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Summary record of the 3122nd meeting
Held at the Palais Wilson, Geneva, on Thursday, 23 October 2014, at 3 p.m.

Chairperson: Sir Nigel Rodley
later: Mr. Shany

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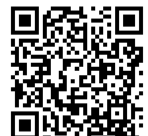

The meeting was called to order at 3.05 p.m.

Organizational and other matters, including the adoption of the report of the pre-sessional working group on individual communications (*continued*)

Draft general comment No. 35 on article 9 (continued) (CCPR/C/GC/R.35/Rev.4)

Paragraph 63

1. **Mr. Neuman** (Rapporteur) said that it would be necessary to cut the number of words in the footnotes by half in the final version of the document in order to meet the word limit. Earlier drafts would, however, remain intact as useful reference material. The Chairman had proposed a new paragraph, which would be numbered paragraph 63 bis and which would read:

> "Even if it complies with the criteria contained in paragraph 15, a State may not have recourse to measures of security detention with regard to disorder originating within its territory, unless the disorder amounts to a public emergency which threatens the life of the nation and the existence of the emergency is officially proclaimed, thus permitting derogation pursuant to and complying with article 4. Otherwise, any such detention will be arbitrary within the meaning of article 9, paragraph 1."

2. **The Chairperson** explained that, since current international law permitted administrative internment, in other words security detention, and since that form of detention occurred in practice, it was necessary to place effective controls on it. The purpose of proposed paragraph 63 bis was to make it clear that, in addition to all the restrictions already established in paragraph 15, such detention was also subject to the same criteria and procedures, including notification of derogation, as those required by article 4.

3. **Mr. Rodríguez-Rescia** suggested that the word "disorder" should be replaced with "public emergency", the term used in article 4, since it was unclear what was meant by disorder. Unless that expression was clearly defined, he feared that it might be misused by States which were less committed to democracy as an excuse to suspend the application of article 9, for example on account of a demonstration.

4. **Mr. Shany** said that he had difficulty in accepting the proposed paragraph 63 bis for a number of reasons. It was inconsistent with paragraph 15, which constituted a carefully crafted compromise. While the Committee knew what was meant by "security detention", that would not be true of all readers of the text. In terms of policy, the language of the proposed text might be viewed by some States as encouragement to derogate from article 9. Lastly, it was not useful to draw sharp distinctions on the basis of territoriality, as the Committee had established the principle that States' obligations under the Covenant were linked to the exercise of power and control. It would therefore be better to leave paragraph 63 as it stood.

5. **Ms. Chanet** endorsed the views expressed by Mr. Rodríguez-Rescia and Mr. Shany. Any attempt to impose barriers might have the opposite effect of giving States which were not acting in good faith an excuse to do anything that was not specifically barred.

6. **Ms. Waterval** and **Mr. Seetulsingh** agreed with Ms. Chanet.

7. **The Chairperson** said that, if the Committee did not adopt the text which he had proposed, as amended by Mr. Rodríguez-Rescia, States might possibly consider that they did not have to resort to derogation pursuant to article 4 when imposing security detention. However, he noted a lack of consensus on his proposal and therefore withdrew it, but requested the inclusion of the discussion in the summary record.

8. **Ms. Seibert-Fohr** proposed deleting the phrase "security detention authorized and regulated by and complying with international humanitarian law in principle is not arbitrary" from paragraph 15 and inserting it after the reference to footnote 220 in paragraph 63, in order to streamline the draft text.

9. **Mr. Neuman** (Rapporteur) said that if that phrase were moved to paragraph 63, footnote 53 could be expanded to indicate that, at a later stage in the general comment, more was said about the relationship between articles 4 and 9 and international humanitarian law. That would signal that, in the context of armed conflict, paragraph 15 had to be read in conjunction with paragraph 63.

10. *Paragraph 63, as amended by Ms .Seibert-Fohr, was adopted.*

Paragraph 64

11. **Mr. Neuman** (Rapporteur) said that several governments had submitted comments on paragraph 64. The United States of America disagreed with the wording of the final sentence in that paragraph, but not with the latter's overall content. Australia considered that, as international humanitarian law was *lex specialis,* paragraph 64 should be deleted. He explained that paragraph 64 was basically a restatement of content taken from general comment No. 29 which should be retained. In order to make it clear that it was permissible for States to derogate from article 4 in peacekeeping missions abroad, it might be useful to add the sentence to footnote 222: "When the emergency justifying measures of derogation arises from the participation of the State party's armed forces in a peacekeeping mission abroad, the geographic and material scope of the derogating measures must be limited to the exigencies of the peacekeeping mission."

12. **The Chairperson** noted that the Committee had already envisaged the possibility of States' participation in peacekeeping forces abroad in general comment No. 31.

13. *Paragraph 64 was adopted with the amendment to footnote 222 proposed by the Rapporteur.*

Paragraph 65

14. **Mr. Neuman** (Rapporteur) said that numerous comments had been received on paragraph 65. Australia considered that nothing in article 9 could be deemed non-derogable and that paragraph 65 improperly touched on international humanitarian law. Both of those views were contrary to the Committee's settled practice. The United States objected to the reference to international humanitarian law, but believed that the problem could be cured by deleting the word "international" before "armed conflict". The United States, Canada and the United Kingdom objected to the second sentence, possibly on account of those States' interpretation of the sentence in question, which was, however, meant to convey the idea that there was a core guarantee against arbitrary detention that was not derogable, while the following two sentences explained what was not in that core. In order to remove any ambiguity, he suggested that the sentence should be recast to read: "The prohibition against arbitrary detention has a non-derogable core, including the requirement that deprivations of liberty must be objectively justified."

15. The United States and Canada rejected the idea that derogatory measures must satisfy the requirements of strict necessity and proportionality. The notion of strict necessity paraphrased article 4 and the reference to proportionality reflected the Committee's position in general comment No. 29. He did not therefore accept those criticisms.

16. The United States also objected to the final sentence on the need for procedural guarantees and limited duration. The purpose of that sentence was not, however, to make the entire content of paragraph 15 non-derogable. In contrast, the International Commission

of Jurists regarded paragraph 65 as too weak, because the last part of the final sentence allowed a review by a non-judicial tribunal. The Committee had, however, already established in paragraphs 45 and 15 that, in some exceptional circumstances, it might be proper for that review to be conducted by an independent tribunal rather than by judicial court.

17. **Mr. Shany** fully agreed with the Rapporteur's proposal and with the proposal of the United States to delete the word "international", since it would limit States' room for manoeuvre. States must abide by their obligations under international humanitarian law in the event of armed conflict, be it international or non-international.

18. **Ms. Chanet** expressed reservations about the proposal put forward by the Rapporteur, as it might produce the opposite result to that desired by the Committee. She strongly objected to the final sentence. General comment No. 29 had made it clear that the lawfulness of detention had to be determined by a court and not by any other kind of tribunal. The Committee should not depart from that principle.

19. **Mr. Rodríguez-Rescia** said that he agreed with Mr. Kälin's proposal. In the context of an armed conflict, international humanitarian law could not be deemed to be the only branch of law applicable, since the right to challenge detention under article 9 still had to be guaranteed. In the final sentence, it was unclear what the term "security" meant. What grounds could be invoked to restrict the right to non-detention? Paragraph 15 spoke of a "threat" without clarifying what was being threatened. The paragraph was therefore difficult to understand.

20. **Mr. Kälin** said that he was in favour of deleting the word "international" before "armed conflict" in the fifth sentence, as customary international humanitarian law, for example, was relevant to situations of non-international armed conflict.

21. As to the second sentence, he did not object to the redraft put forward by Mr. Neuman. For the sake of clarity, his own proposal could be modified, so that the sentence would read: "The fundamental guarantee against arbitrary detention is non-derogable, as acts of deprivation of liberty that are inappropriate, unjust or unreasonable can never be justified as being necessary in situations covered by article 4."

22. **Ms. Seibert-Fohr** said that removing the word "international" in the fifth sentence would preclude the applicability of the following sentence. Given that the rules for non-international armed conflict were rudimentary in comparison to the standards set out for international armed conflict, the Committee should guard against ready and fast deletions that might restrict such standards. Any rewording of the last two sentences should leave the door open to possible new developments, but ensure that, in the meantime, adequate rules were in place for contexts other than international armed conflict.

23. **Mr. Shany** said that it was not his intention to restrict the scope of the final sentence. He understood the requirements of strict necessity and proportionality to be additional, rather than alternative, forms of regulation.

24. **The Chairperson** said that the Committee should be careful not to retreat from the strong language used in paragraphs 4 and 11 of its general comment No. 29 on article 4. He preferred Mr. Kälin's suggestion for the second sentence over Mr. Neuman's, which introduced new language with the words "objectively justifiable". He would be very uncomfortable with deleting the word "international" in the fifth sentence for the reason outlined by Ms. Seibert-Fohr. Although the Committee should accommodate any future evolution in the rules for non-international armed conflict, the current silence of those rules on the issue of arbitrary detention rendered them unsuitable in limiting the ability of States to derogate from the Covenant.

25. **Ms. Majodina** said that she also preferred Mr. Kälin’s suggestion for the second sentence.

26. **Mr. Shany** said that his concern was that, in its current wording, the fifth sentence was not making it sufficiently clear that rules of international humanitarian law, such as the prohibition against the taking of hostages, remained applicable during both international and non-international armed conflict. The Committee should not limit the ability of other bodies of law to place restrictions on States.

27. **Mr. Neuman** said that Mr. Shany’s concern was addressed in the last two sentences of paragraph 64. In the fifth sentence of paragraph 65, the word “international” should be retained, as the rules of international humanitarian law during non-international armed conflict did not limit the ability to derogate.

28. Turning to Mr. Kälin’s proposal for the second sentence, he said that it was important to stress that the prohibition of arbitrary detention had a non-derogable core. The words “inappropriate, unjust or unreasonable” were perhaps too liable to subjective interpretations to define that core.

29. **Ms. Chanet** said that Mr. Shany’s argument regarding the fifth sentence was entirely consistent with paragraph 3 of the Committee’s general comment No. 29 on article 4. By splitting the content of that paragraph between the last two sentences of paragraph 64 and the fifth sentence of paragraph 65, much of its emphatic force had been lost. Footnote 228, which was not compatible with the text that preceded it, should be deleted or the text amended accordingly.

30. **Mr. Kälin**, supported by **Mr. Neuman**, said that, by way of compromise, the second sentence should be redrafted to read: “The fundamental guarantee against arbitrary detention is non-derogable, insofar as even situations covered by article 4 cannot justify deprivation of liberty that is unreasonable and unnecessary under the circumstances.” In that way, the Committee would echo the language used in paragraph 12 of the draft general comment and respond to the requests from States parties to clarify the sentence.

31. **Mr. Neuman** suggested removing footnote 228 and redrafting the final clause of the last sentence to read: “including review by a court within the meaning of paragraph 45 above”.

32. **Mr. Kälin** said that footnote 225 did not provide enough support to the text and should be amended to include a reference to paragraph 4 of general comment No. 29.

33. **The Chairperson**, summarizing the discussion, said he took it that the Committee wished to retain the word “international” in the fifth sentence. The second and final sentences would be amended in line with the suggestions from Mr. Kälin and Mr. Neuman, respectively.

34. *Paragraph 65, as amended, was adopted*.

Paragraph 66

35. **Mr. Neuman** said that paragraph 66 reflected the Committee’s settled position with regard to the non-derogability of article 9, paragraph 4, of the Covenant. The United States of America and Australia had argued that the Committee could not add to the list of non-derogable rights under article 4, while Canada had disagreed with the non-derogability of article 9, paragraph 4, in situations of armed conflict. Amnesty International, on the other hand, had stated that articles 2, 3 and parts of 14 should also be considered as non-derogable. Despite the comments received, the paragraph should be adopted as it stood.

36. **Mr. Shany** said that, bearing in mind the practical problems that States parties faced in complying with the concept of habeas corpus in times of emergency, for example in the

context of a peacekeeping operation in a distant location, the following sentence should be inserted at the end of the paragraph: "The existence and nature of a public emergency which threatens the life of the nation may, however, be relevant to a determination of what constitutes an impermissible, substantial waiting period in connection with the taking of proceedings for release from unlawful or arbitrary detention under article 9, paragraph 4."

37. **Ms. Chanet** said that a case involving precisely that issue was currently before the European Court of Human Rights.

38. **Mr. Salvioli**, supported by **the Chairperson**, said that the Committee should avoid creating too many exceptions or special cases, which States parties could use to justify a failure to respect procedural guarantees.

39. **Mr. Shany** said that the Committee should be concerned about the situation of States coming before the European Court of Human Rights, where they were not so much seeking derogations as arguing that the Covenant did not apply in their cases. The reason for his proposal — although the message could be extrapolated from other parts of the draft general comment — was that the rigid standards developed for peacetime were not suited for hostile situations outside the States concerned. It would send a signal that the Committee understood the special challenges involved but nonetheless believed that the Covenant should apply. He had no substantive disagreements with other members, however, and did not wish to insist on his proposal.

40. **Mr. Neuman** said that the wording of Mr. Shany's proposal would be acceptable in the context of dealings with individual States, but he was wary of giving the impression in a general comment that States could interpret the Covenant as they wished. The wording of the proposal was not strong enough to show that the period of time that the Committee had in mind was not between three and six days but between three days and a year, for example. He added that the Committee should not be concerning itself with the defence of necessity.

41. **The Chairperson** said that he had mentioned the defence of necessity simply as doctrinal background. It did not, in any case, apply to certain human rights. The Committee acknowledged that there existed certain circumstances of impossibility.

42. *Paragraph 66 was adopted.*

Paragraph 67

43. **Mr. Neuman** said that paragraph 67 raised two issues: its content and its location. With regard to its content, the United Kingdom recalled its objections to the general comment on reservations, while Switzerland expressed scepticism about reservations to article 9 and would not draw the line as narrowly as paragraph 67 did. Amnesty International recommended prohibiting all reservations to article 9, paragraphs 1, 2, 3, 4 and perhaps 5. He would prefer to leave the text as it was, merely identifying the category of impermissible reservations without saying that they were the only impermissible reservations. Amnesty International went too far. The Committee should not say that all reservations to article 9 were impermissible. With regard to placement, Mr. Iwasawa had said that the paragraph belonged with the general remarks in part I, but, in his own view, the current position of the paragraph was preferable, because the point would be better understood following the Committee's discussion of the meaning of arbitrary detention in part II.

44. **Mr. Iwasawa** said that he accepted Mr. Neuman's arguments. Moreover, the reference to reservations that were incompatible with the object and purpose of the Covenant tied in with the Committee's discussion on derogable and non-derogable matters. The paragraph should remain where it was.

45. **Mr. Neuman** asked whether the Committee wished to make any further changes to paragraph 15 in the light of its subsequent discussions; the adoption of the paragraph at the previous session had been only provisional.

46. **The Chairperson** said that, according to his understanding, the adoption of paragraph 15 had been provisional because, at that time, the Committee had not yet discussed his proposal, under which formal derogation would have been required before measures of security detention could be adopted. Moreover, the Committee's subsequent deliberations had taken place on the assumption that paragraph 15 had been adopted. He therefore took it that the Committee wished to adopt paragraph 15.

47. *Paragraph 15, as amended, was adopted.*

48. *Paragraph 67 was adopted.*

49. *Draft general comment No. 35 as a whole, as amended, was adopted.*

50. **The Chairperson** said that the Committee owed an enormous debt to the Rapporteur, Mr. Neuman, who had produced a sophisticated text on a difficult and sensitive issue and guided the Committee past a number of possible pitfalls. It was a great achievement. He was glad that the Committee had been able to complete its work on the general comment, because the current session was Mr. Neuman's last.

51. **Mr. Neuman,** after thanking members for their help and cooperation, said that, in order to remain within the word limit, he would have to delete some footnotes. Any member who wished to retain a particular footnote should inform him. The English text would be issued in a week's time; the French and Spanish text would come out later, as was the usual practice, once it had been scrutinized by the French- and Spanish-speaking members.

The meeting was suspended at 5.15 p.m. and resumed at 5.30 p.m.

52. *Mr. Shany took the Chair.*

Follow-up to Views under the Optional Protocol to the Covenant (*continued*) (CCPR/C/112/R.3)

53. **The Chairperson** requested the Special Rapporteur on follow-up on Views to resume his follow-up progress report on individual communications.

54. **Mr. Iwasawa** (Special Rapporteur on follow-up on Views) reminded the Committee that only information from States parties was assessed, not information from the author. Turning to individual cases, he said that the first case was communication No. 1486/2006, which related to a complaint by Roma against a police officer in Greece. The remedy sought was appropriate reparation. The State party said that the authors could file an application for compensation with the relevant administrative tribunal, while counsel said that a compensation agreement should be reached with the authors without asking them to file civil suits. Counsel noted with satisfaction the existence of a pending criminal investigation for the offences of abuse of authority and breach of duty. The Committee's assessment on remedy should be C1 (Reply received but actions taken do not implement the recommendation) and its decision should be follow-up dialogue ongoing.

55. Communication No. 1799/2008 also concerned the treatment of Roma in Greece, who sought effective remedy and compensation. It was a complicated case, but the State party said that it lacked jurisdiction to award compensation for action taken by the municipality of Patras. The authors could sue the municipality, but it was misleading to conclude that the State party was unwilling to offer compensation to the authors. The State party said that it had an obligation only of means and not of result and that it had accordingly fulfilled its obligation to offer an effective remedy. The Committee's

assessment on remedy should be C1, on publication of the Views A5 (Reply largely satisfactory) and on non-repetition C1. He saw no purpose in continuing the dialogue, so the Committee's decision should be to suspend follow-up dialogue, with a finding of unsatisfactory implementation of the Committee's recommendation.

56. In the case of communication No. 1558/2007, also against Greece, the remedy sought included compensation. Counsel said that the offences had become time-barred, so the only remaining remedy offered was compensation and prosecution of the judicial officials involved. The State party said that the obligation to provide an effective remedy did not imply the certainty of a favourable outcome for the author. Moreover, the Committee had not requested the punishment of the judicial officials involved. The Committee's assessment should be C1 for remedy and non-repetition and A6 for publication of the Views. As for the Committee's decision, he proposed that, since legal action was pending, the text should be amended to read: "Follow-up dialogue ongoing, with a finding of unsatisfactory implementation of the Committee's recommendation".

57. *It was so decided.*

58. In the case of communication No. 1756/2008 against Kyrgyzstan, the remedy sought included an impartial and effective prosecution of those responsible and full reparation. The State party said that a thorough and independent investigation had been conducted and that criminal proceedings against the alleged perpetrator had been terminated following an agreement reached between him and the victim's family. A later claim for moral damages by a member of the victim's family had been dismissed. The State party added that the definition of torture under national law had been amended in 2012 in accordance with the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and sanctions had been toughened. Mandatory human rights law training was given and all places of detention were systematically monitored. If accused of torture, official representatives of the Ministry of Internal Affairs were immediately discharged. Counsel said that the State party's reforms were to be welcomed, but they must be implemented. Meanwhile, the State party had refused to conduct an independent investigation into the case of the victim or provide compensation to his family. The Committee's assessment on remedy should be C1 and on non-repetition B1 (Substantive action taken, but additional information required). The Committee's decision should be, while taking note with satisfaction of positive general measures aiming at preventing future violations, to suspend the follow-up dialogue, with a finding of unsatisfactory implementation of the Committee's recommendation.

59. In the case of communication No. 1107/2002 against Libya, an effective remedy and compensation were sought and the State party should issue a passport to the author without further delay. The State party said that a passport bearing her name had been issued to the author on 3 July 2005, as requested by the Committee. The Committee's assessment on remedy should be B1. The passport had been issued, but no compensation had been paid. The Committee's decision should therefore be to close the follow-up dialogue on the case, with a note of the partially satisfactory implementation of the Committee's recommendation.

60. In the case of communication No. 1744/2007 against Mauritius, the author sought compensation in the form of reimbursement of legal expenses, the updating of the 1972 census with regard to community affiliation and reconsideration of whether the community-based electoral system was still necessary. The State party said that a consultation paper on the reform of the electoral system had been published and the Government would proceed with legislation on the basis of nationwide consultation. Counsel said that the implementation of the consultation paper remained hypothetical and did not provide an effective remedy. The Committee's assessment on remedy and on non-repetition should be

B2 (Initial action taken, but additional information required). The Committee's decision should be follow-up dialogue ongoing.

61. With regard to communication No. 1863/2009, he had held a meeting with the State party, Nepal, in March 2014 and follow-up action had been taken. The remedy sought was a thorough investigation, the prosecution of those responsible, adequate compensation, amendment of domestic legislation to bring it into conformity with the Covenant and protection from acts of reprisal. The State party said that, on 3 April 2014, it had been decided to provide immediate interim relief of 150,000 rupees to the author, to provide for the safety of the author and his family against reprisal, to take action against the perpetrators, to provide reparation to the victim, to criminalize torture and to publish the Views in the Nepali language. The Committee's assessment should be B2 on the investigation, the prosecution and punishment of those responsible, adequate compensation, publication of the Views, amending legislation, protection from acts of reprisal and non-repetition. The decision should be follow-up dialogue ongoing.

62. The next case, that of communication No. 1865/2009, also against Nepal, was almost identical to the previous one. The Committee's assessment should be the same as that in the case of communication No. 1863/2009. The author said that the transitional justice mechanisms referred to by the State party were flawed and contributed to ongoing impunity for gross violations of the Covenant. The Committee's decision should be follow-up dialogue ongoing.

63. In the case of communication No. 1153/2003 against Peru, an effective remedy, including compensation, was sought. Counsel said that the State party had still not approved national norms to regulate therapeutic abortion. The author had refused US$ 10,000 compensation offered by the State party in 2007, on the grounds that compensation should amount to US$ 96,250 for material and moral damages. The measures taken by the State party to publish the Views were insufficient. The Committee's decision should be follow-up dialogue ongoing.

64. Communication No. 1457/2006 was also against Peru. The author, who sought effective remedy and reparation measures commensurate with the harm sustained, said that the State party had not complied with the Committee's recommendations. The draft decree on the implementation of the Act on the Right of Indigenous Peoples to Prior Consultation revealed a number of shortcomings. The Committee's decision should be follow-up dialogue ongoing.

65. Four cases against the Russian Federation — communications Nos. 1628/2007, 1795/2008, 1856/2008 and 1873/2008 — were practically identical and he would deal with them together. The effective remedy sought included compensation and measures to prevent similar violations in the future by bringing prison conditions in the State party into line with its obligations under the Covenant and the provisions of the Standard Minimum Rules for the Treatment of Prisoners. The State party said that the Supreme Court of the Russian Federation published all the Committee's decisions in the journal *Russian Justice*, which was shared with the courts of all instances and other jurisdictions. The Committee's assessment should be C2 (Reply received but not relevant to the recommendation) on the remedy and the prevention of similar violations and B2 on publication of the Views. The Committee's decision should be follow-up dialogue ongoing.

66. In the case of communication No. 1818/2010 against South Africa, the effective remedy sought included a thorough investigation, prosecution and full reparation. The author also said that, as long as he was in prison, he should be treated with humanity. Counsel expressed dismay at the decision to withdraw disciplinary proceedings against warders involved in acts of torture, of which the warders concerned had been informed two

months before a claim for civil damages came before the High Court. The Committee's decision should be follow-up dialogue ongoing.

67. In the case of communication No. 2149/2012 against Sweden, the effective remedy sought included full reconsideration of the author's claim that she risked treatment contrary to article 7 of the Covenant if she was returned to Bangladesh. The State party said that, on 1 November 2013, the Migration Board had decided to grant the author permanent residence in Sweden. A number of projects and activities undertaken by the Board would enhance its competence in dealing with lesbian, gay, bisexual and transgender (LGBT) issues. The Views had been published on the "Lifos" database, which was easily accessible. They were summarized in Swedish and would be published on the Government's human rights website. The Committee's assessment should be A on remedy, publication of the Views and non-repetition. Basically, the case was closed, but the Committee's decision should be follow-up dialogue ongoing, pending receipt of the author's comments.

68. In the case of communication No. 1803/2008 against Ukraine, the remedy sought included the restoration of the original phonetic form used in the author's identity documents. The State party said that recent amendments to domestic law guaranteed the author's right to the integrity of his name. All citizens had the right to renew their name in accordance with their ethnic background and tradition. There was no possibility of changing the author's name on his passport unless he made a formal request. The Committee's assessment should be B1 on the remedy and A on non-repetition. Its decision should be follow-up dialogue ongoing.

69. In the case of communication No. 1535/2006, which was also against Ukraine, the effective remedy sought included an impartial and thorough investigation, criminal proceedings against those responsible, a retrial or release and full reparation. The author said that no action had been taken to publish the Committee's Views. The Committee's decision should be follow-up dialogue ongoing.

70. In the case of communication No. 1887/2009 against Uruguay, the effective remedy sought included measures by the State party to speed up the author's trial. The State party said that the delay in proceedings was due to the complexity of the case and also to the author's request for release and pardon. The Committee's assessment should be C1 on the remedy and its decision should be follow-up dialogue ongoing.

71. In the case of communication No. 1769/2008 against Uzbekistan, the author sought a retrial or release, as well as appropriate reparation, including compensation. The author said that the State party had denied most of the arguments put forward, although they were substantiated. The State party said that the Supreme Court had found no grounds to overturn the author's conviction by the Military Court. The Committee's assessment should be C1 on the questions of retrial or release and appropriate reparation. The decision should be follow-up dialogue ongoing.

72. In the case of communication No. 1914-1915-1916/2009, also against Uzbekistan, the remedy sought was a thorough investigation, criminal proceedings against those responsible, retrial or release and full reparation. The author said that the State party had not implemented the Views. The State party said that the health of the author's son was currently satisfactory and that he had never been subjected to any ill-treatment. The Committee's assessment should be C1 for the investigation and C2 for the issue of retrial or release and full reparation. The Committee's decision should be follow-up dialogue ongoing.

73. In the case of communication No. 821/1998 against Zambia, the remedy sought included measures to protect the author's personal security and life from threats, an independent investigation and criminal proceedings, together with damages. The author said that the agreement between him and the State party in October 2009 had yet to be

implemented. A letter from the Government had informed the author that he had to exhaust “domestic legal processes”. The Committee’s decision should be follow-up dialogue ongoing.

74. **Ms. Chanet** commended the work of the Special Rapporteur and the Secretariat, which showed that action could be effective when it related to States that submitted reports or responded to communications. It was far harder to convince States that did not report to take effective action. The Committee should find some means of ensuring that they did so.

75. **Mr. Iwasawa** said that Ms. Chanet’s point was not necessarily correct. Although no future meetings had been arranged, he had held successful meetings with Greece and the Democratic Republic of the Congo. The latter, even though it had not previously responded to communications, had been cooperative, particularly with regard to recent cases; it had said that it was more difficult to revert to cases under earlier governments. He had also tried to set up a meeting with Bosnia and Herzegovina.

76. **The Chairperson** said he took it that the Committee wished to adopt the report.

77. *The follow-up progress report on individual communications, as amended, was adopted.*

The meeting rose at 6.05 p.m.