11, 14, 20, 21		

30/07/2009	**[HRC]** Letter sent	Additional information requested. Some issues not to be considered in the follow-up process, but should be dealt with in the next periodic report.		
Aug. 2009	**[EXT]** OMCT	Paras. 11, 14, 20, 21		
02/03/2010	**[SP]** Follow-up report			
04/10/2010	**[HRC]** Letter noting issues on which follow-up discontinued and specifying requested information			
20/04/2011	**[HRC]** Reminder sent informing that the next periodic report is due 31/03/2012			
20/09/2011	**[SP]** Letter	Asking to postpone the examination of Tunisia due to the January 2011 revolution.		
21/11/2011	**[HRC]** Letter sent	Acknowledging State party's request and informing that the next periodic report is now due on 31 March 2014. Follow-up reply remains pending and should be sent within a year.		
08/12/2011	**[SP]** Letter confirming that the State party periodic report will be sent by 31/3/2014			
23/11/2012	**[HRC]** Letter reminding the pending follow-up replies	Requesting the State party to send the follow-up report by 15 January 2013.		
		Recommended action: reminder		
Botswana (initial report) CCPR/C/BWA/CO/1 paras. 12, 13, 14, 17				
Status				
Due date for the follow-up report:		28/03/2009	Submitted	Procedure discontinued: next periodic report due.
Due date for the next periodic report:		31/03/2012	Not submitted	
LOIPR status		Not applicable		
History of the procedure				
08/09/2009-11/12/2009	**[HRC]** Reminder sent			
28/09/2010-19/04/2011	**[HRC]** Request for meeting			
06/07/2011	**[SP]** Positive response for meeting (via telephone)			
27/07/2011	**[MEET]** Meeting with Ambassador.		Information to be sent before the October session 2011	
05/10/2011	**[SP]** Follow-up report	Para. 12	Incomplete	[B2]
		Para. 13	Incomplete and not implemented	[B2] and [D1]
		Para. 14	Not implemented	[D1]
		Para. 17	Incomplete	[B2]
24/11/2011	**[HRC]** Letter sent	Requesting additional information in next periodic report on paras. 12, 13, 17, and stating that part of 13 and 14 have not been implemented.		
		Recommended action: none		
The former Yugoslav Republic of Macedonia (second periodic report) CCPR/C/MKD/CO/2 paras. 12, 14, 15				
Status				
Due date for the follow-up report:		03/04/2009	Submitted	Procedure discontinued: next periodic report due.
Due date for the next periodic report:		01/04/2012	Not submitted	
LOIPR status		Not applicable		

History of the procedure				
23/07/2009	**[EXT]** CCPR Centre – Helsinki Committee	Paras. 12, 14 and 15		
27/08/2009	**[HRC]** Reminder sent			
31/08/2009	**[SP]** Follow-up report	Para. 12	Incomplete	[B2]
		Para. 14	Part unimplemented, part no reply	[C1]
		Para. 15	Incomplete	[B2]
26/04/2010	**[HRC]** Letter sent	Requesting additional information on all paragraphs		
28/09/2011-20/04/2011	**[HRC]** Reminders sent			
04/06/2011	**[SP]** Follow-up report			
19/09/2011	**[HRC]** Letter sent	Requesting additional information (paras. 15 and 12) and on 14 in next periodic report and stating that no information was provided on part of para. 12.		
		Recommended action: none		
Panama (third periodic report) CCPR/C/PAN/CO/3 paras. 11, 14, 18				
Status				
Due date for the follow-up report:		03/04/2009	Not submitted	Procedure discontinued: new periodic report due. No collaboration of the State party.
Due date for the next periodic report:		01/03/2012	Not submitted	
LOIPR status		Not applicable		
History of the procedure				
27/08/2009	**[HRC]** Reminder sent			
11/12/2009	**[HRC]** Reminder sent			
23/04/2010	**[HRC]** Reminder sent			
28/09/2010	**[HRC]** Request for meeting			
19/04/2011	**[HRC]** Request for meeting			
June-July 2011	**[HRC]** Four calls to the Permanent Mission but unable to confirm State party meeting			
19/10/2011	**[HRC]** Phone call to Permanent Mission	Recalling the request for a meeting. Said they will consult with the representative and reply to the request.		
26/10/2011	**[MEET]** Meeting.		The ambassador, Mr. Navarro, indicated that the information will be provided by the Permanent Mission in the forthcoming weeks.	
24/04/2012	**[HRC]** Letter sent	Requesting additional information on the implementation of 11, 14, 18 to be included in the fourth periodic report due since 1 March 2012		
		Recommended action: none		

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France (fourth periodic report) CCPR/C/FRA/CO/4 paras. 12, 18, 20				
Status				
Due date for the follow-up report:		22/07/2009	Submitted	Procedure discontinued: new periodic report due.
Due date for the next periodic report:		31/07/2012	Not submitted	
LOIPR status		Not applicable		
History of the procedure				
20/07/2009	**[SP]** Follow-up report	Para. 12	Largely satisfactory	[A]
		Para. 18	Part incomplete	[B2]

		Para. 20	Part incomplete	[B2]
11/01/2010	**[HRC]** Additional information requested.			
09/07/2010	**[SP]** Follow-up report	Para. 12	Largely satisfactory	[A]
		Para. 18	Part incomplete	[B2]
		Para. 20	Part incomplete	[B2]
16/12/2010	**[HRC]** Letter sent	Specifying 12 as complete, additional information requested for certain issues on 18, 20		
17/01/2011	**[SP]** Clarifications requested by the State party on the request for additional information			
20/04/2011	**[HRC]** Letter sent specifying the additional information			
02/08/2011	**[HRC]** Reminder sent			
08/11/2011	**[SP]** Follow-up report	Para. 18	Incomplete.	[B2]
		Para. 20	Incomplete.	[B1]
24/04/2012	**[HRC]** Letter sent	Requesting additional information on the implementation of 18 and 20. To be included in the fifth periodic report due on 31/07/12.		
03/08/2012	**[SP]** Periodic report includes follow-up information	To be analysed in the context of the list of issue.		
		Recommended action: none		
San Marino (second periodic report) CCPR/C/SMR/CO/2 paras. 6, 7				
Status				
Due date for the follow-up report:		22/07/2009	Submitted	Procedure discontinued: answers largely satisfactory
Due date for the next periodic report:		31/07/2013	Not submitted	
LOIPR status		Accepted: adopted October 2011		
History of the procedure				
31/07/2009	**[SP]** Follow-up report	Para. 6	Largely satisfactory	[A]
		Para. 7	Largely satisfactory	[A]
09/05/2011	**[HRC]** Letter sent	Stating that replies are sufficient to consider the follow-up procedure completed.		
		Recommended action: none		
Ireland (third periodic report) CCPR/C/IRL/CO/3 paras. 11, 15, 22				
Status				
Due date for the follow-up report:		23/07/2009	Submitted	Procedure discontinued: next periodic report due.
Due date for the next periodic report:		31/07/2012	Submitted	
LOIPR status		Not applicable		
History of the procedure				
31/07/2009	**[SP]** Follow-up report	Para. 11	Incomplete	[B2]
		Para. 15	Incomplete and not implemented	[B2]
		Para. 22	Incomplete	[B2]
Aug. 2009	**[EXT]** FLAC; ICCL; IPRT	Paras. 11, 15 and 22		
04/01/2010	**[HRC]** Request additional information on 11. Follow-up procedure on 15, 22 considered completed			
21/12/2010	**[SP]** Follow-up report	Para. 11	Incomplete	[B2]
25/04/2011	**[HRC]** Letter sent requesting add. info on parts of 11.			

02/08/2011 - 17/11/2011	**[HRC]** Reminders sent				
31/01/2012	**[SP]** Reply	Para. 11	Satisfactory.		[A]
24/04/2012	**[HRC]** Letter sent	Request for additional information on 11. To be included in the fourth periodic report, due on 31 July 2012			
25/07/2012	**[SP]** Report includes follow-up information.	To be analysed in the context of the list of issues			
		Recommended action: none			
United Kingdom of Great Britain and Northern Ireland (sixth periodic report) CCPR/C/GBR/CO/6 paras. 9, 12, 14, 15					
Status					
Due date for the follow-up report:		22/07/2009	Submitted	Procedure discontinued: new periodic report submitted.	
Due date for the next periodic report:		31/07/2012	Submitted		
LOIPR status		Not applicable			
History of the procedure					
Aug. 2009	**[EXT]** British Irish Rights Watch	Paras. 3-4, 6-11, 13-18, 24-39			
07/08/2009	**[SP]** Follow-up report	Para. 9	Incomplete		[B2]
		Para. 12	Parts not replied to		[B2]
		Para. 14	Part implemented, but incomplete		[B2]
		Para. 15	Part incomplete		[B2]
24/08/2009	**[EXT]** Northern Ireland Human Rights Commission	Para. 9			
26/04/2010	**[HRC]** Request for additional information on 9, 14, 15				
28/09/2010	**[HRC]** Reminder combined with request for additional information on 12				
10/11/2010	**[SP]** Follow-up report	Paras. 9 and 12	Largely satisfactory		[A]
		Paras. 14 and 15	Incomplete, additional information required		[B2]
20/04/2011	**[HRC]** Request for additional information on 14, 15				
02/08/2011	**[HRC]** Reminder sent				
19/10/2011	**[SP]** Follow-up report	Para. 14	Incomplete		[B1]
		Para. 15	Incomplete		[B1]
27/04/2012	**[HRC]** Letter sent	Requesting additional information on the implementation of 14 and 15 to be included in the next periodic report			
31/07/2012	**[HRC]** Letter sent.	Informing that the additional information requested must be included in the next periodic report due on 31 July 2012			
		Recommended action: none			

Ninety-fourth session: October 2008

Nicaragua (third periodic report) CCPR/C/NIC/CO/3 paras. 12, 13, 17, 19				
Status				
Due date for the follow-up report:	29-10-2009	Submitted	Procedure discontinued: next periodic	

Due date for the next periodic report:		29/10/2012	Not submitted	report due. No collaboration of the State party.	
LOIPR status		Not applicable			
History of the procedure					
23/04/2010-08/10/2010	**[HRC]** Reminders sent				
20/04/2011	**[HRC]** Request for meeting				
04/05/2011	**[SP]** Positive response for meeting (via telephone). Meeting set to 18/07/2011, but no representative showed up				
02/08/2011	**[HRC]** Reminder sent expressing regret that no representative showed up and requesting new meeting.				
11/10/2011	**[SP]** Follow-up report and note verbale explaining and apologizing for their absence at the July meeting.				
10/02/2012	**[EXT]** CENIDH, OMCT, la Red de Centros, la Red de Mujeres contra la violencia, CODENI				
		Para. 12 (d), (e)	Incomplete.		[B1]
		Para. 12 (a), (b), (c)	No information provided		[D1]
		Para. 13			[B1] [C1] [D1]
		Para. 17	Reply does not provide the information requested		[C2]
		Para. 19	Incomplete		[B2]
26/04/2012	**[HRC]** Letter sent	Requesting additional information on the implementation of 12 (a)–(c) and (d)–(e), 13, 17 and 19. Deadline: 30/07/2012			
		Recommended action: letter informing of the discontinuation of the procedure and of the lack of collaboration of the State party			
Monaco (second periodic report) CCPR/CMCO/CO/2 para. 6					
Status					
Due date for the follow-up report:		28/10/2009	Submitted	Procedure discontinued: answers largely satisfactory	
Due date for the next periodic report:		28/10/2013	Not submitted		
LOIPR status		Accepted: adopted October 2011			
History of the procedure					
26/03/2010	**[SP]** Follow-up report	Para. 6	Largely satisfactory		[A]
08/10/2010	**[HRC]** Letter sent	Stating follow-up process completed and inviting State party to keep the Committee informed on developments of specific forms of violence and training of judges and officials.			
		Recommended action: none			
Denmark (fifth periodic report) CCPR/C/DNK/CO/5 paras. 8, 11					
Status					
Due date for the follow-up report:		28/10/2009	Submitted	Procedure discontinued: answers largely satisfactory	
Due date for the next periodic report:		31/10/2013	Not submitted		
LOIPR status		Accepted: adopted October 2011			

History of the procedure				
04/11/2009	**[SP]** Follow-up report	Para. 8	Incomplete	[B2]
		Para. 11	Largely satisfactory	[A]
28/01/2010	**[EXT]** CCPR Centre –The Danish Institute for Human Rights	Para. 11		
26/04/2010	**[HRC]** Letter sent	Stating follow-up procedure complete for 11, request additional information on 8		
28/09/2010-20/04/2011	**[HRC]** Reminders sent			
05/08/2011	**[SP]** Follow-up report	Para. 8	Largely satisfactory	[A]
22/11/2011	**[HRC]** Letter sent.	Informing that the follow-up procedure has come to an end and taking note of the State party acceptance of the LOIPR procedure		
		Recommended action: None		
Japan (fifth periodic report) CCPR/C/JPN/CO/5 paras. 17, 18, 19, 21				
Status				
Due date for the follow-up report:		29/10/2009	Submitted	Procedure discontinued: new report due
Due date for the next periodic report:		29/10/2011	Not submitted	
LOIPR status		Not applicable		
History of the procedure				
01/12/2009	**[EXT]** JWCHR; JLAF; KYUENKAI; League Demanding State Compensation for the Victims of the Public Order Maintenance Law	Paras. 19, 21		
21/12/2009	**[SP]** Follow-up report	Para. 17	Part unimplemented, part incomplete	[B2]
		Para. 18	Incomplete	[B2]
		Para. 19	Part implemented	[B2]
		Para. 21	Part unimplemented, part satisfactory	[B1]
22/01/2010	**[EXT]** Japan Federation of Bar Associations	§§17, 18, 19, 21		
28/09/2010	**[HRC]** Letter sent	Additional information necessary on 17,18,19, and specifying parts unimplemented in 17,19,21		
28/11/2011	**[HRC]** Letter sent	Stating that follow-up procedure has come to an end, and that the requested follow-up info should be included in the next periodic report due since 29/10/2011		
		Recommended action: none		
Spain (fifth periodic report) CCPR/C/ESP/CO/5 paras. 13, 15, 16				
Status				
Due date for the follow-up report:		30/10/2009	Submitted	Procedure discontinued: new periodic report submitted.
Due date for the next periodic report:		01/11/2012	Submitted	
LOIPR status		Not applicable		
History of the procedure				
04/02/2010	**[EXT]** CCPR Centre – BEHATOKIA	Paras. 11, 13, 14, 15, 19		
23/04/2010	**[HRC]** Reminder sent			
16/06/2010	**[SP]** Follow-up report	Para. 13	Implementation not completed	[B2]
		Para. 15	Implementation not completed	[B2]
		Para. 16	Implementation not completed	[B2]

25/04/2011	**[HRC]** Letter sent	Noting the initial implementation of 16 and requesting add. info on 13, 15.			
29/06/2011	**[SP]** Reply with additional information on paras. 13, 15, 16				
22/09/2011	**[HRC]** Letter sent	Requesting updated information to be included in next periodic report on progresses realized on para. 16, and additional information on 13; and stating that para. 15 has not been implemented.			
24/10/2011	**[SP]** Follow-up report	Para. 13	Incomplete		[B2]
		Para. 15	No information provided		[D1]
		Para. 16	Updated information should be provided in the next periodic report.		[B1]
27/04/2012	**[HRC]** Letter sent	Requesting additional information on the implementation of 13, 15,16 to be included in next periodic report			
		Recommended action: none			

Ninety-fifth session: March 2009

Australia (fifth periodic report) CCPR/C/AUS/CO/5 paras. 11, 14, 17, 23					
Status					
Due date for the follow-up report:		02/04/2010	Submitted	Procedure discontinued: LOIPR adopted at the 106th session	
Due date for the next periodic report:		01/04/2013	Not submitted		
LOIPR status		Accepted			
History of the procedure					
20/11/2009	**[EXT]** Human Rights Law Resources Centre Ltd	Paras. 9-15, 17-21, 23, 25, 27			
28/09/2010	**[HRC]** Reminder sent				
17/12/2010	**[SP]** Follow-up report	Para. 11	Implementation begun but not completed		[B2]
		Para. 14	Implementation begun but not completed		[B2]
		Para. 17	Implementation begun but not completed		[B2]
		Para. 23	Implementation begun but not completed		[A]
19/10/2011	**[HRC]** Letter sent requesting additional info on the implementation of 11, 14, 17				
03/02/2012	**[SP]** Follow-up reply	Para. 11	Not implemented		[C1]
		Para. 14	Incomplete		[B1]
		Para. 17	Incomplete		[B1]
30/04/2012	**[HRC]** Letter sent	Requesting additional info on the implementation of 11, 14, 17. To be included in the LOIPR.			
		Recommended action: none			
Rwanda (third periodic report) CCPR/C/RWA/CO/3 paras. 12, 13, 14, 17					
Status					
Due date for the follow-up report:		02/04/2010	Submitted	Procedure continues	
Due date for the next periodic report:		01/04/2013	Not submitted		
LOIPR status		Undecided			
History of the procedure					
28/09/2010	**[HRC]** Reminder sent				
21/12/2010	**[SP]** Follow-up report				
25/04/2011	**[HRC]** Letter sent	Requesting additional information on 12, 13, 14, 17			

19/10/2011	**[HRC]** English translation of letter previously sent in French (after request from State party)				
30/04/2012	**[HRC]** Reminder sent. Deadline: 20/07/2012				
		Recommended action: second reminder			
Sweden (sixth periodic report) CCPR/C/SWE/CO/6 paras. 10, 13, 16, 17					
Status					
Due date for the follow-up report:		02/04/2010	Submitted	Procedure discontinued	
Due date for the next periodic report:		01/04/2014	Not submitted		
LOIPR status		Not applicable			
History of the procedure					
18/03/2010	**[SP]** Follow-up report	Para. 10	Largely satisfactory		[A]
		Para. 13	Largely satisfactory		[A]
		Para. 16	Incomplete		[B2]
		Para. 17	Part implemented, part without response		[B2]
28/09/2010	**[HRC]** Letter sent	Stating that follow-up procedure is completed for 10, 13, requesting add. info for 13,17, highlight that 17 is not implemented			
24/10/2010	**[EXT]** CCPR Centre – Swedish Disability Federation				
20/04/2011	**[HRC]** Reminder sent				
05/08/2011	**[SP]** Follow-up report	Para. 17	Largely satisfactory		[A]
27/11/2011	**[HRC]** Letter sent.	Stating that the answers provided are largely satisfactory and the follow-up procedure has come to an end			
		Recommended action: none			

Ninety-sixth session: July 2009

United Republic of Tanzania (third periodic report) CCPR/C/RWA/CO/3 paras. 12, 13, 14, 17					
Status					
Due date for the follow-up report:		28/07/2010	Submitted	Procedure continues: no collaboration from the State party	
Due date for the next periodic report:		01/08/2013	Not submitted		
LOIPR status		Undecided			
History of the procedure					
16/12/2010-20/04/2011	**[HRC]** Reminders sent				
02/08/2011	**[HRC]** Request for meeting				
19/10/2011	**[HRC]** Phone call to Permanent Mission	Asking for reply to the request for a meeting. Said they would consult with the Representative, but that the person in charge of human rights issues is away until the end of November.			
17/11/2011	**[HRC]** Reminder sent				
21/02/2012	**[HRC]** Phone call to Permanent Mission	Checking on option for meeting. All correspondence sent back to the Permanent Mission at their request. No reply.			
02/08/2012	**[HRC]** Reminder	Underlining the lack of response from the State party to previous letter and asking for a meeting			
14/09/2012	**[HRC]** Phone calls to Permanent Mission				
09/10/2012	**[SP]** Follow-up report	Para. 11	Additional action required		[B2]
		Para. 16	Additional action required		[B2]
		Para. 20	Recommendation not implemented		[C1]

		Recommended action: letter reflecting the analysis of the Committee			
The Netherlands (fourth periodic report) CCPR/C/NLD/CO/4 paras. 7, 9, 23					
Status					
Due date for the follow-up report:		28/07/2010	Submitted	Procedure continues	
Due date for the next periodic report:		01/07/2014	Not submitted		
LOIPR status		Not applicable			
History of the procedure					
16/12/2010-20/04/2011	**[HRC]** Reminders sent				
20/07/2011	**[SP]** Phone call of Permanent Mission		Reply should be sent before October 2011 session.		
16/09/2011	**[SP]** Follow-up report	Para. 7	Not implemented		[C1]
		Para. 9	Partially satisfactory		[B2]
		Para. 23	Partially satisfactory		[B2]
21/11/2011	**[HRC]** Letter sent.	Requesting additional info on para. 9 and part of para. 23; updated information on part of para. 23; and stating that para. 7 has not been implemented			
30/04/2012	**[HRC]** Reminder sent. Deadline: 20/07/2012				
		Recommended action: second reminder			
Chad (initial report) CCPR/C/TCD/CO/1 paras. 12, 13, 14, 17					
Status					
Due date for the follow-up report:		29/07/2010	Submitted	Procedure discontinued: next periodic report due	
Due date for the next periodic report:		31/07/2012	Submitted		
LOIPR status		Not applicable			
History of the procedure					
16/12/2010-20/04/2010	**[HRC]** Reminders sent				
02/08/2011	**[HRC]** Request for meeting				
19/10/2011	**[HRC]** Phone call to the Permanent Mission	Recalling the request for a meeting. Said they will consult with the Representative and reply to the request.			
27/10/2011	**[MEET]** Meeting with State party	The First Secretary, Mr. Awada, stated that he would insist on getting the reply from Chad as soon as possible			
25/01/2012	**[SP]** Follow-up report	Para. 10	Incomplete and not implemented		[B2] - [D1]
		Para. 13	Incomplete and not implemented		[B2] - [D1]
		Para. 20	No information provided		[D1]
		Para. 32	Incomplete		[B2]
29/04/2012	**[HRC]** Letter sent	Requesting additional information on the implementation of 10, 13, 20, 32: to be included in the fourth periodic report due on 31 July 2012			
20/07/2012	**[SP]** Periodic report includes follow-up information.	To be analysed in the context of the LOI.			
		Recommended action: none			
Azerbaijan (third periodic report) CCPR/C/AZE/CO/3 paras. 9, 11, 15, 18					
Status					
Due date for the follow-up report:		30/07/2010	Submitted	Procedure continues	
Due date for the next periodic report:		01/08/2013	Not submitted		
LOIPR status		Refused			

History of the procedure					
06/07/2010	**[SP]** Follow-up report (sent to translation and received in June 2011)	Para. 9	Additional information necessary		[B2]
		Para. 11	Additional information necessary		[B2]
		Para. 15	Additional information necessary		[B2]
		Para. 18	Additional information necessary		[B2]
27/06/2011	**[EXT]** NGO report: IRFS/LES	Para. 11	C/C/C/B3/C/C		
		Para. 15	C/B3/B3/C/C/C		
30/10/2011	**[HRC]** Letter sent	Requesting additional information on all paragraphs.			
30/04/2012	**[HRC]** Reminder sent.				
31/05/2012	**[SP]** Follow-up reply	Para. 9	No reply to questions raised		[D1]
		Para. 11	No reply to questions raised		[D1]
		Para. 15	Incomplete		[B1]
		Para. 18	No reply to questions raised		[D1]
12/11/2012	**[HRC]** Letter sent	Requesting additional information to be submitted by 15 January 2013			
		Recommended action: reminder			

Ninety-seventh session: October 2009

Switzerland (third periodic report) CCPR/C/CHE/CO/3 paras. 10, 14, 18					
Status					
Due date for the follow-up report:		27/10/2010	Submitted	Procedure discontinued: replies largely satisfactory	
Due date for the next periodic report:		01/01/2015	Not submitted		
LOIPR status		Undecided			
History of the procedure					
01/11/2010	**[SP]** Follow-up report				
22/02/2011	**[EXT]** Humanrights.ch/MERS; Schweizerische Flüchtlingshilfe	Paras. 10, 14, 18			
25/04/2011	**[HRC]** Letter sent.	Stating that 18 and parts of 14 are satisfactory. Requesting additional information on 10, 14.			
30/08/2011	**[HRC]** Letter sent	Stating that the reply was not satisfactory. Request for additional information (paras. 14, 10)			
20/09/2011	**[SP]** Follow-up report	Para. 10	Largely satisfactory		[A]
		Para. 14	Largely satisfactory		[A]
27/11/2011	**[HRC]** Letter sent	Informing that the follow-up procedure has come to an end, and recalling that the next periodic report is due on 1/1/2015.			
		Recommended action: none			
Republic of Moldova (second periodic report) CCPR/C/MDA/CO/2 paras. 8, 9, 16, 18					
Status					
Due date for the follow-up report:		29/10/2010	Submitted	Procedure discontinued: adoption of LOIPR at the 103rd session.	
Due date for the next periodic report:		31/10/2013	Not submitted		
LOIPR status		Accepted: adopted October 2011			
History of the procedure					
03/12/2010	**[SP]** Follow-up report	Para. 8	Implementation begun but not completed		[B2]
		Para. 9	Implementation begun but not completed		[B2]
		Para. 16	Implementation begun but not completed		[B2]
		Para. 18	Implementation begun but not completed		[B2]

05/03/2011	**[EXT]** Legal Resources Center (LCR), La Strada, Doina Ioana Straistenau Human Rights Lawyer, Promo Lex				
06/06/2011	**[EXT]** UNCT				
19/09/2011	**[HRC]** Letter sent	Requesting additional information on para. 9 (a), 9 (b), 16, 18 (b) and stating that no information was provided on para. 8 (b) and 18 (recommendation not implemented).			
		Recommended action: reminder			
Croatia (second periodic report) CCPR/C/HRV/CO/2 paras. 5, 10, 17					
Status					
Due date for the follow-up report:		28/10/2010	Submitted	Procedure discontinued: adoption of LOIPR at the 105th session.	
Due date for the next periodic report:		30/10/2013	Not submitted		
LOIPR status		Accepted (adopted in July 2012)			
History of the procedure					
17/01/2011	**[SP]** Follow-up report	Para. 5	Part satisfactory, part incomplete		[B2]
		Para. 10	Incomplete		[B2]
		Para. 17	Incomplete		[B2]
09/05/2011	**[HRC]** Letter sent	Stating that implementation had begun but not completed. Additional information requested on 5, 10. Initial information requested on 17.			
14/06/2011	**[SP]** Follow-up report	Para. 5	Incomplete		
		Para. 10	10 (c) largely satisfactory, 10 (a) and (b) incomplete		[A]/[B2]
		Para. 17	Not implemented		[C1]
21/11/2011	**[HRC]** Letter sent	Reflecting the analysis of the Committee			
31/07/2012	**[HRC]** Letter sent	Informing that the follow-up questions pending reply by State party have been included in the LOIPR			
		Recommended action: none			
Russian Federation (sixth periodic report) CCPR/C/RUS/CO/6 and Corr.1 paras. 13, 14, 16, 17					
Status					
Due date for the follow-up report:		28/10/2010	Submitted	Procedure discontinued: new report submitted.	
Due date for the next periodic report:		01/11/2012	Submitted		
LOIPR status		Not applicable			
History of the procedure					
22/10/2010	**[SP]** Follow-up report	Para. 13	Not implemented		[C1]
		Para. 14	Not implemented		[C1]
		Para. 16	Not implemented		[C1]
		Para. 17	Not implemented		[C1]
01/03/2011	**[EXT]** CCPR Centre – Memorial; AGORA; International Youth Human Rights Movement; Civil Assistance	Paras. 14, 16, 17			
Feb. 2011	**[EXT]** Amnesty International	Paras. 13, 14, 16			
19/10/2011	**[HRC]** Letter sent	Requesting additional information on para. 13, 14, 16			
30/04/2012	**[HRC]** Reminder sent. Deadline: 20/07/2012				
07/02/2013	**[SP]** Reply to the Committee	Informing that the replies to Follow-up questions are in the 7th Periodic Report.			
		Recommended action: none			

Ecuador (fifth and sixth periodic reports) CCPR/C/ECU/CO/5 paras. 9, 13, 19					
Status					
Due date for the follow-up report:		29/10/2010	Submitted	Procedure continues	
Due date for the next periodic report:		30/10/2013	Not submitted		
LOIPR status		Undecided			
History of the procedure					
10/05/2011	**[HRC]** Reminder sent				
31/05/2011	**[SP]** Follow-up report	Para. 9	Incomplete		[B2]
		Para. 13	Incomplete		[B2]
		Para. 19	Incomplete		[B2]
20/09/2011	**[EXT]** CCPR Centre – Comisión Ecuménica de Derechos Humanos	Paras. 9, 13, 19			
22/11/2011	**[HRC]** Letter sent	Requesting additional information on paras. 9, 19 and 13			
30/04/2012	**[HRC]** Reminder sent. Deadline: 30/07/2012				
14/11/2012	**[HRC]** Second reminder sent. Deadline: 15/1/2013				
		Recommended action: request for a meeting			

Ninety-eighth session: March 2010

New Zealand (fifth report) CCPR/C/NZL/CO/5 paras. 12, 14, 19					
Status					
Due date for the follow-up report:		25/03/2010	Submitted	Procedure discontinued: LOIPR to be adopted at the 106th session (postponed to March 2014)	
Due date for the next periodic report:		30/03/2015	Not submitted		
LOIPR status		Accepted			
History of the procedure					
19/04/2011	**[SP]** Follow-up report				
02/08/2011	**[HRC]** Reminder sent				
11/04/2011	**[SP]** Follow-up report (not received until August 2011)	Para. 12	Incomplete		[B2]
		Para. 14	Incomplete		[B2]
		Para. 19	Incomplete		[B2]
20/10/2011	**[EXT]** AIR Trust	Paras. 12, 14, 19	(19 erroneously labelled as 16)		
03/01/2012	**[HRC]** Letter sent	Requesting additional information on paras. 12, 14 and 19			
12/02/2012	**[SP]** Reply				
		Recommended action: analysis to be realized in the context of the LOIPR			
Mexico (fifth periodic report) CCPR/C/MEX/CO/5 paras. 8, 9, 15, 20					
Status					
Due date for the follow-up report:		23/03/2011	Submitted	Procedure continues	
Due date for the next periodic report:		30/03/2014	Not submitted		
LOIPR status		Undecided			
History of the procedure					
21/03/2011	**[SP]** Follow-up report	Para. 8	Largely satisfactory		[A]
		Para. 9	Largely satisfactory		[A]
		Para. 15	Incomplete		[B2]
		Para. 20	Incomplete		[B2]

22/09/2011	**[HRC]** Letter sent	Requesting additional information on 15, 20, and updated information requested in next periodic report on 8, 9			
30/04/2012	**[HRC]** Reminder sent. Deadline: 30/07/2012				
30/07/2012	**[SP]** Follow-up reply	Para. 15	Recommendation not implemented		[C1]
		Para. 20	Additional action required		[B2]
		Recommended action: letter reflecting the analysis of the Committee			
Argentina (fourth periodic report) CCPR/C/ARG/CO/4 paras. 17, 18, 25					
Status					
Due date for the follow-up report:		23/03/2011	Submitted	Procedure continues	
Due date for the next periodic report:		30/03/2014	Not submitted		
LOIPR status		Undecided			
History of the procedure					
24/05/2011	**[SP]** Follow-up report	Para. 18	Incomplete		[B2]
		Para. 25	Incomplete		[B2]
29/06/2011	**[EXT]** Comisión por la Memoria de la Provincia de Buenos Aires	Paras. 17, 18			
30/06/2011	**[EXT]** CELS	Paras. 17, 18, 25			
18/07/2011	**[EXT]** Ministry of Justice and Human Rights, Mendoza Province				
22/09/2011	**[HRC]** Letter sent	Requesting additional information on paras. 17, 18, 25			
30/04/2012	**[HRC]** Reminder sent. Deadline: 30/07/2012				
		Recommended action: second reminder			
Uzbekistan (third periodic report) CCPR/C/UZB/CO/3 paras. 8, 11, 14, 24					
Status					
Due date for the follow-up report:		24/03/2011	Submitted	Procedure continues	
Due date for the next periodic report:		30/03/2013	Not submitted		
LOIPR status		Refused			
History of the procedure					
02/08/2011 - 17/9/2011	**[HRC]** Reminders sent				
01/02/2012	**[SP]** Reply received	Para. 8	Incomplete, no information provided		[B2] [D1]
		Para. 11	Incomplete, not implemented		(a) (b) (c) [B2] (d) [B1] (e) [C1] (f) [B1]
		Para. 14	Not implemented		[C1]
		Para. 24	Relevant information not provided		[D1]
13/11/2012	**[HRC]** Letter sent.	Reflecting the analysis of the Committee and requesting additional information. Deadline: 15/03/2013.			
11/02/2013	**[SP]** Second follow-up reply				
		Action taken: second follow-up reply sent to translation			

Ninety-ninth session: July 2010

Cameroon (fourth report) CCPR/C/CMR/CO/4 paras. 8, 17, 18					
Status					
Due date for the follow-up report:		29/07/2011	Not submitted	Procedure discontinued. LOIPR adopted at the 103rd session.	
Due date for the next periodic report:		30/07/2013	Not submitted		
LOIPR status		Accepted: Adopted October 2011			
History of the procedure					
28/11/2011	**[HRC]** Letter sent	Informing that, in the absence of a reply to follow-up questions, the Committee will maintain them in the LOIPR.			[D1]
24/01/2013	**[SP]** Follow-up report	Analysis to be realized in the context of the examination to the replies to the LOIPR.			
		Recommended action: none			
Colombia (sixth periodic report) CCPR/C/COL/CO/6 paras. 9, 14, 16					
Status					
Due date for the follow-up report:		28/07/2011	Submitted	Procedure continues	
Due date for the next periodic report:		01/04/2014	Not submitted		
LOIPR status		Undecided			
History of the procedure					
08/08/2011	**[SP]** Follow-up report				
18/09/2011	**[MEET]** Meeting	Meeting of the Secretariat with the Comisión Colombiana de Juristas			
22/09/2011	**[EXT]** Comisión Colombiana de Juristas	Paras. 9, 14, 16			
		Para. 9	Not implemented		[C1]
		Para. 14	Incomplete and part not implemented		[B2] and [D1]
		Para. 16	Incomplete		[B2]
30/04/2012	**[HRC]** Letter sent	Requesting additional information on the implementation of 9, 14 and 16. Deadline: 30/07/2012			
27/08/2012	**[SP]** Second follow-up reply	Para. 9	Updated information to be included in the next periodic report		[B2]
		Para. 14	The adopted reform is contrary to the recommendation and no information is provided on the security of witnesses		[E] and [D1]
		Para. 16	Actions remain necessary		[B2]
		Recommended action: letter reflecting analysis of the Committee			
Estonia (third periodic report) CCPR/C/EST/CO/3 paras. 5, 6					
Status					
Due date for the follow-up report:		27/07/2011	Submitted	Procedure continues	
Due date for the next periodic report:		30/07/2015	Not submitted		
LOIPR status		Undecided			
History of the procedure					
12/08/2011	**[SP]** Follow-up report	Para. 5	Incomplete		[B2]
		Para. 6	Incomplete		[B2]
05/10/2011	**[EXT]** Legal Information Centre for Human Rights	Paras. 5, 6			
29/11/2011	**[HRC]** Letter sent	Requesting additional information on paras. 5–6			
20/01/2012	**[SP]** Follow-up reply	Para. 5	Incomplete		[B2]
		Para. 6	Incomplete		[B2]

27/04/2012	**[HRC]** Letter sent	Requesting additional information on the implementation of 5 and 6			
		Recommended action: reminder			
Israel (third periodic report) CCPR/C/ISR/CO/3 paras. 8, 11, 22, 24					
Status					
Due date for the follow-up report:		29/07/2011	Submitted	Procedure discontinued: adoption of LOIPR at 105th session.	
Due date for the next periodic report:		30/07/2013	Not submitted		
LOIPR status		Accepted			
History of the procedure					
01/08/2011	**[EXT]** Defence for Children International	Para. 22			
26/08/2011	**[EXT]** BADIL	Paras. 8, 24			
30/08/2011	**[EXT]** CCPR Centre – Negev Coexistence Forum for Civil Equality	Para. 24			
31/08/2011	**[EXT]** CCPR Centre – Adalah	Paras. 8, 11, 22, 24			
31/10/2011	**[SP]** Follow-up reply	Para. 8	Not implemented and incomplete		[C1] [B2]
		Para. 11	Reply does not provide the information requested		[C2] [C2]
		Para. 22	Incomplete, reply does not provide the information requested, not implemented		(a) [B2] (b) [C2] (c) [B2] (d) [C1]
		Para. 24	Reply does not provide the information requested		[C2] [C2]
31/07/2012	**[HRC]** Letter sent	Letter reflecting the analysis of the Committee. The requested information should be provided in the next periodic report (questions included in the LOIPR).			
		Recommended action: none			

100th session: October 2010

El Salvador (sixth periodic report) CCPR/C/SLV/CO/6 paras. 5, 10, 14, 15					
Status					
Due date for the follow-up report:		27/10/2011	Not submitted	Procedure continues	
Due date for the next periodic report:		01/07/2014	Not submitted		
LOIPR status		Undecided			
History of the procedure					
30/04/2012	**[HRC]** Reminder sent. Deadline: 30/07/2012				
		Recommended action: second reminder			
Poland (sixth periodic report) CCPR/C/POL/CO/6 paras. 10, 12, 18					
Status					
Due date for the follow-up report:		26/10/2011	Submitted	Procedure continues	
Due date for the next periodic report:		26/10/2015	Not submitted		
LOIPR status		Accepted			
History of the procedure					
15/02/2012	**[EXT]** NGO report: Helsinki Foundation for Human Rights/CCPR Centre	Para. 10	[B2] [B1] [B1]		
		Para. 12	[C] [C] [C] [C]		
		Para. 18	[C] [C]		

03/04/2012	**[SP]** Follow-up report	Para. 10	Incomplete		[B1]
		Para. 12	Not implemented		[C1]
		Para. 18	Not implemented		[C1]
12/11/2012	**[HRC]** Letter reflecting the analysis of the Committee	Deadline: 15/03/2013			
		Recommended action: none			
Belgium (fifth periodic report) CCPR/C/BEL/CO/5 paras. 14, 17, 21					
Status					
Due date for the follow-up report:		26/10/2011	Submitted	Procedure continues	
Due date for the next periodic report:		31/10/2015	Submitted		
LOIPR status		Undecided			
History of the procedure					
18/11/2011	**[SP]** Follow-up report	Para. 14	Incomplete. Satisfactory on the outcome of investigation on complaints following the October 2010 manifestations		[B1] - [A]
		Para. 17	Incomplete		[B2]
		Para. 21	Incomplete		[B1]
29/04/2012	**[HRC]** Letter sent	Requesting additional information on the implementation of 14, 17 and 21. Deadline: 30/07/2012			
23/07/2012	**[SP]** Follow-up reply	Para. 14	Additional information remains necessary		[B1]
		Para. 17	Additional information remains necessary		[B1]
		Para. 21	Additional information remains necessary		[B1]
10/09/2012	**[EXT]** NGO report: FIDH-CCPR Centre	Para. 14, 17, 21	No measures were adopted by the State party to implement the recommendations		[C]
		Recommended action: letter reflecting the analysis of the Committee			
Jordan (fourth periodic report) CCPR/C/JOR/CO/4 paras. 5, 11, 12					
Status					
Due date for the follow-up report:		27/10/2011	Not submitted	Procedure continues	
Due date for the next periodic report:		27/10/2014	Not submitted		
LOIPR status		Undecided			
History of the procedure					
28/02/2011	**[EXT]** NGO report: Amman Centre for Human Rights Studies	Para. 5	[C]		
		Para. 11	[B2]		
		Para. 12	[B2]		
30/04/2012	**[HRC]** Reminder sent.	Deadline: 20 July 2012.			
		Recommended action: second reminder			
Hungary (fifth periodic report) CCPR/C/HUN/CO/5 paras. 6, 15, 18					
Status					
Due date for the follow-up report:		27/10/2011	Not submitted	Procedure continues	
Due date for the next periodic report:		29/10/2014	Not submitted		
LOIPR status		Undecided			
History of the procedure					
30/04/2012	**[HRC]** Reminder sent. Deadline: 20/07/2012				

Jan. 2012	**[EXT]** Hungarian Liberties Union	Paras. 6, 15			[B1]
		Para. 18			[B2] and [C]
15/08/2012	**[SP]** Follow-up report	Para. 6	Additional information remains necessary		[B1]
		Para. 15	Additional action necessary and no information provided on the expulsion of Afghans and Somalians		[B2] and [D1]
		Para. 18	Additional action necessary		[B2]
		Recommended action: letter reflecting the analysis of the Committee			

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Serbia (second periodic report) CCPR/C/SRB/CO/2 paras. 12, 17, 22					
Status					
Due date for the follow-up report:		29/03/2012	Not submitted	Procedure continues	
Due date for the next periodic report:		01/04/2015	Not submitted		
LOIPR status		Undecided			
History of the procedure					
30/04/2012	**[HRC]** Reminder sent. Deadline: 20/07/2012				
25/07/2012	**[SP]** Follow-up report	Para. 12	Additional action necessary and no information provided on the compensations awarded to victims' relatives.		[B2] and [D1]
		Para. 17	Additional action required.		[B2]
		Para. 22	Additional action required.		[B2]
01/05/2012	**[EXT]** Belgrade Center for Human Rights	Para. 12			[B1]
		Para. 17			[B2] and [B1]
		Para. 22			[B2] and [B1]
		Recommended action: letter reflecting the analysis of the Committee			
Slovakia (third periodic report) CCPR/C/SVK/CO/3 paras. 7, 8, 13					
Status					
Due date for the follow-up report:		28/03/2012	Submitted	Procedure continues	
Due date for the next periodic report:		01/04/2015	Not submitted		
LOIPR status		Undecided			
History of the procedure					
30/04/2012	**[HRC]** Reminder sent				
28/03/2012	**[SP]** Follow-up report	Para. 7	Recommendation not implemented		[C1]
		Para. 8	Incomplete		[B2]
		Para. 13	Recommendation not implemented		[C1]
12/11/2012	**[HRC]** Letter reflecting the analysis of the Committee	Deadline: 15/03/2013			
		Recommended action: none			
Mongolia (fifth periodic report) CCPR/C/MNG/CO/5 paras. 5, 12, 17					
Status					
Due date for the follow-up report:		30/03/2012	Submitted	Procedure continues	
Due date for the next periodic report:		01/04/2015	Not submitted		
LOIPR status		Undecided			

History of the procedure					
01/01/2012	**[EXT]** NGO report: CHRD/Globe International	Para. 5	B2/C		
		Para. 12	C		
		Para. 17	B1/B1/B2		
30/04/2012	**[HRC]** Reminder sent				
21/05/2012	**[SP]** Follow-up reply	Para. 5	Incomplete, and information not provided		[B2] [D1]
		Para. 12	Incomplete, and information not provided		[B2] [D1]
		Para. 17	Implemented. But lack of info on investigation of corruption cases		[A] [D1]
12/11/2012	**[HRC]** Follow-up letter	Additional information requested on paras. 5, 12, 17. Deadline: 15 March 2013			
		Recommended action: none			
Togo (fourth periodic report) CCPR/C/TGO/CO/4 paras. 10, 15, 16					
Status					
Due date for the follow-up report:		28/03/2012	Submitted	Procedure continues	
Due date for the next periodic report:		01/04/2015	Not submitted		
LOIPR status		Undecided			
History of the procedure					
06/03/2012	Common report of NGO coalition	Para. 10	B2/C		
		Para. 15	B2/C		
		Para. 16	B2/C		
17/04/2012	**[SP]** Follow-up report	Para. 10	Incomplete, not implemented		[B2] [C1]
		Para. 15	Not implemented		[C1]
		Para. 16	Incomplete		[B2]
31/07/2012	**[HRC]** Letter sent.	Reflecting the analysis of the Committee and requesting meeting of the Special Rapporteur with representative of the State party			
15/10/2012	**[SP]** Complementary information from State party				
18/10/2012	**[SP-HRC]** Meeting of SR with Ambassador.	Additional information and clarifications provided on relevant issues			
30/10/2012	**[SP]** Second follow-up reply	Para. 10	Additional action required		[B2]
		Para. 15	Additional action required		[B2]
		Para. 16	Additional information remains necessary		[B1]
		Recommended action: letter reflecting the analysis of the Committee			

102nd session: July 2011

Ethiopia (initial report) CCPR/C/ETH/CO/1 paras. 16, 17, 25					
Status					
Due date for the follow-up report:		25/07/2012	Not submitted	Procedure continues	
Due date for the next periodic report:		28/07/2014	Not submitted		
LOIPR status		Not applicable			
History of the procedure					
16/11/2012	**[HRC]** Reminder sent				
		Recommended action: second reminder			

Kazakhstan (initial report) CCPR/C/KAZ/CO/1 paras. 7, 21, 25, 26					
Status					
Due date for the follow-up report:		26/07/2012	Submitted	Procedure continues	
Due date for the next periodic report:		29/07/2014	Not submitted		
LOIPR status		Not applicable			
History of the procedure					
27/07/2012	**[SP]** Follow-up report	Para. 7			[B2]
		Para. 21	No new measure has been adopted		[C1]
		Para. 25	No new measure has been adopted		[C1]
		Para. 26	No new measure has been adopted		[C1]
20/11/2012	**[EXT]** NGO report	Para. 7			[B2]
		Para. 21			[B2] and [C]
		Para. 25			[C]
		Para. 26			[C]
		Recommended action: letter reflecting the analysis of the Committee			
Bulgaria (third periodic report) CCPR/C/BGR/CO/3 paras. 8, 11, 21					
Status					
Due date for the follow-up report:		25/07/2012	Submitted	Procedure continues	
Due date for the next periodic report:		29/07/2015	Not submitted		
LOIPR status		Not applicable			
History of the procedure					
16/11/2012	**[HRC]** Reminder sent				
04/02/2013	**[SP]** Follow-up report				
		Recommended action: to be analysed at the 108th session			

103rd session: October 2011

Kuwait (second periodic report) CCPR/C/KWT/CO/2 paras. 18, 19, 25					
Status					
Due date for the follow-up report:		02/11/2012	Submitted	Procedure continues	
Due date for the net periodic report:		02/11/2014	Not submitted		
LOIPR status		Not applicable			
History of the procedure					
27/04/2012	**[SP]** Follow-up reply	Para. 18	Not implemented		[C2]
		Para. 19	Incomplete, not implemented		[B2] [D1]
		Para. 25	Not implemented		[C1]
12/11/2012	**[HRC]** Letter	Letter reflecting the analysis of the Committee. Deadline: 15/03/2013.			
		Recommended action: none			
Jamaica (third periodic report) CCPR/C/JAM/CO/3 paras. 8, 16, 23					
Status					
Due date for the follow-up report:		02/11/2012	Submitted	Procedure continues	
Due date for the net periodic report:		02/11/2014	Not submitted		
LOIPR status		Not applicable			
History of the procedure					
19/11/2012	**[SP]** Follow-up report	Para. 8	No measures were adopted to implement the recommendation		[C1]
		Para. 16	Additional action required. No information provided on remedies to victims of extrajudicial killings		[B2] and [D1]

		Para. 23	Additional action required		[B2]
07/12/2012-04/02/2013	**[EXT]** Jamaica FLAG, Jamaicans for Justice - CCPR Centre	Para. 8			[C]
		Para. 16			[B2]
		Para. 23			[C2]
		Recommended action: letter reflecting the analysis of the Committee			
Norway (sixth periodic report) CCPR/C/NOR/CO/6 paras. 5, 10, 12					
Status					
Due date for the follow-up report:		02/11/2012	Submitted	Procedure continues	
Due date for the net periodic report:		02/11/2016	Not submitted		
LOIPR status		Not applicable			
History of the procedure					
03/12/2012	**[SP]** Follow-up report	Para. 5	Additional action required		[B2]
		Para. 10	Additional action required		[B2]
		Para. 12	Additional action required		[B2]
20/12/2012	**[EXT]** NGO coalition	Para. 5			[B2]
		Para. 10			[B2]
		Para. 12			[B1] and [B2]
		Recommended action: letter reflecting the analysis of the Committee			
Iran (Islamic Republic of) (third periodic report) CCPR/C/IRN/CO/3 paras. 9, 12, 13, 22					
Status					
Due date for the follow-up report:		02/11/2012	Not submitted	Procedure continues	
Due date for the net periodic report:		02/11/2014	Not submitted		
LOIPR status		Not applicable			
History of the procedure					
		Recommended action: reminder			

104th session: March 2012

Dominican Republic (fifth periodic report) CCPR/C/DOM/CO/5 paras. 8, 11, 22					
Status					
Due date for the follow-up report:		30/03/2013	Not submitted	Procedure continues	
Due date for the net periodic report:		30/03/2016	Not submitted		
LOIPR status		Not applicable			
History of the procedure					
		Recommended action: reminder			
Guatemala (third periodic report) CCPR/C/GTM/CO/3 paras. 7, 21, 22					
Status					
Due date for the follow-up report:		30/03/2013	Not submitted		
Due date for the net periodic report:		30/03/2016	Not submitted		
LOIPR status		Not applicable			
History of the procedure					
		Recommended action: reminder			
Turkmenistan (initial report) CCPR/C/TKM/CO/1 paras. 9, 13, 18					
Status					
Due date for the follow-up report:		30/03/2013	Submitted	Procedure continues	
Due date for the net periodic report:		30/03/2015	Not submitted		

LOIPR status		Not applicable			
History of the procedure					
31/12/2012	Follow-up report	Sent to translation			
		Recommended action: to be analysed at the 108th session			
Yemen (fifth periodic report) CCPR/C/YEM/CO/5 paras. 7, 10, 15, 21					
Status					
Due date for the follow-up report:		30/03/2013	Not submitted	Procedure continues	
Due date for the net periodic report:		30/03/2015	Not submitted		
LOIPR status		Not applicable			
History of the procedure					
		Recommended action: reminder			

Annex VI

Decision of the Human Rights Committee to request approval from the General Assembly for additional temporary resources and meeting time in 2014 and 2015

1. At its 107th session, on 25 March 2013, the Committee reiterated its decision adopted on 30 March 2012 (annual report A/67/40) and by necessity decided to make additional requests. The Committee requests approval from the General Assembly for additional temporary resources to deal with communications under the Optional Protocol to the International Covenant on Civil and Political Rights and reports under article 40 of the Covenant.

2. The additional resources would allow the Secretariat to do preparatory work regarding 160 individual communications in 2014 and 2015, currently ready for a decision by the Committee, and to provide the Committee with the necessary assistance to review an additional four State party reports.

3. To ensure that the Committee has sufficient time to deal with the increase in the number of communications and reports, it requests additional meeting time of two weeks during the period 2014 and 2015. This would mean that one of the Committee's three-week plenary sessions would be increased by one week in 2014 and one week in 2015.

4. Pursuant to rule 27 of the Committee's rules of procedure an estimate of the cost involved in the proposal arising from the Committee's decision, as provided by the Secretary-General through the Secretariat, was circulated among the members of the Committee in March 2013. Therefore, the Committee requests the General Assembly, at its sixty-eighth session, to approve the present request and provide appropriate financial support for the Committee's resolution of its current backlog of communications and reports.

5. The present request is without prejudice to further requests for additional resources that the Committee might address to the General Assembly in the future to deal with long-term structural problems.

Annex VII

Programme budget implications of the Committee's decision

I. Requests contained in the draft decision

1. By its draft decision I, the Human Rights Committee would request the General Assembly to approve the provision of additional temporary resources and additional meeting time to deal with a backlog of communications under the Optional Protocol to the International Covenant on Civil and Political Rights and reports under article 40 of the International Covenant on Civil and Political Rights.

II. Relationship of the proposed decision to the strategic framework for the period 2014–2015 and the programme of work contained in the programme budget for the biennium 2014–2015

2. The activities to be carried out relate to Programme 1, General Assembly and Economic and Social Council affairs and conference management, Part B, Conference Services, Geneva; subprogramme 2, Supporting human rights treaty bodies, of programme 19, Human Rights; and Programme 25, Management and support services, Part B, United Nations Office at Geneva. They also fall under section 2, General Assembly and Economic and Social Council affairs and conference management; section 24, Human Rights, and section 29E, Administration, Geneva of the programme budget for the biennium 2014–2015.

3. Provisions have been included in the proposed programme budget for the biennium 2014–2015 for travel and per diem costs of the 18 members of the Committee on the Human Rights Committee to attend its three annual regular sessions of 15 working days each and, for each session, a five-day pre-session working group meeting, as well as for substantive, conference and support services to the Committee and the pre-session working group.

III. Activities by which the requests would be implemented

4. Provision of additional resources called for in the draft decision, referred to in paragraph 1 above, would allow the Committee to consider a greater number of communications and backlog cases. At present, approximately 360 cases registered under the Optional Protocol are pending consideration by the Committee. The files of 160 of those cases have been completed and are ready for consideration. With the present secretariat support the Committee considers approximately 80 cases per year, spread over three sessions. An average of 85 new cases is also registered each year for consideration by the Committee. As a result, the Committee's backlog in cases under the Optional Protocol is not diminishing and in fact growing slowly. Average time between the registration of a case and its consideration by the Committee amounts to three and a half years.

5. As to the backlog of reports, provision of additional resources called for in the draft decision, referred to in paragraph 1 above, would allow the Committee to review an additional four reports during the period in question (2014 and 2015). There is currently a

backlog of 35 reports to be considered by the Committee. From the 108th session, the Committee intends to consider 6 reports per session rather than 5. Thus, it will be moving to a consideration of 18 reports per year (6 per session) instead of 15 (5 per session). This means that it will take over two years to deal with the backlog of 35 reports. In addition, the number of reports received every year is growing and 11 reports under the optional reporting procedure are due to be submitted by States parties in 2014 and 2015, which the Committee should consider within one year of receipt.

6. In order to abolish the backlog of cases and reports, the Committee requests the General Assembly to provide it with additional resources in 2014 and 2015 in order for the Committee to decide on the 160 cases which are currently ready for consideration and to consider an extra four reports.

7. To ensure that the Committee will have sufficient time to deal with the increase in the number of communications and reports, it requests additional meeting time of two weeks during the period 2014 and 2015. This would mean that one of the Committee's three week plenary sessions would be increased by one week in 2014 and one week in 2015.

8. Should the General Assembly approve the Committee's request, additional general temporary assistance resources to deal with the cases would be required to provide annually for four P-3 positions for 12 months each and a General Service (Other Level) position for 6 months for the years 2014 and 2015. Based on experience, on average, one professional staff member would need two weeks (10 working days) to prepare a draft decision/draft views for the Committee. This entails review of incoming correspondence related to the case; legal analysis of submissions; drafting of recommendations to the Committee, taking into account the case law of the Committee as well as of other international and regional bodies; assistance to the Committee's case rapporteur; finalization of the final text of the decision/view; and follow-up as required. The preparation of 160 decisions/views in order to match the 160 cases in the backlog would thus require 320 weeks of work by professional staff, resulting in 4 P-3 positions for two years. Six months of a general service position is required annually in order to process the documents and send them for translation.

9. Additional documentation required for cases would also be required over the two-year period, comprising a total of an estimated 2,400 additional pages of pre-session, 2,400 pages in-session and 2,400 pages of post-session documentation in the working languages, respectively official languages of the Committee, spread out over the 6 sessions during 2014 and 2015.

10. Additional documentation required for reports would also be required over the two-year period, comprising a total of an estimated 4,245 additional pages of pre-session, 350 pages in-session and 595 pages of post-session documentation in the six official languages of the Committee (except the list of issues which are in the three working languages) required for the extra week in 2014 and the extra week in 2015.

IV. Estimated resource requirements

A. Conference-servicing requirements

11. It is estimated that additional conference-servicing requirements of $6,399,400 would arise under section 2, General Assembly and Economic and Social Council affairs and conference management and section 29E, Administration, Geneva. The table below provides the details of these requirements.

	Additional requirements for 2013	*Additional requirements for 2014*	***Total***
Section 2, General Assembly and Economic and Social Affairs and Conference Management			(United States dollars)
Interpretation	87 600	87 600	**175 200**
Pre-session documentation	913 100	913 100	**1 826 200**
In-session documentation	698 200	698 200	**1 396 400**
Summary records	17 600	17 600	**35 200**
Post-session documentation	1 472 300	1 472 300	**2 944 600**
Other conference services	6 200	6 200	**12 400**
Total Section 2	**3 195 000**	**3 195 000**	**6 390 000**
Section 29E, Administration, Geneva			
Support service requirements	4 700	4 700	**9 400**
Total Section 29E	**4 700**	**4 700**	**9 400**
Total	**3 199 700**	**3 199 700**	**6 399 400**

B. Non-conference-servicing requirements

Section 24, Human rights

12. It is also estimated that a provision of $1,578,400 for general temporary assistance, equivalent to 96 work months at the P-3 level and for 12 work months at a general service (Other) level, and daily subsistence allowance (DSA) for one week per year for 18 members of the Committee estimated at $140,400 would be also required under section 24, Human rights of the programme budget for the biennium 2014–2015.

13. In addition, an amount of $85,200 per year would be required under section 37, Staff assessment, to be offset by an equivalent amount under income section 1, Income from staff assessment.

	Additional requirements for 2013	*Additional requirements for 2014*	***Total***
Section 24, Human rights			(United States dollars)
GTA: 4 P-3 for 12 months each per year	721 000	721 000	**1 442 000**
GTA I GSOL for 3 months per year	68 200	68 200	**136 400**
DSA for 18 members for one week per year	70 200	70 200	**140 400**
Total Section 24	**859 400**	**859 400**	**1 718 800**
Section 2, General Assembly and Economic and Social Council affairs and conference management	3 195 000	3 195 000	**6 390 000**
Total Section 2	**3 195 000**	**3 195 000**	**6 390 000**

	Additional requirements for 2013	*Additional requirements for 2014*	***Total***
Section 29E, Administration, Geneva	4 700	4 700	9 400
Total Section 29E	**4 700**	**4 700**	**9 400**
Total	**4 059 100**	**4 059 100**	**8 118 200**

V. Potential for absorption

14. No provisions for the requested additional documentation requirements and related travel and general temporary assistance resources have been included under the proposed programme budget for the biennium 2014–2015 and it is not anticipated that requirements could be met from within the resources of the programme budget for the biennium 2013–2014. Hence additional appropriation would be required.

VI. Contingency fund

15. It will be recalled that, under the procedures established by the General Assembly in its resolutions 41/213 of 19 December 1986 and 42/211 of 21 December 1987, a contingency fund is established for each biennium to accommodate additional expenditure derived from legislative mandates not provided for in the programme budget. Under this procedure, if additional expenditure were proposed that exceeded the resources available from the contingency fund, the activities concerned would be implemented only through the redeployment of resources from low-priority areas or the modification of existing activities. Otherwise, such additional activities would have to be deferred to a later biennium.

VII. Summary

16. Should draft decision I be adopted by the Committee, additional resources in the total amount of $8,118,200 would be required under the programme budget for the biennium 2014-2015, including $1,718,800 under section 24, Human rights, $6,390,000 under section 2, General Assembly and Economic and Social Council affairs and conference management and $9,400 under section 29E, Administration, Geneva. This would represent a charge against the contingency fund and, would require additional appropriations to be approved by the General Assembly at its sixty-eighth session.

Annex VIII

Paper on the relationship of the Human Rights Committee with national human rights institutions, adopted by the Committee at its 106th session (15 October–2 November 2012)

A. General observations

1. The Human Rights Committee considers that close cooperation between the Committee and national human rights institutions is important for the promotion and implementation of the International Covenant on Civil and Political Rights and its Optional Protocols at the domestic level.

2. The Committee recognizes the important role that national human rights institutions have in bridging the gap between international and national human rights systems. It observes that the international community has recognized the roles of national human rights institutions and has provided such institutions with increasing opportunities to contribute to the promotion and protection of human rights at the international level.[a]

3. The Committee notes that, to fulfil their roles effectively, national human rights institutions should be established, and where necessary strengthened, in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles), and be duly accredited as such by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC). The Committee has recommended, and will continue to recommend, as appropriate, that all States establish and strengthen national human rights institutions in full compliance with the Paris Principles.

4. ICC-accredited national human rights institutions are important national partners of the Committee. At that level, national human rights institutions may promote human rights education, awareness of the Covenant rights, the communications procedure and the Committee's work; and monitor, and advise the State on, legislative and policy compliance with the Covenant provisions. At the international level, national human rights institutions encourage and assist the State party to meet its reporting obligations; provide the

[a] See most recently the reports of the Secretary-General on national human rights institutions (A/HRC/20/9 and A/HRC/20/10); General Assembly resolution 66/169 of 19 December 2011; Human Rights Council resolutions 17/9 of 16 June 2011 and 20/14 of 5 July 2012; and treaty body general comments and statements on national human rights institutions (Committee on the Elimination of Racial Discrimination, general recommendation No. 17 (1993) on the establishment of national institutions to facilitate implementation of the Convention; Committee on Economic, Social and Cultural Rights, general comment No. 10 (1998) on the role of national human rights institutions in the protection of economic, social and cultural rights; Committee on the Elimination of Discrimination against Women, statement on its relationship with national human rights institutions, adopted at its forty-fifth session (*Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 38* (A/65/38, annex V)); as well as the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of Persons with Disabilities, which require States to establish effective national monitoring or preventive mechanisms taking into due consideration the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

Committee with independent information on the national implementation of the Covenant; and work on follow-up to, and monitor implementation of, the Committee's concluding observations, Views and other decisions. In States that are not party to the Covenant or the Optional Protocols, national human rights institutions may encourage their ratification.

5. The Committee is committed to making its work more accessible to national human rights institutions. Accordingly, the Committee's secretariat provides national human rights institutions with information in a timely manner and advises on opportunities to engage with the Committee's work. Further, the Committee's secretariat liaises with the ICC Geneva Representative Office, which aims at encouraging the national human rights institutions to be more effective in their collaboration with the Committee's work, including by sharing information, publishing the Committee's work and advising such institutions about opportunities to contribute.

6. The Committee welcomes the representation of national human rights institutions at its sessions and meetings It also welcomes the use of new technology to enhance contributions from national human rights institutions from all regions during its sessions, such as video or telephone conference links and webcasting.

B. The independent role of national human rights institutions

7. The Committee recognizes that, by virtue of their mandates under the Paris Principles, national human rights institutions have an independent and distinct relationship with the Committee. The relationship is different from, yet complementary to, those of State parties, civil society, non-governmental organizations and other actors. Accordingly, the Committee provides ICC-accredited national human rights institutions with opportunities to engage with it that are distinct from those of other actors.

C. Role of national human rights institution in the reporting procedure

8. The Committee recognizes that Paris Principles-compliant national human rights institutions can contribute to all stages of the reporting process under the Covenant, including by providing information for the preparation of the list of issues (as well as lists of issues prior to reporting) and with regard to follow-up to concluding observations.

1. State reporting requirements under the Covenant

9. The Committee considers that national human rights institutions have an important role in encouraging their respective States to meet their reporting obligations.

10. The Committee encourages national human rights institutions to conduct human rights education and awareness programmes, with a view to informing and sensitizing State officials and other stakeholders, including non-governmental organizations, about the reporting obligations of States under the Covenant.

2. Consultations and inputs to the State party report

11. The Committee recognizes the value of States parties organizing broad national consultations when drafting their reports under the Covenant. In this regard, the Committee also recognizes the value of States making their reports available in advance to national human rights institutions and to all sectors of civil society, and inviting all stakeholders for consultations thereon.

3. Contributions to the development of the list of issues

12. Receiving information from national human rights institutions at an early stage of the reporting process is critical for the Committee's work. Accordingly, the Committee invites national human rights institutions to submit written contributions to the development of the list of issues (including lists of issues prior to reporting). Further, the Committee welcomes the opportunity to meet with the national human rights institutions concerned prior to the adoption of the list of issues.

13. To facilitate the timely submission of national human rights institution reports, the Committee's secretariat provides the institution concerned with advance notice of reporting schedules and advice on opportunities to contribute thereto.

4. Contributions to and during the Committee sessions

14. The Committee welcomes the submission of alternative reports and oral presentations by national human rights institutions and the presence of such institutions during the examination of the State party's report.

15. Since the 103rd session of the Committee, national human rights institutions have the possibility of addressing the Committee in formal private and closed meetings with interpretation. The meetings allow for interactive discussions and sharing of updated additional information between the Committee and national human rights institutions.

5. Contributions in follow-up to concluding observations

16. Under the Paris Principles, national human rights institutions have a specific mandate to monitor and report on the compliance of their respective State with international human rights instruments, including compliance with recommendations resulting from international human rights bodies. National human rights institutions can provide the Committee with written information, including an evaluation of the measures taken by the State party to implement the concluding observations. These contributions should be submitted to the Committee when the follow-up report of the State party is due or once the report is made public.

17. The Committee welcomes and supports the important role of national human rights institutions with respect to supporting the follow-up of the Committee's concluding observations in the country, while always recalling that the duty to implement the Covenant rests with States themselves. National human rights institutions can support implementation in a number of ways, which include the following: broadly disseminating the concluding observations to all stakeholders; organizing follow-up consultations involving Government and non-governmental organizations, as well as parliament and other bodies; and advising their respective States to mainstream concluding observations throughout national planning and legislative review processes. Further, the Committee encourages national human rights institutions to use their annual reports to monitor implementation of the Committee's concluding observations.

18. To ensure the most effective involvement of national human rights institutions in the Committee's follow-up procedure, the Committee's secretariat provides those institutions concerned with advance notice of follow-up procedure schedules as well as advice on opportunities to contribute thereto.

6. Contributions under the review procedure (examination in the absence of a State report)

19. The Committee encourages national human rights institutions to submit alternative reports in cases in which the Committee has decided to prepare a list of issues and examine

a State party in the absence of a State report. National human rights institutions will be provided with the same contribution opportunities as under the regular reporting procedure.

D. The role of national human rights institutions in relation to the individual communications procedure under the Optional Protocol

20. National human rights institutions have an important role in relation to the individual communications procedure under the Optional Protocol. This role includes: raising awareness about the communications procedure at the national level; following up on the Committee's Views and monitoring State party's implementation action; and submitting follow-up information about the implementation of the Committee's Views.

E. Input on the drafting and use of the Committee's general comments

21. The Committee encourages national human rights institutions to provide input on general comments under consideration, including during days of general discussion organized by the Committee. National human rights institutions are encouraged to make use of the Committee's general comments in their advocacy efforts.

22. To ensure the most effective contributions of national human rights institutions in the drafting of general comments, the Committee's secretariat will inform such institutions in a timely manner about opportunities for them to contribute.