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Human Rights Committee

Consideration by the Human Rights Committee at its 111th, 112th and 113th sessions of communications received under the Optional Protocol to the International Covenant on Civil and Political Rights*

Summary

The present report expands on the information contained in the annual report of the Human Rights Committee covering the period from 30 March 2014 to 2 April 2015 and the 111th, 112th and 113th sessions of the Committee (A/70/40). It provides a detailed account of the Committee's activities under the Optional Protocol to the International Covenant on Civil and Political Rights, regarding the communications procedure.

Under the Optional Protocol procedure, the Committee adopted 80 Views on communications, and declared 25 communications inadmissible. So far, 2,593 communications have been registered since the entry into force of the Optional Protocol to the Covenant.

* Adopted by the Committee at its 113th session (16 March-2 April 2015).

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Contents

I. Introduction

1. The present report expands on the information contained in the annual report of the Human Rights Committee covering the period from 30 March 2014 to 2 April 2015 and the 111th, 112th and 113th sessions of the Committee (A/70/40). It provides a detailed account of the Committee's activities under the Optional Protocol to the International Covenant on Civil and Political Rights, regarding the communications procedure.

2. Individuals who claim that any of their rights under the Covenant have been violated by a State party 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 168 States that have ratified, acceded to or succeeded to the Covenant, 115 have accepted the Committee's competence to deal with individual complaints by becoming parties to the Optional Protocol.

3. Consideration of communications under the Optional Protocol is confidential and takes place in closed meetings (art. 5 (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.

4. An overview of the States parties' obligations under the Optional Protocol is contained in the Committee's general comment No. 33 (2008) on obligations of States parties under the Optional Protocol to the International Covenant on Civil and Political Rights.

A. Progress of work

5. The Committee started its work under the Optional Protocol at its second session, in 1977. Since then, 2,593 communications concerning 92 States parties have been registered for consideration by the Committee, including 221 registered during the period covered by the present report. As at 2 April 2015, the status of the 2,593 communications registered was as follows:

(a) Consideration concluded by the adoption of Views under article 5 (4) of the Optional Protocol: 1,088, including 922 in which violations of the Covenant were found;

(b) Declared inadmissible: 645;

(c) Discontinued or withdrawn: 368;

(d) Not yet concluded: 492.

6. A high number of communications are received per year in respect of which complainants are advised that further information would be needed before their cases 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 scope of application of the Covenant or of the Optional Protocol. A record of this correspondence is kept by the

secretariat of the Office of the United Nations High Commissioner for Human Rights (OHCHR).

7. At its 111th, 112th and 113th sessions, the Committee adopted Views on 80 cases. The Committee also concluded the consideration of 25 cases by declaring them inadmissible. A list of links to Views and decisions is contained in the annex to the present report. The full texts of these Views and decisions are available through the treaty body case law database (http://juris.ohchr.org/) as well as from the OHCHR website under "table of jurisprudence" (per session) available at www.ohchr.org/EN/HRBodies/CCPR/Pages/Jurisprudence.aspx.http://undocs.org/CCPR/Pages/Jurisprudence.aspwww.ohchr.org/EN/HRBodies/CCPR/Pages/Jurisprudence.aspxThey are also accessible under "Human rights bodies/Treaty body document search" (www2.ohchr.org) and from the Official Document System of the United Nations (http://documents.un.org).

8. 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.

9. The Committee decided to discontinue the consideration of 13 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. At its 113th session, the Committee decided that its decisions to discontinue communications would be made public in separate documents specifying the reasons for the decision.

B. Committee's caseload under the Optional Protocol

10. The table below sets out the pattern of the Committee's work on communications over the past six years, to 31 December 2014.

Year	*New cases registered*	*Cases concluded* [a]	*Pending cases at 31 December*
2014	191	124	456
2013	93	72	379
2012	102	99	355
2011	106	188	352
2010	96	94	434
2009	68	84	432

[a] Total number of cases decided (by the adoption of Views, inadmissibility decisions and decisions to discontinue consideration).

II. Approaches to considering communications under the Optional Protocol

A. Special Rapporteur on new communications

11. 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 113th session, in March 2015, Sir Nigel Rodley was designated Special Rapporteur and Yuval Shany, co-rapporteur. In the period covered by the present report, 222 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 66 cases, the Special Rapporteur issued requests for interim measures pursuant to rule 92 of the Committee's rules of procedure.

12. The methods of work of the Special Rapporteur, as approved by the Committee at its 110th session, are contained in document CCPR/C/110/3.

B. Competence of the Working Group on Communications

13. 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. 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.

III. Individual opinions

14. 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.

15. During the period under review, individual opinions were appended to the Committee's Views and decisions concerning cases Nos. 1773/2008 (*Kozulin v. Belarus*), 1926/2010 (*S.I.D. et al. v. Bulgaria*), 1937/2010 (*Leghaei and others v. Australia*), 1956/2010 (*Durić v. Bosnia and Herzegovina*), 1961/2010 (*X v. Czech Republic*), 1965/2010 (*Monika v. Cameroon*), 1967/2010 (*B and C v. Czech Republic*), 1973/2010 (*Griffiths v. Australia*), 1976/2010 (*Kuznetsov and others v. Belarus*), 1986/2010 (*Kozlov v. Belarus*), 1989/2010 (*E.V. v. Belarus*), 1990/2010 (*Yachnik v. Belarus*), 2003/2010 (*Selimović and others v. Bosnia and Herzegovina*), 2009/2010 (*Ilyasov v. Kazakhstan*), 2018/2010 (*Chaulagain v. Nepal*), 2021/2010 (*E.Z. v. Kazakhstan*), 2022/2011 (*Hamulić and Hodžić v. Bosnia and Herzegovina*), 2028/2011 (*Ičić v. Bosnia and Herzegovina*), 2050/2011 (*E.L.K. v. Netherlands*), 2051/2011 (*Basnet v. Nepal*), 2055/2011 (*Zinsou v. Benin*), 2069/2011 (*Shikhmuradova v. Turkmenistan*), 2071/2011 (*D'Amore v. Argentina*), 2091/2011 (*A.H.G. v. Canada*), 2103/2011 (*Poliakov v. Belarus*), 2114/2011 (*Sudalenko v. Belarus*), 2126/2011 (*Khakdar v. Russian Federation*), 2131/2012 (*Leven v. Kazakhstan*), 2179/2012 (*Young-kwan Kim and others v. Republic of Korea*), 2192/2012 (*N.S. v. Russian*

Federation), 2218/2012 (*Abdullayev v. Turkmenistan*), 2243/2013 (*Husseini v. Denmark*) and 2272/2013 (*P.T. v. Denmark*).

IV. Cooperation by the States parties in the examination of communications

16. 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/or merits of the authors' allegations. The States parties in question are Algeria (in 10 communications), Belarus (in 23 communications), the Democratic Republic of the Congo (in one communication), Libya (in four communications), the Russian Federation (regarding the merits of one communication), Sri Lanka (in one communication) and Turkmenistan (in one communication). 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.

17. More specifically, in case No. 1860/2009 (*Al-Rabassi v. Libya*), the Committee took note of the author's claims regarding the detention of his brother, his enforced disappearance, his subsequent trial at the People's Court and his imprisonment at Abu-Salim Prison, regarding which the State party did not provide observations. The Committee reaffirmed that the burden of proof cannot rest solely on the author of the communication, especially considering that the author and the State party do not always have equal access to evidence and that frequently the State party alone has access to the relevant information. It is implicit in article 4 (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. In cases where the author has submitted allegations to the State party that are corroborated by credible evidence and where further clarification depends on information that is solely in the hands of the State party, the Committee may consider the author's allegations substantiated in the absence of satisfactory evidence or explanations to the contrary presented by the State party. The Committee made similar statements in cases Nos. 1882/2009 (*Al Daquel v. Libya*) and 1958/2010 (*El Hojouj v. Libya*).

18. Like in other cases against Algeria decided by the Committee in previous years, in the cases reviewed by the Committee during the period under review involving enforced disappearances or arbitrary executions (Nos. 1924/2010 (*Boudehane v. Algeria*), 1931/2010 (*Bouzeriba v. Algeria*), 1964/2010 (*Fedsi v. Algeria*), 1974/2010 (*Bousseloub v. Algeria*), 2026/2011 (*Zaier v. Algeria*), 2083/2011 (*Kroumi v. Algeria*), 2086/2011 (*Dehimi and Ayache v. Algeria*), 2098/2011 (*Ammari v. Algeria*), 2117/2011 (*Louddi v. Algeria*) and 2132/2012 (*Allioua and Kerouane v. Algeria*)), the Committee noted that the State party had contested admissibility and submitted collective and general observations in which it argued that communications incriminating public officials, or persons acting on behalf of public authorities, in cases of enforced disappearances between 1993 and 1998 should be considered within the broader context of the sociopolitical situation and security conditions that prevailed in the country during a period when the Government was struggling to combat terrorism. In response to this, the Committee recalled its jurisprudence, according to which the State party may not invoke the provisions of the Charter for Peace and National Reconciliation against persons who invoke provisions of the Covenant or who have submitted or may submit communications to the Committee. The Covenant demands that the State party concern itself with the fate of every individual and treat every individual with respect for the inherent dignity of the human person. Ordinance No. 06-01, without the amendments recommended by the Committee, was a contributing factor in impunity and

therefore could not, as it currently stood, be considered compatible with the provisions of the Covenant.

19. Furthermore, the Committee noted in the said cases that Algeria had not replied to the claims concerning the merits of the cases and recalled its jurisprudence that the burden of proof should not be solely on the author of a communication, especially given that the author and the State party do not always have the same degree of access to evidence and that often only the State party has the necessary information.

20. In 23 cases decided against Belarus, the Committee found that the State party had failed in its obligation to cooperate with the Committee in the examination of communications under the Optional Protocol. In case No. 1933/2010 (*Aleksandrov v. Belarus*), for instance, 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 was registered in violation of the provisions of the Optional Protocol; that the author had failed to exhaust available domestic remedies; that the State party had no obligation to recognize the Committee's rules of procedure and its interpretation of the provisions of the Optional Protocol; and that the decision taken by the Committee on the communication in question would be considered by the State authorities as "invalid". In response to this the Committee recalled that article 39 (2) of the Covenant authorizes it to establish its own rules of procedure, which the States parties have agreed to recognize. By adhering to the Optional Protocol, a State party to the Covenant recognizes the competence of the 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 Optional 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 (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 a communication and in the expression of its Views. Furthermore, it is for the Committee to determine whether a case 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 will not accept the Committee's determination of the admissibility and of the merits of the communications, the State party violates its obligations under article 1 of the Optional Protocol. A similar statement was made in the Committee's Views regarding cases Nos. 1906/2009 (*Yuzepchuk v. Belarus*), 1929/2010 (*Lozenko v. Belarus*), 1934/2010 (*Bazarov v. Belarus*), 1952/2010 (*Symonik v. Belarus*), 1976/2010 (*Kuznetsov and others v. Belarus*), 1949/2010 (*Kozlov and others v. Belarus*), 1985/2010 (*Koktish v. Belarus*), 1986/2010 (*Kozlov v. Belarus*), 1987/2010 (*Stambrovsky v. Belarus*), 1991/2010 (*Volchek v. Belarus*), 1992/2010 (*Sudalenko v. Belarus*), 1993/2010 (*Mikhailovskaya and Volchek v. Belarus*), 1999/2010 (*Evrezov and others v. Belarus*), 2013/2010 (*Grishkovtsov v. Belarus*), 2029/2011 (*Praded v. Belarus*), 2030/2011 (*Poliakov v. Belarus*), 2103/2011 (*Poliakov v. Belarus*) and 2114/2011 (*Sudalenko v. Belarus*).

V. Issues considered by the Committee

21. A review of the Committee's work under the Optional Protocol from its second session in 1977 to its 107th session in March 2013 can be found in the Committee's annual reports for 1984 to 2014, 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 available from the treaty body database (http:/juris.ohchr.org).

22. 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.

23. The following summary reflects developments concerning issues considered during the period covered by the present report.

A. Procedural issues

1. Inadmissibility for lack of standing (Optional Protocol, art. 1)

24. In case No. 1906/2009 (*Yuzepchuk v. Belarus*), the Committee took note of the State party's argument that the communication was inadmissible since it was submitted to the Committee by third parties and not by the alleged victim himself. In that respect, the Committee recalled that rule 96 (b) of its rules of procedure states that a communication should normally be submitted by the individual personally or by a representative of that individual, 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 it personally. In the present case, the Committee noted that the alleged victim was detained on death row at the time of the submission and that the communication was presented on his behalf by his counsel, who provided a duly signed power of attorney. Accordingly, the Committee was not precluded by article 1 of the Optional Protocol from examining the communication. A similar conclusion was reached in case No. 2165/2012 (*Belyatsky v. Belarus*).

2. Inadmissibility "ratione temporis" (Optional Protocol, art. 1)

25. In case No. 2046/2011 (*Hmeed v. Libya*), the Committee observed that some of the alleged facts had occurred before the entry into force of the Optional Protocol for the State party and concluded that the related claims were inadmissible *ratione temporis*. A similar conclusion was reached in case No. 2021/2010 (*E.Z. v. Kazakhstan*).

3. Claims not substantiated (Optional Protocol, art. 2)

26. A number of cases were declared inadmissible for lack of substantiation under article 2, such as cases Nos. 1971/2010 (*N.D.M. v. Democratic Republic of the Congo*), 2037/2011 (*M.R.R. v. Spain*), 2070/2011 (*Cañada Mora v. Spain*), 2071/2011 (*D'Amore v. Argentina*), 2105/2011 (*S.S.F. and others v. Spain*) and 2123/2011 (*Tonenkaya v. Ukraine*) and those mentioned by way of example in the following paragraphs. In other cases, not the whole communication but some of the claims were found to be inadmissible for the same reason, such as cases Nos. 1773/2008 (*Kozulin v. Belarus*), 1860/2009 (*Al-Rabassi v. Libya*), 1875/2009 (*M.G.C. v. Australia*), 1906/2009 (*Yuzepchuk v. Belarus*), 1929/2010 (*Lozenko v. Belarus*), 1949/2010 (*Kozlov and others v. Belarus*), 1952/2010 (*Symonik v. Belarus*), 1958/2010 (*El Hojouj v. Libya*), 1961/2010 (*X v. Czech Republic*), 1965/2010 (*Monika v. Cameroon*), 1967/2010 (*B and C v. Czech Republic*), 1972/2010 (*Quliyev v. Azerbaijan*), 1973/2010 (*Griffiths v. Australia*), 1976/2010 (*Kuznetsov and others v. Belarus*), 1985/2010 (*Koktish v. Belarus*), 1986/2010 (*Kozlov v. Belarus*), 1989/2010 (*E.V. v. Belarus*), 1992/2010 (*Sudalenko v. Belarus*), 2004/2010 (*H.K. v. Norway*), 2008/2010 (*Aarrass v. Spain*), 2009/2010 (*Ilyasov v. Kazakhstan*), 2013/2010 (*Grishkovtsov v.*

Belarus), 2015/2010 (*H.S. v. Australia*), 2021/2010 (*E.Z. v. Kazakhstan*), 2042/2011 (*Huseynov v. Azerbaijan*), 2069/2011 (*Shikhmuradova v. Turkmenistan*), 2079/2011 (*Khadzhiev v. Turkmenistan*), 2085/2011 (*García Bolívar v. Bolivarian Republic of Venezuela*), 2091/2011 (*A.H.G. v. Canada*), 2103/2011 (*Poliakov v. Belarus*), 2111/2011 (*Tripathi v. Nepal*), 2137/2012 (*Toregozhina v. Kazakhstan*), 2156/2012 (*Nepomnyaschikh v. Belarus*), No. 2165/2012 (*Belyatsky v. Belarus*), 2176/2012 (*M. v. Belgium*), 2186/2012 (*X v. Denmark)*, 2390/2014 (*Pronina v. France*), 2325/2013 (*Foumbi v. Cameroon*) and 2243/2013 (*Husseini v. Denmark*).

27. In case No. 1926/2010 (*S.I.D. et al. v. Bulgaria*), concerning claims related to eviction and demolition of housing of a Roma community, the Committee noted that the absence of very specific information in the submissions prevented it from obtaining an adequate description of the particular situations of the authors. It thus considered that the latter had not sufficiently substantiated their claims under article 17, read alone and in conjunction with article 2 of the Covenant, for purposes of admissibility. In relation to the alleged violations of article 26, read alone and in conjunction with article 2, of the Covenant, that the State party had failed to respect the equal protection and non-discrimination principles by threatening or carrying out forced evictions and demolition of housing against the authors, on the ground of their Roma ethnic origin, the Committee considered that these claims had been insufficiently substantiated. It further remained unclear whether these allegations were raised at any time before the State party's authorities and courts. In these circumstances, the Committee considered the communication inadmissible under article 2 of the Optional Protocol.

28. In case No. 1990/2010 (*Yachnik v. Belarus*), the Committee took note of the author's claim that the denial of a pension on the ground of her religiously motivated refusal to obtain a new-style passport violated her rights under articles 18 (1) and (2) and 26 of the Covenant. The Committee considered, however, that the author had not demonstrated that she had no possibility of establishing her eligibility for a pension by presenting other documentary proof of identity without obtaining a new-style passport. The Committee therefore concluded that the author had not sufficiently substantiated her claims.

29. In case No. 1995/2010 (*Hickey v. Australia*), concerning the lack of independence of the police investigation of the death of the author's son, the Committee considered that the author's claim was formulated in general terms and was not based on concrete facts and evidence challenged by the author before the domestic authorities. While the Committee, through consideration of individual communications, can examine claims challenging the lack of independence of the institutions and proceedings surrounding a criminal investigation and identify legislation or practices which are inconsistent with the rights protected under the Covenant, the purpose of the procedure is to determine whether such type of deficiencies in the concrete circumstances of the case under examination constitutes a violation of the rights of the alleged victim. Accordingly, the Committee considered that the author had failed to sufficiently substantiate her claims of violation of articles 6 and 26, alone and in conjunction with article 2, of the Covenant and declared the communication inadmissible.

30. In case No. 2042/2011 (*Huseynov v. Azerbaijan*), the Committee noted the author's claim that his ill-treatment during pretrial detention had long-term consequences, which resulted in a continuous violation of his rights under article 7. However, the Committee recalled its jurisprudence, according to which alleged violations of the Covenant that occurred before the entry into force of the Optional Protocol for a given State party may only be considered by the Committee if those violations continue after that date or continue to have effects which, in themselves, constitute a violation of the Covenant. Also, the Committee may regard an alleged violation as continuing in nature when there exists "affirmation, after the entry into force of the Optional Protocol, by act or by clear

implication, of previous violations by the State party". Nonetheless, the Committee does not regard isolated acts of torture as giving rise to a continuous violation of the Covenant, even if such acts have resulted in a lengthy imprisonment extending in time beyond the relevant date for the entry into force of the Covenant or Optional Protocol. Furthermore, the author had not demonstrated that he had raised the torture allegations at proceedings after the entry into force of the Optional Protocol for the State party. Accordingly, the Committee considered that the allegations presented by the author did not give rise to a continuous violation of the Covenant and were inadmissible under article 2 of the Optional Protocol.

31. In case No. 2515/2014 (*X v. Denmark*), concerning the deportation of the author to Afghanistan, the Committee observed that the author's original request for asylum on the grounds of his fear of persecution by a private individual had been refused by the Danish Immigration Service and the Danish Refugee Board. Since the author claimed that he had converted to Christianity after these decisions, the Board reopened the author's case in order to examine his request for asylum on this new ground, giving the author opportunity to substantiate his new allegations and to submit evidence in support of them. On 27 October 2014, the Board dismissed the new allegations due to, inter alia, the author's contradicting statements and his failure to show that the Afghan authorities might be aware of his conversion. The author disagreed with this decision. However, the Committee observed that his claims mainly relied on his mere membership of a particular Christian church and that he had failed to identify any irregularity in the decision-making process, or to explain why the decision of the Board was manifestly arbitrary, for instance, owing to its failure to take properly into account a relevant risk factor. Accordingly, the Committee considered that the author's claims under articles 7, 18 and 26 of the Covenant had been insufficiently substantiated for the purposes of admissibility, and concluded that the communication was inadmissible under article 2 of the Optional Protocol.

32. In case No. 2523/2015 (*X v. Denmark*), the author, a Syrian citizen claimed that his deportation to Greece would constitute a violation of article 7 of the Covenant. He claimed that he would risk being targeted by neo-Nazis there, as had been the case in the past, and would be exposed to substandard living conditions. The Committee noted the author's claim regarding the poor living conditions of individuals in similar situations in Greece and a lack of adequate assistance by the authorities. At the same time, however, the Committee observed that the author was not an asylum seeker, but had been recognized as a refugee, with the right to work legally in Greece, and lived in Greece from 2007 to 2010, without reporting any violation of his rights; that, subsequently, he returned to the Syrian Arab Republic, where he lived for four more years; that within a period of seven months, he managed to travel from the Syrian Arab Republic to Greece, pay for a residence permit there and travel to Norway and Denmark by air; and that his complaint to the Committee was based on an isolated incident, committed by non-State actors. In the light of the above considerations, the Committee considered that the author's claims under article 7 of the Covenant could not be seen as having been sufficiently substantiated for the purposes of admissibility and declared the communication inadmissible under article 2 of the Optional Protocol.

4. Competence of the Committee with respect to the evaluation of facts and evidence (Optional Protocol, art. 2)

33. 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 Nos. 1998/2010 (*A.W.K. v. New Zealand*), 2015/2010 (*H.S. v. Australia*), 2021/2010 (*E.Z. v. Kazakhstan*) and 2211/2012 (*L.F. v. New Zealand*).

5. Inadmissibility for incompatibility with the provisions of the Covenant (Optional Protocol, art. 3)

34. In case No. 2131/2012 (*Leven v. Kazakhstan*), the Committee took note of the author's submission that the acts of the State party resulted in violation of its obligations under article 2 (1) of the Covenant, since they deprived him of the possibility of freely practising his religion. The Committee recalled its jurisprudence that the provisions of article 2 of the Covenant lay down general obligations for States parties, and that the provision of article 2 (1) "to respect and to ensure … the rights recognized in the present Covenant" does not afford any separate individual right that can be invoked in conjunction with other provisions of the Covenant in a communication under the Optional Protocol. The Committee therefore considered that the author's claims in that regard were incompatible with article 2 of the Covenant and inadmissible under article 3 of the Optional Protocol.

35. In case No. 1976/2010 (*Kuznetsov and others v. Belarus*), the Committee took note of the authors' submission that the State party violated its obligations under article 2 (2) of the Covenant, when read in conjunction with articles 19 and 21, since it had failed to adopt such laws or other measures as might be necessary to give effect to the rights recognized in articles 19 and 21 of the Covenant. The Committee recalled its jurisprudence that the provisions of article 2 of the Covenant lay down a general obligation for States parties, and that they do not give rise, when invoked separately, to a claim in a communication under the Optional Protocol. The Committee considered that the provisions of article 2 cannot be invoked in a claim in a communication under the Optional Protocol in conjunction with other provisions of the Covenant, except when the failure by the State party to observe its obligations under article 2 is the proximate cause of a distinct violation of the Covenant directly affecting the individual who claims to be a victim. The Committee noted, however, that the authors had already alleged a violation of their rights under articles 19 and 21 resulting from interpretation and application of the existing laws of the State party, and the Committee did not regard that an examination of whether the State party also violated its general obligations under article 2 (2) of the Covenant, when read in conjunction with articles 19 and 21, would be distinct from the examination of a violation of the authors' rights under articles 19 and 21 of the Covenant. The Committee therefore considered that the authors' claims in this regard were incompatible with article 2 of the Covenant and inadmissible under article 3 of the Optional Protocol. A similar conclusion was reached in cases Nos. 1973/2010 (*Griffiths v. Australia*), 2030/2011 (*Poliakov v. Belarus*) and 2114/2011 (*Sudalenko v. Belarus*).

36. In case Nos. 1999/2010 (*Evrezov and others v. Belarus*) and 2103/2011 (*Poliakov v. Belarus*), the Committee took note of the author's submission that the State party violated its obligations under article 2 (2) of the Covenant, in conjunction with articles 14 and 19, since it had failed to give precedence to the norms of the international treaty over domestic law when evaluating his conviction for distributing greeting cards. 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 a State party is allowed, under article 2, to give effect to the Covenant rights in accordance with its own domestic constitutional structure and that it did not require that the Covenant be directly applicable in the courts, by incorporation of the Covenant into national law. The Committee therefore considered the author's claim that the State party must afford the Covenant precedence over domestic law

to be incompatible with article 2 of the Covenant and inadmissible under article 3 of the Optional Protocol.

37. In case No. 2325/2013 (*Foumbi v. Cameroon*), the Committee took note of the author's allegations that his rights under article 11 were violated because he was imprisoned for breach of contract. The Committee recalled its jurisprudence to the effect that the prohibition of detention for debt, enshrined in article 11 of the Covenant, does not apply to criminal offences related to civil debts and that, in the case of fraud and negligent or fraudulent bankruptcy, the offender may be punished with imprisonment even when no longer able to pay the debts. In this case, the author was facing criminal prosecution for fraud and the charges against him did not relate to breach of contract but fell under the scope of criminal law. Consequently, the Committee found this claim incompatible *ratione materiae* with article 11 of the Covenant and thus inadmissible under article 3 of the Optional Protocol.

38. In case No. 2186/2012 (*X v. Denmark*), the Committee referred to its jurisprudence that proceedings relating to the expulsion of aliens do not fall within the ambit of a determination of "rights and obligations in a suit at law" within the meaning of article 14 (1) but are governed by article 13 of the Covenant. Article 13 of the Covenant offers some of the protection afforded by article 14 (1) of the Covenant but not the right of appeal. The Committee therefore considered that the authors' claim regarding the lack of right to appeal under article 14 was inadmissible *ratione materiae* pursuant to article 3 of the Optional Protocol.

39. Specific claims were also declared inadmissible under article 3 in cases Nos. 1875/2009 (*M.G.C. v. Australia*), 1961/2010 (*X v. Czech Republic*), 1967/2010 (*B and C v. Czech Republic*), 1973/2010 (*Griffiths v. Australia*), 2009/2010 (*Ilyasov v. Kazakhstan*), 2015/2010 (*H.S. v. Australia*), 2085/2011 (*García Bolívar v. Bolivarian Republic of Venezuela*), 2165/2012 (*Belyatsky v. Belarus*) and 2176/2012 (*M. v. Belgium*).

6. Inadmissibility for abuse of the right to submit a communication (Optional Protocol, art. 3)

40. 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. The question of abuse has often been raised in connection with communications where several years have elapsed between the exhaustion of domestic remedies and the submission of the communication to the Committee. The Optional Protocol establishes no time limit for the submission of communications and the passage of time, other than in exceptional cases, does not in itself constitute an abuse of the right to submit a communication. In this respect, rule 96 (c) of the rules of procedure[1] indicates that "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."

41. During the period under consideration, the question of abuse was raised in case No. 2111/2011 (*Tripathi v. Nepal*), involving a enforced disappearance, where the State party referred in general to rule 96 (c). The Committee observed that the communication

[1] CCPR/C/3/Rev.10.

was submitted on 28 September 2011 and that no domestic legal action was taken by the author after a ruling by the Supreme Court of 26 January 2004. However, the author continued to make efforts to clarify her husband's whereabouts after that date, approaching different authorities to that effect. Moreover, on 1 July 2007, the Constitutional Court had issued a ruling concerning the arbitrary detention and enforced disappearance of several detainees, including the author's husband. Accordingly, in the circumstances of the case the Committee considered that the delay did not constitute an abuse of the right of submission under article 3 of the Optional Protocol.

7. Inadmissibility because the same matter has been or is being examined under another procedure of international investigation or settlement (Optional Protocol, art. 5 (2) (a))

42. In a number of communications during the period under review the question was raised as to whether the communication should be declared inadmissible because the same matter had been or was being examined under another procedure of international investigation or settlement.

43. In case No. 1926/2010 (*S.I.D. et al. v. Bulgaria*), the Committee took note of the State party's argument that the authors had submitted similar claims to the complaint procedure of the Human Rights Council; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Independent Expert on minority issues; and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. In this regard, the Committee recalled that extraconventional procedures or mechanisms established by the Human Rights Council, to examine and publicly report on human rights situations in specific countries or territories or on major phenomena of human rights violations worldwide, do not constitute a procedure of international investigation or settlement within the meaning of article 5 (2) (a) of the Optional Protocol. The study of human rights problems of a more global character, although it might refer to or draw on information concerning individuals, cannot be seen as being the same matter as the examination of individual cases within the meaning of article 5, paragraph 2 (a). Accordingly, the Committee considered that it was not precluded, for purposes of admissibility, from examining the communication. A similar statement was made in cases Nos. 1882/2009 (*Al Daquel v. Libya*), 2026/2011 (*Zaier v. Algeria*), 2069/2011 (*Shikhmuradova v. Turkmenistan*), 2098/2011 (*Ammari v. Algeria*), 2117/2011 (*Louddi v. Algeria*) and 2132/2012 (*Allioua and Kerouane v. Algeria*).

44. In case No. 1860/2009 (*Al-Rabassi v. Libya*), the Committee noted that in its opinion No. 27/2005, adopted on 30 August 2005, the Working Group on Arbitrary Detention had found the detention of Mr. Al-Rabassi to be arbitrary. As the Working Group had already concluded its consideration of the case before it was submitted to the Committee, the Committee did not need to address the issue of whether consideration of a case by the Working Group is "another procedure of international investigation or settlement" under article 5 (2) (a) of the Optional Protocol. Consequently, the Committee considered that there were no obstacles to the admissibility of the communication under this provision. A similar conclusion was reached in case No. 2165/2012 (*Belyatsky v. Belarus*).

45. In case No. 2390/2014 (*Pronina v. France*), where the author claimed against the denial of her right to an effective remedy, the Committee recalled its jurisprudence according to which "same matter" refers to a petition that concerns the same individuals, facts and substantive rights. The Committee noted that the European Court of Human Rights had examined an application submitted by the same author. The Court went beyond an examination of purely procedural criteria of admissibility and ruled that the complaint was inadmissible because it did not disclose any appearance of a violation of the provisions

of the Convention for the Protection of Human Rights and Fundamental Freedoms. Despite certain differences in the Court's interpretation of article 6 (1) of the European Convention and the Committee's interpretation of article 14 (1) of the Covenant, both the content and scope of these provisions largely converged. In the light of the similarity of the two provisions and the State party's reservation, the Committee considered itself precluded from reviewing a finding of the European Court of Human Rights on the applicability of article 6 (1) of the European Convention by referring to its jurisprudence under article 14 (1) of the Covenant. The Committee accordingly found the claim inadmissible under article 5 (2) (a), of the Optional Protocol, as the same matter had already been considered by the European Court of Human Rights.

46. In case No. 2068/2011 (*Vojnović v. Croatia*), the Committee noted that the author had filed an application before the European Court of Human Rights raising similar issues. That application was stricken out of the list of cases by the Court, given that a friendly settlement had been reached by the parties. Prior to discontinuing the application, the European Court determined that the settlement was based on respect for human rights, as defined in the Convention for the Protection of Human Rights and Fundamental Freedoms , and found no reasons to justify a continued examination of the application, in accordance with article 39 of the Convention. Given the reservation of Croatia to article 5 (2) (a) of the Optional Protocol, the Committee considered that, in the particular circumstances of the case, the author's claims had been examined by the Court and that the Committee was therefore precluded from examining the communication submitted to it.

47. In case No. 2008/2010 (*Aarrass v. Spain*), the Committee noted that before the submission of the case to it, the author had submitted to the European Court of Human Rights an application and a request for interim measures to avoid his extradition. Two months later, the author had been informed that a single judge formation of the Court had found the application inadmissible, not having found any violation of the rights and freedoms guaranteed by the Convention or the Protocols thereto. The author later submitted a new application for interim measures to the Court, and that was also rejected before he brought the case to the Committee. When it ratified the Optional Protocol, Spain entered a reservation excluding the Committee's competence in matters that had been or were being examined under another procedure of international investigation or settlement.

48. The Committee held that the European Court had considered not just the formal admissibility criteria, but the actual complaints presented by the author in his application to the Court. However, in his claims under article 7 of the Covenant, the author referred to the risk of being subjected to torture and mistreatment if he were to be extradited to Morocco. In this regard, he argued that the Moroccan authorities had been using torture systematically since 2003 in their efforts to combat terrorism; that his extradition was requested as part of the *Belliraj* case, in which those detained were subjected to ill-treatment and physical and psychological torture and convicted on the basis of confessions obtained under torture; that those cases of torture were not isolated incidents; and that it was therefore reasonable to suppose that he too would be subjected to torture. The author referred to the risk of being held incommunicado and tortured to extract a confession, in application of Moroccan antiterrorist legislation, while his complaint under article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms in his application to the European Court referred to prison conditions in general in Morocco, which the author maintained constituted inhuman or degrading treatment. Furthermore, his claims under article 9 (1) and (3) of the Covenant essentially referred to the duration of his provisional detention in the State party, including the period between the inadmissibility decision of the European Court and his extradition to Morocco. In the light of these considerations, and bearing in mind also the limited reasoning in the Court's decisions, the Committee concluded that the matter addressed in the complaints under articles 7 and 9 (1) and (3) of the Covenant was not essentially the same as that submitted to the European

Court of Human Rights. Consequently, the Committee considered that under article 5 (2) (a) of the Optional Protocol, it was not precluded from considering the author's complaints relating to articles 7 and 9 (1) and (3) of the Covenant. As to the author's complaints under articles 2 (3), 23 and 26 of the Covenant, given that these complaints did not form part of his application to the European Court or were based on provisions that are not fully congruent with the provisions of the European Convention on Human Rights and the Protocols thereto, the Committee considered that it was not precluded from considering them under article 5 (2) (a) of the Optional Protocol.

8. The requirement of exhaustion of domestic remedies (Optional Protocol, art. 5 (2) (b))

49. Pursuant to article 5 (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.

50. In case No. 1924/2010 (*Boudehane v. Algeria*), concerning enforced disappearances, the Committee noted the State party's view that the author and her family had not exhausted domestic remedies, since they did not bring the matter before the investigating judge and sue for damages in criminal proceedings under articles 72 and 73 of the Code of Criminal Procedure. The Committee also noted that, according to the State party, the author had written letters to political and administrative authorities and petitioned representatives of the prosecution service, but had not, strictly speaking, initiated legal action and seen it through to its conclusion by availing herself of all available remedies of appeal and cassation. As to the author, she argued that several complaints were lodged with the public prosecutors of the courts of Taher and of Jijel, and that letters were sent to the Minister of Justice, as well as to the President of the Republic. At no time did any of these authorities conduct an investigation into the alleged violations. She also argued that article 46 of Ordinance No. 06-01 penalizes any person who files a complaint pertaining to actions covered by article 45 thereof. The Committee recalled that the State party has a duty not only to carry out thorough investigations of alleged violations of human rights, particularly enforced disappearances or violations of the right to life, brought to the attention of its authorities, but also to prosecute, try and punish anyone held to be responsible for such violations. Although the family of the disappeared persons repeatedly contacted the competent authorities, the State party failed to conduct a thorough and effective investigation into the events. The State party also failed to provide sufficient information indicating that an effective remedy is indeed available while Ordinance No. 06-01 continues to be applied, notwithstanding the Committee's recommendations that it should be brought into line with the Covenant. The Committee considered that to sue for damages for offences as serious as those alleged could not be considered a substitute for 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 about the effectiveness of filing a complaint were reasonable. The Committee therefore concluded that article 5 (2) (b) of the Optional Protocol was not an obstacle to the admissibility of the communication. The Committee reached a similar conclusion in cases Nos. 1931/2010 (*Bouzeriba v. Algeria*), 1964/2010 (*Fedsi v. Algeria*), 1974/2010 (*Bousseloub v. Algeria*),

2083/2011 (*Kroumi v. Algeria*), 2086/2011 (*Dehimi and Ayache v. Algeria*), 2132/2012 (*Allioua and Kerouane v. Algeria*) and 2132/2012 (*Allioua and Kerouane v. Algeria*).

51. In case No. 1990/2010 (*Yachnik v. Belarus*), the Committee noted the State party's challenge to the admissibility of the communication for non-exhaustion of domestic remedies, as the author had not requested the Office of the Procurator-General to have her case considered under the supervisory review proceedings. The Committee recalled its jurisprudence according to which a petition for supervisory review to a Prosecutor's Office, allowing for review of court decisions that have taken effect, does not constitute a remedy which has to be exhausted for the purposes of article 5 (2) (b) of the Optional Protocol. A similar conclusion was reached in cases Nos. 1929/2010 (*Lozenko v. Belarus*), 1933/2010 (*Aleksandrov v. Belarus*), 1934/2010 (*Bazarov v. Belarus*), 1952/2010 (*Symonik v. Belarus*), 1976/2010 (*Kuznetsov and others v. Belarus*), 1985/2010 (*Koktish v. Belarus*), 1986/2010 (*Kozlov v. Belarus*), 1987/2010 (*Stambrovsky v. Belarus*), 1991/2010 (*Volchek v. Belarus*), 1992/2010 (*Sudalenko v. Belarus*), 1993/2010 (*Mikhailovskaya and Volchek v. Belarus*), 1999/2010 (*Evrezov and others v. Belarus*), 2029/2011 (*Praded v. Belarus*), 2103/2011 (*Poliakov v. Belarus*) 2114/2011 (*Sudalenko v. Belarus*) and 2165/2012 (*Belyatsky v. Belarus*).

52. In case No. 2030/2011 (*Poliakov v. Belarus*), the Committee added that filing a request for supervisory review to the president of a court with regard to a court decision that has entered into force constitutes an extraordinary remedy which would depend on the discretionary powers of a judge, and the State party would have to show that there is a reasonable prospect that such request would result in an effective remedy in the circumstances of the case. The State party had not shown whether, and in how many cases, a petition to the President of the Supreme Court for supervisory review had been successful in cases concerning the right to freedom of assembly, which was the substantive issue in this communication. In the circumstances, the Committee found that the provisions of article 5 (2) (b) of the Optional Protocol did not preclude it from considering the communication. The Committee reached a similar conclusion, as applicable, in cases No. 1906/2009 (*Yuzepchuk v. Belarus*), 2041/2011 (*Dorofeev v. Russian Federation*) and 2156/2012 (*Nepomnyaschikh v. Belarus*).

53. In case No. 2042/2011 (*Huseynov v. Azerbaijan*), the Committee noted the author's claims that he was held in solitary confinement, that the conditions of detention violated his rights under article 10 of the Covenant and that, as a political prisoner, he was discriminated against, in violation of his rights under article 26 of the Covenant. The Committee, however, observed that those claims had not been brought to the attention of the authorities on any occasion before the author's complaint to the Committee. The author explained that he was afraid of reprisals if he submitted complaints while serving his prison sentence. However, the Committee observed that the author was released from prison in 2004 and did not appear to have submitted any complaints regarding the above issues after his release. Accordingly, the Committee considered those claims inadmissible under article 5 (2) (b) of the Optional Protocol.

54. In case No. 2018/2010 (*Chaulagain v. Nepal*), the Committee considered that the future transitional justice mechanisms, such as the Truth and Reconciliation Commission, would not be able to provide an adequate remedy in respect of the violations alleged in the communication and recalled its jurisprudence that in cases of serious violations a judicial remedy was required. As to whether there existed ongoing proceedings regarding the issues related to the communication, the Committee noted the author's attempts to obtain a domestic remedy and considered that the State party had not demonstrated that the continuing investigation carried out by its authorities, more than eight years after the killing of his daughter, was effective, in light of the serious and grave nature of the alleged violations, and that the delay had been unreasonably prolonged. Accordingly, the

Committee concluded that it was not precluded from considering the communication under article 5 (2) (b) of the Optional Protocol. A similar finding was made in case No. 2051/2011 (*Basnet v. Nepal*).

55. During the period under review other communications or specific claims were declared inadmissible for failure to exhaust domestic remedies, including in cases Nos. 1875/2009 (*M.G.C. v. Australia*), 1937/2010 (*Leghaei and others v. Australia*), 1946/2010 (*Bolshakov v. Russian Federation*), 1965/2010 (*Monika v. Cameroon*), 1989/2010 (*E.V. v. Belarus*), 2008/2010 (*Aarrass v. Spain*), 2085/2011 (*García Bolívar v. Bolivarian Republic of Venezuela*), 2123/2011 (*Tonenkaya v. Ukraine*), 2126/2011 (*Khakdar v. Russian Federation*), 2192/2012 (*N.S. v. Russian Federation*), 2325/2013 (*Foumbi v. Cameroon*) and 2341/2014 (*N.U. v. Norway*).

9. Interim measures under rule 92 of the Committee's rules of procedure

56. 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, 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, or when issues concerning the health of the alleged victim are at stake.

57. In connection with the communications decided during the period under review, requests for the adoption of interim measures had been made in cases Nos. 1860/2009 (*Al-Rabassi v. Libya*), 1906/2009 (*Yuzepchuk v. Belarus*), 1937/2010 (*Leghaei and others v. Australia*), 2008/2010 (*Aarrass v. Spain*), 2013/2010 (*Grishkovtsov v. Belarus*), 2049/2011 (*Z v. Australia*), 2053/2011 (*B.L. v. Australia*), 2091/2011 (*A.H.G. v. Canada*), 2126/2011 (*Khakdar v. Russian Federation*), 2186/2012 (*X v. Denmark*), 2192/2012 (*N.S. v. Russian Federation*), 2243/2013 (*Husseini v. Denmark*), 2272/2013 (*P.T. v. Denmark*), 2325/2013 (*Foumbi v. Cameroon*) and 2341/2014 (*N.U. v. Norway*).

58. In case No. 1937/2010 (*Leghaei and others v. Australia*), the Special Rapporteur on new communications and interim measures had initially requested the State party not to expel the author and his accompanying dependants while the communication was under consideration by the Committee. Subsequently, upon receipt of further information from both parties, the Committee's request to grant interim measures was lifted and the author left Australia with his wife and minor daughter.

59. While in the majority of these cases interim measures were granted as a result of the Committee's request there were some in which they were denied, as indicated in the following paragraphs.

60. In case No. 2091/2011 (*A.H.G. v. Canada*), the Committee took note of the State party's argument that it was not materially in a position to give effect to the Committee's request not to deport the author to Jamaica while his case is under consideration by the Committee, given that this request was only received by the relevant Canadian authorities *after* the plane taking the author to Jamaica took off. The Committee nonetheless regretted that, based on its opinion that it was not an appropriate case for the Committee to issue interim measures, the State party did not consider the possibility to return the author to Canada. The Committee recalled that interim measures, pursuant to rule 92 of the Committee's rules of procedure, are essential to the Committee's role under the Optional Protocol, and that failure to implement interim measures is incompatible with the obligation to respect in good faith the procedure of individual communications established under the Optional Protocol.

61. In case No. 2008/2010 (*Aarrass v. Spain*), where the author claimed, inter alia, that he would be tortured if extradited to Morocco, the Committee asked the State party not to proceed to the extradition while the case was under consideration. This request was ignored by the State party and the extradition took place a few days after the request was made. In its Views on the case the Committee recalled that, by adhering to the Optional Protocol, a State party to the Covenant recognizes the competence of the 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). Adherence to the Optional Protocol obliges a State party 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 (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. Apart from any violation of the Covenant found in a communication, the State party in question commits grave breaches of its obligations under the Optional Protocol if it acts to prevent or 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 communication, the author had alleged that his rights under articles 7 and 14 of the Covenant would be violated should he be extradited to Morocco. Having been notified of the communication, the State party breached its obligations under the Optional Protocol by extraditing the author before the Committee could conclude its consideration and examination and the formulation and communication of its Views. It is particularly regrettable for the State to have done so after the Committee had acted under rule 92 of its rules of procedure, requesting the State party to refrain from doing so. Interim measures pursuant to rule 92 of the Committee's 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, the author's extradition, undermines the protection of Covenant rights through the Optional Protocol.

62. The Committee noted the State party's failure to respect its request for interim measures in case No. 2192/2012 (*N.S. v. Russian Federation*), concerning the extradition of the author to Kyrgyzstan, and held that this disclosed a serious breach by the State party of its obligations under article 1 of the Optional Protocol.

63. In case No. 1906/2009 (*Yuzepchuk v. Belarus*), the Committee observed that, when submitting the communication on 2 October 2009, the author informed the Committee that he had been sentenced to death and that the sentence could be carried out at any time. On 12 October 2009, the Committee transmitted to the State party a request not to carry out the death sentence while the case was under examination by the Committee. On 13 November 2009, the Committee reiterated its request and, on 23 March 2010, the Committee received information that the author had been executed. In its Views on the case, the Committee recalled its jurisprudence, as stated above, and held that the State party breached its obligations under the Optional Protocol by executing the alleged victim before the Committee concluded its consideration of the communication. Furthermore, the Committee noted the State party's submission that the Committee had made public information regarding the case, contrary to article 5 (3) of the Optional Protocol, through its press release of 30 March 2010, in which it deplored the execution of the victim despite its request for interim measures. The Committee clarified that article 5 (3) of the Optional Protocol states that the Committee shall hold closed meetings when examining communications, but this provision does not prevent the Committee from making public information regarding the failure of States parties to cooperate with it in the implementation of the Optional Protocol.

64. A similar situation of non-respect of interim measures request arose in case No. 2013/2010 (*Grishkovtsov v. Belarus*). The Committee learned that the author's death sentence had been carried out, despite its request for interim measures of protection, and sought clarifications from the State party, drawing its attention to the fact that non-respect of interim measures constitutes a violation by States parties of their obligations to cooperate in good faith under the Optional Protocol to the Covenant. No response was received, and the Committee issued a press release deploring the situation and condemning the execution.

10. Protection measures

65. In cases Nos. 2083/2011 (*Kroumi v. Algeria*), 2086/2011 (*Dehimi and Ayache v. Algeria*), 2117/2011 (*Louddi v. Algeria*) and 2132/2012 (*Allioua and Kerouane v. Algeria*) concerning enforced disappearances, the Committee, through its Special Rapporteur on new communications and interim measures, decided to grant the protection measures requested by the author and asked the State party to refrain from invoking domestic legislation, and specifically Ordinance No. 06-01 of 27 February 2006 implementing the Charter for Peace and National Reconciliation, against the author or his family on the grounds of the communication. These decisions were communicated to the State party when the State party was requested to provide observations on admissibility and merits.

B. Substantive issues

1. The right to an effective remedy (Covenant, art. 2 (3))

66. The Committee found violations of this provision, read in conjunction with other articles of the Covenant, in cases concerning enforced disappearances Nos. 1860/2009 (*Al-Rabassi v. Libya*), 1882/2009 (*Al Daquel v. Libya*), 1924/2010 (*Boudehane v. Algeria*), 1931/2010 (*Bouzeriba v. Algeria*), 2000/2010 (*Katwal v. Nepal*), 2026/2011 (*Zaier v. Algeria*), 2031/2011 (*Bhandari v. Nepal*), 2051/2011 (*Basnet v. Nepal*), 2083/2011 (*Kroumi v. Algeria*), 2086/2011 (*Dehimi and Ayache v. Algeria*), 2098/2011 (*Ammari v. Algeria*), 2111/2011 (*Tripathi v. Nepal*) and 2132/2012 (*Allioua and Kerouane v. Algeria*).

67. In case No. 1924/2010 (*Boudehane v. Algeria*), for instance, the Committee recalled the importance it attaches to the establishment by States parties of appropriate judicial and administrative mechanisms for addressing claims of rights violations. It referred to its general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, which states that failure by a State party to investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant. In the present case, although the victims' family repeatedly contacted the competent authorities, all their efforts were in vain, and the State party failed to conduct a thorough and effective investigation into the disappearance. Furthermore, the absence of the legal right to undertake judicial proceedings since the promulgation of Ordinance No. 06-01 on the implementation of the Charter for Peace and National Reconciliation continued to deprive the author and her family of access to an effective remedy, since the Ordinance prohibits the initiation of legal proceedings to shed light on the most serious crimes, such as enforced disappearance.

68. In case No. 2031/2011 (*Bhandari v. Nepal*), the Committee observed that, shortly after the detention of the author's father, the author and his mother approached the Chief District Officer and the Deputy Superintendent of Police seeking information and later complained to the National Human Rights Commission, the Supreme Court and the police. Despite the author's efforts, almost 12 years after the disappearance of his father, no thorough and effective investigation had been concluded by the State party, in order to elucidate the circumstances surrounding his detention and alleged death, and no criminal investigation had even started to bring the perpetrators to justice. The State party referred in

a general fashion to ongoing investigations but failed to explain the effectiveness and adequacy of such investigations and the concrete steps taken to clarify the circumstances of the detention and the cause of the alleged death, or to locate the mortal remains and return them to the author's family. Therefore, the Committee considered that the State party failed to conduct a thorough and effective investigation into the disappearance. Additionally, the 100,000 Nepalese rupee received by the author as interim relief did not constitute an adequate remedy commensurate with the serious violations inflicted. Accordingly, the Committee concluded that the facts before it revealed a violation of articles 2 (3), read in conjunction with article 6 (1), 7, 9 and 16 of the Covenant, with regard to the author's father and article 2 (3), read in conjunction with article 7 of the Covenant, with respect to the author.

69. In cases of enforced disappearance against Bosnia and Herzegovina Nos. 1956/2010 (*Durić v. Bosnia and Herzegovina*), 1966/2010 (*Hero v. Bosnia and Herzegovina*), 1970/2010 (*Kožljak v. Bosnia and Herzegovina*), 2003/2010 (*Selimović and others v. Bosnia and Herzegovina*) and 2022/2011 (*Hamulić and Hodžić v. Bosnia and Herzegovina*), the Committee found violations of a number of articles of the Covenant, read in conjunction with article 2 (3). The Committee recalled that, without prejudice to the continuing obligation of States parties to investigate all dimensions of an enforced disappearance, including bringing those responsible to justice, it recognized the particular difficulties that a State party may face in investigating crimes that may have been committed on its territory by the hostile forces of a foreign State. Therefore, while acknowledging the gravity of the disappearances and the suffering of the authors, because the fate or whereabouts of their missing ones had not yet been clarified and the culprits had not yet been brought to justice, that in itself was not sufficient to find a breach of article 2 (3) of the Covenant in the particular circumstances of these communications. Nevertheless, the Committee found violations of the Covenant regarding the State party's failure to provide specific and relevant information concerning the steps taken to establish the victims' fate and whereabouts.

70. In case No. 1956/2010 (*Durić v. Bosnia and Herzegovina*), for instance, the authors claimed that Ibrahim Durić had been a victim of enforced disappearance since 1992 and that, despite numerous efforts on their part, no prompt, impartial, thorough and independent investigation had been carried out to clarify his fate and whereabouts and to bring the perpetrators to justice. The authors did not allege that the State party was directly responsible for the enforced disappearance and the Committee observed that the term "enforced disappearance" may be used in an extended sense, referring to disappearances initiated by forces independent of, or hostile to, a State party, in addition to disappearances attributable to a State party. The Committee noted the State party's information that it had made considerable efforts at the general level in view of the more than 30,000 cases of enforced disappearances that occurred during the conflict. Notably, the Constitutional Court had established that State authorities were responsible for the investigation of the disappearance of authors' relatives; domestic mechanisms had been set up to deal with enforced disappearances and other war crimes cases; and DNA samples from unidentified bodies have been compared with the DNA samples of Ibrahim Durić's family. However, the Committee noted that the State party had not provided information to the authors or to the Committee as to the status of the investigation into Ibrahim Durić's disappearance, or as to the specific measures undertaken to investigate his disappearance and bring to justice those responsible. The State party described efforts to search for Ibrahim Durić's remains, but did not identify any steps taken to pursue the investigation by other means, such as interviewing witnesses. The limited information that the family managed to obtain throughout the proceedings was provided to them only at their own request, or after very long delays, a fact that was not refuted by the State party. The Committee considered that authorities investigating enforced disappearances must give the families a timely

opportunity to contribute their knowledge to the investigation, and that information regarding the progress of the investigation must be made promptly accessible to the families. Taking all of these circumstances into account, the Committee concluded that the facts before it revealed a violation by the State party of articles 6, 7 and 9, read in conjunction with article 2 (3), of the Covenant, with regard to Ibrahim Durić.

71. The Committee further noted that the social allowance provided to the authors depended upon their agreeing to seek the recognition of their missing relative as dead, although there was no certainty as to his fate and whereabouts. The Committee considered that to oblige families of disappeared persons to have the family member declared dead in order to be eligible for compensation while the investigation is ongoing makes the availability of compensation dependent on a harmful process, and constitutes inhuman and degrading treatment in violation of article 7 read alone and in conjunction with article 2 (3) of the Covenant with respect to the authors.

72. Other than enforced disappearances, the Committee found violations of article 2 (3), read in conjunction with other provisions of the Covenant, in cases Nos. 1958/2010 (*El Hojouj v. Libya*), 1964/2010 (*Fedsi v. Algeria*), 1974/2010 (*Bousseloub v. Algeria*), 2041/2011 (*Dorofeev v. Russian Federation*), 2046/2011 (*Hmeed v. Libya*), 2054/2011 (*Ernazarov v. Kyrgyzstan*) and 2087/2011(*Guneththige v. Sri Lanka*).

2. Right to life (Covenant, art. 6)

73. In case No. 1906/2009 (*Yuzepchuk v. Belarus*), the author had claimed a violation of his right to life for having been sentenced to death after an unfair trial. The State party argued, with reference to article 6 (2) of the Covenant, that Mr. Yuzepchuk was sentenced to death for having committed serious crimes following the judgement handed down by the courts, in accordance with the Constitution, the Criminal Code and the Code of Criminal Procedure of Belarus, and that the imposition of the death penalty was not contrary to the Covenant. In that respect, the Committee recalled its general comment No. 6 (1982) on the right to life, in which it noted that the provision that a sentence of death may be imposed only in accordance with the law and not contrary to the provisions of the Covenant, implies that "the procedural guarantees therein prescribed must be observed, including the right to a fair hearing by an independent tribunal, the presumption of innocence, the minimum guarantees for the defence, and the right to review by a higher tribunal". In the same context, 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 (1) and (3) (e) and (g) of the Covenant in this case, it concluded that the final sentence of death and subsequent execution of Mr. Yuzepchuk did not meet the requirements of article 14 and that, as a result, his right to life under article 6 of the Covenant had been violated. A similar conclusion was reached in case No. 2013/2010 (*Grishkovtsov v. Belarus*).

74. In case No. 2053/2011 (*B.L. v. Australia*), the Committee examined the author's claim that his deportation to Senegal could constitute a violation of his rights under articles 6 and 7. However, the Committee observed that the author's refugee claim was thoroughly examined by the State party's authorities, which concluded that the author did not have a well-founded fear of persecution. The author did not seek judicial review of the decision of the Refugee Review Tribunal rejecting his claim and did not assert any procedural irregularity in the Tribunal's decision. The Committee concluded that it was not shown that the authorities in Senegal would not generally be willing and able to provide impartial, adequate and effective protection to the author against threats to his physical safety, and that it would not be unreasonable to expect him to settle in a location where such protection would be available to him. Provided that the author would only be returned

to such a location where the State party determine that adequate and effective protection was available, the Committee could not conclude that removing him to Senegal would violate the obligations of Australia under article 6 or 7 of the Covenant.

75. In case No. 2054/2011 (*Ernazarov v. Kyrgyzstan*), concerning the death of the author's brother while in police custody, the Committee took note, inter alia, that the State party had not explained how the injuries of the author's brother may have occurred in police custody, and that the State party had simply denied the allegations of ill-treatment and allegations that the guards at the detention centre were aware of the alleged daily abuse of Mr. Ernazarov by his cellmates during his detention. The Committee considered that it is the duty of the State party to afford protection to everyone in detention as may be necessary against threats to life. In the absence of any information, other than denial, by the State party with respect to the author's allegation that the authorities were aware of his brother's daily ill-treatment by his cellmates, and absent any information on measures taken to protect his brother's right to life, the Committee concluded that the Kyrgyz authorities were responsible for not taking adequate measures of protection and failed to protect the victim's life, in breach of article 6 (1) of the Covenant.

76. In case No. 2018/2010 (*Chaulagain v. Nepal*), it was not disputed that the author's daughter was arrested by soldiers of the RNA without a warrant of arrest, and that she died as result of the use of firearms by these soldiers, although the parties disagreed as to the circumstances of this death. In any case, the Committee considered that the killing of the author's daughter by the Army warranted a speedy and independent investigation. Deprivation of life by State authorities is a matter of utmost gravity that requires a prompt and adequate investigation, with all the guarantees set forth in the Covenant, and the appropriate punishment of the perpetrators. The Committee observed that shortly after the death of his daughter, the author filed a number of complaints but to no avail. In June 2005 the National Human Rights Commission found that his daughter had been unlawfully killed and recommended the Government to identify and take legal actions against the perpetrators. Likewise, on 14 December 2009, the Supreme Court issued a Mandamus Order to conduct a prompt investigation, but no progress was achieved. Despite the author's efforts, more than 10 years after the killing no investigation had been concluded in order to elucidate the circumstances surrounding the arrest and death and no perpetrator had been tried and punished. The State party referred to ongoing investigations, but the status of such investigations and the reasons for their delay remained unclear. The Committee concluded that the lack of an effective investigation to establish responsibility for the arrest, treatment and killing amounted to a denial of justice and a violation of articles 6 (1), 7, 9 and 10, read all in conjunction with article 2 (3), of the Covenant.

77. The Committee also found a violation of article 6 (1) regarding the death of the victims in cases Nos. 1964/2010 (*Fedsi v. Algeria*), 1974/2010 (*Bousseloub v. Algeria*) and 2087/2011(*Guneththige v. Sri Lanka*).

78. As to cases of enforced disappearance, the Committee found violations of article 6 in Nos. 1860/2009 (*Al-Rabassi v. Libya*), 1882/2009 (*Al Daquel v. Libya*), 1924/2010 (*Boudehane v. Algeria*), 1931/2010 (*Bouzeriba v. Algeria*), 1956/2010 (*Durić v. Bosnia and Herzegovina*), 2000/2010 (*Katwal v. Nepal*), 2026/2011 (*Zaier v. Algeria*), 2031/2011 (*Bhandari v. Nepal*), 2069/2011 (*Shikhmuradova v. Turkmenistan*), 2083/2011 (*Kroumi v. Algeria*), 2086/2011 (*Dehimi and Ayache v. Algeria*), 2111/2011 (*Tripathi v. Nepal*), 2117/2011 (*Louddi v. Algeria*) and 2132/2012 (*Allioua and Kerouane v. Algeria*).

79. In case No. 1860/2009 (*Al-Rabassi v. Libya*), for instance, the Committee noted that Mr. Al-Rabassi was arrested by interior security agents on 3 January 2003 and held at an undisclosed location, with no possibility of communicating with the outside world for around six months. It also noted that while he was serving his sentence in Abu-Salim Prison, his family was refused authorization to visit him for almost two years in 2006 and

2007, during which time they were also unable to have any contact with him. The Committee recalled its jurisprudence that, in cases of enforced disappearance, the deprivation of liberty followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate of the disappeared person removed the person from the protection of the law and placed his or her life at a serious and constant risk for which the State is accountable. In the present case, the State party produced no evidence to show that it met its obligation to protect the life of Mr. Al-Rabassi during the six months after his detention on 3 January 2003 and during the time he was deprived of contact with his family while serving his sentence in Abu-Salim Prison. The Committee, through previous cases, was aware that other persons held in circumstances such as those endured by Mr. Al-Rabassi had been found to have been killed or failed to reappear alive. Accordingly, the Committee concluded that the State party failed in its duty to protect Mr. Al-Rabassi's life, in violation of article 6 (1) of the Covenant.

3. Right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment (Covenant, art. 7)

80. The Committee found violations of this provision in a number of cases involving enforced disappearances, such as cases Nos. 1860/2009 (*Al-Rabassi v. Libya*), 1882/2009 (*Al Daquel v. Libya*), 1924/2010 (*Boudehane v. Algeria*), 1931/2010 (*Bouzeriba v. Algeria*), 1956/2010 (*Durić v. Bosnia and Herzegovina*), 1966/2010 (*Hero v. Bosnia and Herzegovina*), 1970/2010 (*Kožljak v. Bosnia and Herzegovina*), 2000/2010 (*Katwal v. Nepal*), 2026/2011 (*Zaier v. Algeria*), 2031/2011 (*Bhandari v. Nepal*), 2051/2011 (*Basnet v. Nepal*), 2069/2011 (*Shikhmuradova v. Turkmenistan*), 2083/2011 (*Kroumi v. Algeria*), 2086/2011 (*Dehimi and Ayache v. Algeria*), 2098/2011 (*Ammari v. Algeria*), 2111/2011 (*Tripathi v. Nepal*), 2117/2011 (*Louddi v. Algeria*) and 2132/2012 (*Allioua and Kerouane v. Algeria*).

81. In these cases the Committee recognized the degree of suffering involved in being held indefinitely without contact with the outside world and recalled its general comment No. 20 (1992) on the prohibition of torture or other cruel, inhuman or degrading treatment or punishment, which recommends that States parties should make provision to ban incommunicado detention. In most of them violations of article 7, read alone and in conjunction with article 2 (3) of the Covenant, were also found with respect to family members, in the light of the anguish and distress caused to them by the enforced disappearance.

82. In case No. 1860/2009 (*Al-Rabassi v. Libya*), for instance, the Committee noted that Mr. Al-Rabassi was arrested on 3 January 2003, after which time and for a period of six months he was kept incommunicado in an undisclosed location, with no access to family, lawyer or anyone from the outside world, and was held in isolation in a cell which he was not allowed to leave. The Committee also noted that after Mr. Al-Rabassi was sentenced, family visits at Abu-Salim Prison where he was held were interrupted for two years, during which time he had no contact with the outside world. In the absence of information from the State party that would contradict the aforementioned, the Committee concluded that the facts as described amounted to a violation of article 7 of the Covenant.

83. In case No. 1882/2009 (*Al Daquel v. Libya*), the Committee noted that Abdelhamid Al Daquel was arrested on 26 January 1989 and was taken to an undisclosed location by State security officers, after which he was denied any communication with his family; that despite numerous attempts, his family was unable to obtain any information as to his whereabouts; that his family was told of his death nearly 20 years after his arrest and his remains were not returned to them; and that the family was not informed of the circumstances of his death or where he was buried. In the absence of any satisfactory

explanation by the State party, the Committee concluded that these facts amounted to a violation of article 7 of the Covenant.

84. Cases other than enforced disappearances in which the Committee found violations of article 7, or of article 7 read alone and in conjunction with article 2 (3) of the Covenant, include cases Nos. 1906/2009 (*Yuzepchuk v. Belarus*), 1965/2010 (*Monika v. Cameroon*), 1974/2010 (*Bousseloub v. Algeria*), 2013/2010 (*Grishkovtsov v. Belarus*), 2046/2011 (*Hmeed v. Libya*), 2054/2011 (*Ernazarov v. Kyrgyzstan*), 2079/2011 (*Khadzhiev v. Turkmenistan*), 2087/2011(*Guneththige v. Sri Lanka*), 2218/2012 (*Abdullayev v. Turkmenistan*) and those where details are given in the following paragraphs.

85. In case No. 2018/2010 (*Chaulagain v. Nepal*), the Committee took note of the author's allegations regarding the treatment he was subjected to by the RNA forces, including the fact that he was forced to watch the execution of his daughter, and the ensuing absence of proper investigation and impunity of the perpetrators. The Committee observed that all the author's efforts to obtain justice from the authorities had led to nothing and that he and his family had only received 100,000 and 200,000 Nepalese rupees as interim relief in 2008 and 2010, respectively. The Committee considered that the interim relief granted did not constitute an adequate remedy commensurate to the serious violations inflicted. Accordingly, the Committee concluded that the experiences that the author was forced to go through, including those resulting from the State party's failure to provide a prompt, thorough and effective investigation, constituted a treatment contrary to article 7, read in conjunction with article 2 (3) of the Covenant.

86. In case No. 2055/2011 (*Zinsou v. Benin*), the Committee took note of the author's claim under article 7 that, throughout his detention in Cotonou prison from 14 August to 5 September 2008, he was obliged to wear a jacket saying "Cotonou Civil Prison", including when he had visitors. The Committee noted that the arguments put forward by the author, who merely asserted that he felt humiliated by wearing the jacket in prison, did not enable it to conclude that the effects of this measure were serious enough to violate the author's dignity to an extent amounting to a denial of his rights under article 7 of the Covenant. However, in the same case the Committee noted the author's claim that he was required to appear at his hearing handcuffed and wearing the said jacket. The Committee accepted that, given the public nature of the hearing, the author may well have experienced a feeling of humiliation over and above the unavoidable humiliation associated with appearing in court, and found that the measures imposed on the author constituted treatment incompatible with article 7.

87. In case No. 1968/2010 (*Blessington and Elliot v. Australia*), concerning the imposition of a life sentence without possibility of parole for crimes committed by the authors as juveniles, the Committee found violations of the authors' rights under article 7, read together with article 10 (3) and article 24 of the Covenant. The Committee considered that the imposition of life sentences on the authors as juveniles could only be compatible with article 7, read together with articles 10 (3) and 24 of the Covenant if there is a possibility of review and a prospect of release, notwithstanding the gravity of the crime they committed and the circumstances around it. That did not mean that release should necessarily be granted. It rather meant that release should not be a mere theoretical possibility and that the review procedure should be a thorough one, allowing the domestic authorities to evaluate the concrete progress made by the authors towards rehabilitation and the justification for continued detention, in a context that takes into consideration the fact that they were 14 and 15 years of age, respectively, at the time they committed the crime. The Committee noted that the review procedure in the case of the authors was subjected, through various amendments of the relevant legislation, to such restrictive conditions that the prospect of release seemed extremely remote, also bearing in mind the "never to be released" recommendation made by Justice Newman of the Supreme Court of New South

Wales on 18 September 1990. Furthermore, the release, if it ever took place, would be based on the impending death or physical incapacitation of the authors, rather than on the principles of reformation and social rehabilitation contained in article 10 (3) of the Covenant. In that respect, the Committee recalled its general comment No. 21 (1992) on humane treatment of persons deprived of their liberty, in which it indicated that no penitentiary system should be only retributory and that it should essentially seek the reformation and social rehabilitation of the prisoner. The Committee emphasized that this principle applied with particular force in connection with juveniles. The Committee noted the observations provided by the State party regarding the fact that the authors had benefited substantially from prison programmes and policies designed to further their personal development, encourage social contact with the outside world and provide skills which would assist in their reintegration into the community if released. However, the State party had not put forward any argument suggesting that rehabilitation would not succeed in the case of the authors, based, for instance, on psychological and psychiatric assessments of them. Taking into account the lengthy period prescribed before the authors are entitled to apply for release on parole, the restrictive conditions imposed by the law to obtain such release and the fact that the authors were minors at the time they committed their crimes, the Committee considered that the life sentences, as currently applied to the authors, did not meet the obligations of the State party under article 7, read together with articles 10 (3) and 24 of the Covenant.

88. Claims of violations of article 7 were examined by the Committee in a number of cases concerning expulsion or extradition to countries where the authors might be at risk of being subjected to torture, as described below.

89. In case No. 2008/2010 (*Aarrass v. Spain*), the Committee took note of the author's complaint that the State party did not properly assess the risk he would be exposed to if he was extradited to Morocco and that it could reasonably be expected that extradition would place him in a particularly vulnerable situation and expose him to the risk of torture, as in fact occurred once he had been extradited to Morocco, where he was held incommunicado, in harsh conditions, and subjected to severe ill-treatment and torture. The Committee also took note of the State party's argument that the National High Court considered this claim by the author and took note of the information submitted to it; however, the National High Court found that there was no evidence, even circumstantial, that the author ran any real personal risk of being subjected to inhuman or degrading treatment in Morocco. The Committee recalled its general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, which refers to the obligation on 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 real risk of irreparable harm, such as that contemplated by articles 6 and 7 of the Covenant. Thus, all relevant facts and circumstances must be considered, including the general human rights situation in the country to which the author is deported or extradited. The Committee also recalled that it is generally up to the courts of the States parties to the Covenant to evaluate the facts and evidence in order to determine whether such a risk exists. In the present case, the Committee noted that the author's extradition was requested in the context of proceedings in the *Belliraj* case for terrorism-related offences, in accordance with the Moroccan Criminal Code and Act No. 03/03 on combating terrorism. In the extradition proceedings, the National High Court took note of information mentioning the use of torture to extract confessions and ill-treatment at the hands of prison guards and security forces in Morocco, but it dismissed the author's claims regarding the risk of torture, stating only that the violations referred to could not be deemed systematic and widespread. The Committee, however, noted that reliable reports submitted by the author to the National High Court and information in the public domain showed that many individuals charged with terrorist-related offences in Morocco, notably in the *Belliraj* case, had been held

incommunicado and subjected to severe beatings and torture. In this context, and in the light of the author's personal circumstances as a person charged with terrorism-related offences, the Committee considered that the State party did not properly assess the risk to the author of torture and severe ill-treatment and concluded that the author's extradition to Morocco constituted a violation of article 7 of the Covenant.

90. In case No. 2126/2011 (*Khakdar v. Russian Federation*), concerning the potential deportation of the author to Afghanistan after withdrawal of asylum, the Committee noted the author's allegations that, if returned to Afghanistan, being a former combatant of the pro-Soviet regime who fought against the mujahideen, he would be at serious risk of a vigilante attack by the Taliban fighters and that the fact that he had spent more than 20 years in the Russian Federation would increase the risk to his life. The Committee observed that when the author's claims were considered by the State party's authorities, much weight was given to the fact that the domestic legislation regulating refugee status did not apply to him and that in the proceedings related to his application for temporary asylum inadequate consideration was given to the specific rights of the author under the Covenant. The State party in its submissions merely stated that he had left his home country for economic reasons and did not assess the current risk of torture for the author should he be returned to Afghanistan. Notwithstanding the deference given to the immigration authorities to assess the evidence before them, the Committee considered that further analysis should be carried out in the present case. In the absence of a submission from the State party demonstrating that a thorough assessment would be conducted of his claims that he might be subjected to torture if forcibly returned to Afghanistan, the Committee considered that a deportation order issued and enforced against the author would constitute a violation of article 7 of the Covenant.

91. In case No. 2186/2012 (*X v. Denmark*), concerning the removal of the authors to the Russian Federation, the Committee observed that the authors' refugee claims were thoroughly assessed by the State party's authorities, which found that the authors' declarations about the motive for seeking asylum and their account of the events that caused their fear of torture or killing were not credible. The Committee observed that the authors had not identified any irregularity in the decision-making process, or any risk factor that the State party's authorities failed to take properly into account. Accordingly, the Committee could not conclude that the authors would face a real risk of treatment contrary to articles 6 or 7 of the Covenant if they were removed to the Russian Federation. A similar conclusion was reached in case No. 2049/2011 (*Z v. Australia*), where the author claimed fear of treatment contrary to article 7, as a Falun Gong practitioner, if he were removed to China.

92. In case No. 2091/2011 (*A.H.G. v. Canada*), the Committee noted that the author arrived in Canada at the age of 18, where he lived uninterruptedly for 31 years, until his deportation to Jamaica on 29 August 2011; that in 1993, he was diagnosed with paranoid schizophrenia, for which he was institutionalized for one year and a half, and subsequently continued to receive regular treatment on an outpatient basis; that in 2005, after he was evicted from his apartment and started living in shelters, the author had difficulty complying with his medication, and experienced psychotic relapses; that on 23 March 2006, he was reported as inadmissible in Canada on the grounds of serious criminality, in particular, his conviction in June 2005 for assault with a weapon, for which he received a sentence of one day in jail, in addition to 80 days served as pre-sentence custody. The Committee further noted that a causal connection between the author's criminality and his illness was recognized in the decision of 22 April 2010 on his application on humanitarian and compassionate grounds. The Committee recalled that the aim of the provisions of article 7 is to protect both the dignity and the physical and mental integrity of the individual. In the circumstances of the case, and while recognizing States parties' legitimate interest in protecting the general public, the Committee considered that the deportation to

Jamaica of the author, a mentally ill person in need of special protection who lived for most of his life in Canada, on account of criminal offences recognized to be related to his mental illness, and which effectively resulted in the abrupt withdrawal of available medical and family support on which a person in his vulnerable position is necessarily dependent, constituted a violation by the State party of its obligations under article 7 of the Covenant.

93. In case No. 2272/2013 (*P.T. v. Denmark*), concerning the deportation of the author to Sri Lanka, the Committee noted the assessment made by the State party authorities that the author did not face a personal risk if returned to Sri Lanka, based on the lack of evidence of his affiliation with or activity for the Liberation Tigers of Tamil Eelam (LTTE), and of indication that the Sri Lanka authorities or the Eelam People's Democratic Party would have been looking for him. The Committee also noted that the author remained in Sri Lanka from 2007, when his cousin was murdered, until 2012, and that he did not indicate that he had any kind of political activity while abroad or that he could be perceived as having a link, even tenuous, with LTTE, that would go beyond the contact that any retailer had with LTTE members in the Jaffna Peninsula during the civil war. The author disagreed with the factual conclusions of the State party, but did not demonstrate that they were manifestly unreasonable. In the light of the above, the Committee could not conclude that the information before it showed that the author would face a real risk of treatment contrary to article 7 of the Covenant if he were removed to Sri Lanka.

4. Liberty and security of person (Covenant, art. 9)

94. The Committee found violations of this article in general in a number of cases of enforced disappearance, including cases Nos. 1860/2009 (*Al-Rabassi v. Libya*), 1882/2009 (*Al Daquel v. Libya*), 1924/2010 (*Boudehane v. Algeria*), 1931/2010 (*Bouzeriba v. Algeria*), 1956/2010 (*Durić v. Bosnia and Herzegovina*), 2000/2010 (*Katwal v. Nepal*), 2026/2011 (*Zaier v. Algeria*), 2031/2011 (*Bhandari v. Nepal*), 2051/2011 (*Basnet v. Nepal*), 2069/2011 (*Shikhmuradova v. Turkmenistan*), 2083/2011 (*Kroumi v. Algeria*), 2086/2011 (*Dehimi and Ayache v. Algeria*), 2098/2011 (*Ammari v. Algeria*), 2111/2011 (*Tripathi v. Nepal*), 2117/2011 (*Louddi v. Algeria*) and 2132/2012 (*Allioua and Kerouane v. Algeria*).

95. In case No. 1860/2009 (*Al-Rabassi v. Libya*), for instance, the Committee noted the author's information that his brother was taken away without an arrest warrant and without being informed of the reasons for his arrest; that he was held in incommunicado detention for six months, a period which substantially exceeded the maximum period prescribed by Libyan law for pretrial detention; and that during this time he was unable to challenge the legality of his detention or its arbitrary character and had no access to a lawyer or family member who could have made such challenge on his behalf. In the absence of any pertinent explanation from the State party, the Committee considered that the facts described constitute a violation of article 9 of the Covenant.

96. In a number of cases other than enforced disappearances the Committee also found violations of article 9 in general, such as Nos. 1958/2010 (*El Hojouj v. Libya*), 2046/2011 (*Hmeed v. Libya*), 2087/2011 (*Guneththige v. Sri Lanka*) and 2165/2012 (*Belyatsky v. Belarus*).

97. In case No. 1958/2010 (*El Hojouj v. Libya*), for instance, the Committee took note of the authors' allegation that, on account of the arrest and trial of Ashraf El-Hojouj, their close relative, they were subjected to intense pressure, intimidation, threats and attacks, notably on the basis of the "Charter of Honour" of 1997, which effectively authorized collective punishment for those found guilty of "collective crimes", and which the Committee had previously described as raising concerns under several articles of the Covenant, including articles 7, 9 and 16. The Committee took note, in particular, of the various incidents described by the authors, aimed at maintaining them in a permanent state of fear. In the absence of any response from the State party seeking to refute such claims,

the Committee could only conclude that the incidents were deliberately instigated, or at least acquiesced to, by the State party authorities. Under article 9 of the Covenant, States parties must take appropriate measures in response to death threats against persons in the public sphere, and, more generally, protect individuals from foreseeable threats to life or bodily integrity proceeding from either governmental or private actors. States parties must take both prospective measures to prevent future injury and retrospective measures, such as enforcement of criminal laws, in response to past injury. In the light of the multiple attacks against the security of the authors, which the State party had failed both to prevent and to investigate, the Committee concluded that article 9 of the Covenant was violated.

5. Right not to be subjected to arbitrary arrest or detention (Covenant, art. 9 (1))

98. In case No. 1973/2010 (*Griffiths v. Australia*), the author claimed that his detention pending extradition to the United States of America was arbitrary. The Committee recalled its jurisprudence that, in order to avoid a characterization of arbitrariness, detention should not continue beyond the period for which the State party can provide appropriate justification. In the present case, the author's uninterrupted detention continued for over two years and five months, during which time he pursued avenues for appeal against the finding of the Federal Court that he was eligible for surrender from Australia to the United States. While the State party advanced particular reasons, the Committee observed that it had failed to demonstrate that those reasons justified the author's detention in the light of the passage of time and intervening circumstances. In particular, the State party did not demonstrate that, in the light of the author's particular circumstances, there were not less invasive means of achieving the same ends, that is to say, compliance with the State party's extradition policies and international cooperation obligations by, for example, the imposition of reporting obligations, sureties or other conditions which would take account of his individual circumstances. In particular, the State party failed to show whether due regard was given to the author's arguments in support of his release, such as his compliance with previous bail conditions within the course of the same extradition proceedings, a low flight risk, the absence of a past criminal record or his health condition. Furthermore, the Committee noted that detention pending extradition is not limited in time under Australian law and that, as a general rule, under the case law of the High Court in extradition cases, persons "are to be held in custody whether or not their detention is necessary". Furthermore, there was no indication, either in the domestic law or the case law of the High Court, as to the duration of the extradition determination by the Minister of Justice and Customs, which was expected to take place "as soon as reasonably practicable". While noting that such a determination took over 15 months in the instant case, the Committee considered that the State party failed to demonstrate how that period met the criteria of "reasonably practicable" and why the author's continued detention was necessary and justified during this particular period. In these circumstances, whatever the reasons for the original detention, the author's continuing detention pending extradition without adequate individual justification was, in the view of the Committee, arbitrary and constituted a violation of article 9 (1) of the Covenant. The Committee reached a similar conclusion in case No. 1875/2009 (*M.G.C. v. Australia*), concerning the detention of the author for three and a half years pending his deportation to the United States of America.

99. In case No. 2179/2012 (*Young-kwan Kim and others v. Republic of Korea*), the Committee noted the claim of the 50 authors that imprisoning them as punishment for refusing military service amounted to arbitrary detention under article 9 of the Covenant. The Committee observed that the notion of "arbitrariness" under article 9 (1) is not to be equated with "against the law", but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law. Just as detention as punishment for the legitimate exercise of the right to freedom of expression, as

guaranteed by article 19 of the Covenant is arbitrary, so is detention as punishment for the legitimate exercise of freedom of religion and conscience, as guaranteed by article 18 of the Covenant. Consequently, the Committee found that article 9 (1) of the Covenant had been violated with respect to each author.

100. A violation of article 9 (1) was also found in case No. 2079/2011 (*Khadzhiev v. Turkmenistan*), regarding the author's unlawful detention for three days during which his relatives were not informed of his whereabouts.

6. Right to be brought promptly before a judge (Covenant, art. 9, para. 3)

101. In case No. 1773/2008 (*Kozulina v. Belarus*), the Committee recalled that detention pending trial must be based on an individualized determination that it is reasonable and necessary in all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime, and courts must examine whether alternatives to pretrial detention would render detention unnecessary in the particular case. In the instant case, the State party failed to explain why it was necessary to keep Mr. Kozulin in custody prior to and during his trial. Furthermore, pretrial custody was imposed on 25 March 2006 by decision of a prosecutor, and was not approved by a court until 12 April 2006. The Committee recalled its jurisprudence that paragraph 3 of article 9 entitles a detained person charged with a criminal offence to be brought promptly within judicial control of his/her detention. It is inherent in the proper exercise of judicial power that it be exercised by an authority which is independent, objective and impartial in relation to the issues dealt with. The Committee was not satisfied that the public prosecutor can be characterized as having the institutional objectivity and impartiality necessary to be considered an "officer authorized to exercise judicial power" within the meaning of article 9 (3). The Committee concluded, therefore, that the facts as submitted revealed a violation of articles 9 (1) and (3) of the Covenant.

102. In case No. 2013/2010 (*Grishkovtsov v. Belarus*), the Committee recalled that while the exact meaning of "promptly" in article 9 (3) may vary depending on objective circumstances, delays should not exceed a few days from the time of arrest. In the view of the Committee, 48 hours is ordinarily sufficient to transport the individual and to prepare for the judicial hearing. Any delay longer than 48 hours must remain absolutely exceptional and be justified under the circumstances. The Committee took note of the author's unchallenged allegations that he was arrested on 14 October 2009, was officially placed in pretrial detention by decision of a prosecutor on 21 October 2009 and was not brought before a judge until the beginning of the court trial, on 30 March 2010. The Committee thus considered that the author was not brought promptly before the judge or other officer authorized by law to exercise judicial power and concluded that the facts revealed a violation of article 9 (3).

103. The Committee also found a violation of this provision in case No. 1906/2009 (*Yuzepchuk v. Belarus*).

7. Right to take proceedings before a court regarding the lawfulness of detention (Covenant, art. 9 (4))

104. In case No. 1973/2010 (*Griffiths v. Australia*), concerning the detention of the author pending extradition, the Committee recalled that a judicial review of the lawfulness of detention under article 9 (4) is not limited to mere compliance of the detention with domestic law, but must include the possibility to order a release if the detention is incompatible with the requirements of the Covenant, in particular those of article 9 (1). What is decisive for the purposes of article 9 (4) is that such a review is, in its effects, real and not merely formal. In the instant case, the author was detained pending extradition for over two years, with neither any chance of obtaining substantive judicial review of the

continued compatibility of his detention with the Covenant, nor of being released on this ground. In the circumstances, and in the light of its findings under article 9 (1), the Committee considered that the author was effectively precluded, by virtue of the State party's law and practice, from taking effective proceedings before a court in order to obtain a review of the lawfulness of his continuing detention, as the courts had no power to review whether his detention continued to be lawful after a lapse of time and to order his release on this basis. It also found that the State party had not demonstrated that the author had an effective remedy with regard to his claim under article 9 (4) of the Covenant. Therefore, such an inability to challenge a detention that was or had become contrary to article 9 (1) constituted a violation of article 9 (4) of the Covenant.

8. Treatment during imprisonment (Covenant, art. 10 (1))

105. The Committee found violations of this provision in cases involving enforced disappearances Nos. 1924/2010 (*Boudehane v. Algeria*), 1931/2010 (*Bouzeriba v. Algeria*), 2026/2011 (*Zaier v. Algeria*), 2051/2011 (*Basnet v. Nepal*), 2083/2011 (*Kroumi v. Algeria*), 2086/2011 (*Dehimi and Ayache v. Algeria*), 2117/2011 (*Louddi v. Algeria*) and 2132/2012 (*Allioua and Kerouane v. Algeria*). In case No. 1924/2010 (*Boudehane v. Algeria*), for instance, 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 incommunicado detention of the two disappeared persons and in the absence of information provided by the State party in that regard, the Committee found a violation of article 10 (1) of the Covenant.

106. In case No. 1773/2008 (*Kozulin v. Belarus*), the Committee noted the author's allegations regarding the conditions under which Mr. Kozulin was held after his conviction. Although the State party denied some of those allegations, it admitted that its prison authorities denied Mr. Kozulin access to his counsel and to independent medical expertise during his 53-day hunger strike, a time when he particularly needed it. The State party contended that depriving him of such access was justified by health reasons without, however, providing any explanations or evidence to support that argument. In the particular circumstances of the case, the Committee considered that the prison authorities did not provide humane treatment to Mr. Kozulin, and concluded that the State party violated article 10 of the Covenant.

107. In case No. 1972/2010 (*Quliyev v. Azerbaijan*), the author claimed that the conditions in which he had been serving his life imprisonment sentence, including after the entry into force of the Optional Protocol for the State party, amounted to torture, inhuman and degrading treatment. The Committee noted that the State party had confirmed most of the allegations of the author regarding: the size of the cells; the absence of opportunities for work, education, vocational training or sports for individuals serving life sentences; number of visits and phone calls they were allowed; and their general ability to maintain contact with their families. The Committee concluded that the author's conditions of detention, in the period from the entry into force of the Optional Protocol for the State party, until 24 June 2008 violated his right to be treated with humanity and with respect for the inherent dignity of the human person, and were therefore contrary to article 10 (1).

108. In case No. 2218/2012 (*Abdullayev v. Turkmenistan*), the Committee noted the author's detailed claims concerning the deplorable prison conditions at the LBK-12 prison. He claimed, for example, that the isolation block lacked basic hygiene, there were around 40 inmates in one cell, a metal barrel emptied once a day served as a toilet in the cell; and that, during the day, inmates had to sit on the concrete cell floor and that at night-time they were given dirty blankets, insufficient in number. These allegations were not contested by the State party. The Committee recalled that persons deprived of their liberty may not be

subjected to any hardship or constraint other than that resulting from the deprivation of liberty: they must be treated in accordance with, inter alia, the Standard Minimum Rules for the Treatment of Prisoners. In the absence of any other pertinent information on file, the Committee decided that due weight should be given to the author's allegations. Accordingly, it found that confining the author in such conditions constituted a violation of his right to be treated with humanity and with respect for the inherent dignity of the human person under article 10 (1).

9. Essential aim of the penitentiary system (Covenant, art. 10 (3))

109. In case No. 1968/2010 (*Blessington and Elliot v. Australia*), the Committee found that the life sentences imposed on the authors as juveniles did not meet the obligations of the State party under article 7, read together with articles 10 (3) and 24 of the Covenant (see para. 87).

10. Right to liberty of movement and freedom to choose residence (Covenant, art. 12)

110. In case No. 1958/2010 (*El Hojouj v. Libya*), the Committee took note of the authors' claim that in 2004, for fear of being killed, they felt compelled to leave their home in Tarhuna and flee to Tripoli, where they lived in hiding. In the absence of any argument adduced by the State party to refute that claim, the Committee found that the authors' rights under article 12 (1) of the Covenant were violated (see para. 97).

11. Right to fair trial (Covenant, art. 14 (1))

111. In case No. 1972/2010 (*Quliyev v. Azerbaijan*), the Committee noted the author's claim that, after his cassation appeal was rejected by a panel of judges of the Supreme Court, the Plenum of the Supreme Court reviewed that decision, leading to a modification of the author's sentence. The Plenum held a hearing in the presence of the Procurator, but did not notify the defence, and neither the author nor his counsel attended the hearing. The State party did not contest those allegations. The Committee recalled that under the principle of equality of arms, the same procedural rights are to be afforded to both parties unless distinctions are based on law and can be justified on objective and reasonable grounds, not entailing actual disadvantage or other unfairness to the defendant. In the absence of any explanation by the State party for the unequal access of the prosecution and the defence to the hearing, the Committee concluded that the State party infringed the principle of equality of arms, in violation of the author's right under article 14 (1) of the Covenant.

112. In case No. 1973/2010 (*Griffiths v. Australia*), the Committee recalled its case law that, although the Covenant does not require that extradition procedures be judicial in nature, extradition as such does not fall outside the protection of the Covenant. On the contrary, several provisions, including articles 6, 7, 9 and 13, are necessarily applicable in relation to extradition. Particularly, in cases where, as in the instant one, the judiciary is involved in deciding about extradition, it must respect the principles of impartiality, fairness and equality, as enshrined in article 14 (1), and also reflected in article 13 of the Covenant. The Committee recalled nonetheless that, even when decided by a court, the consideration of an extradition request does not amount to the determination of a criminal charge in the meaning of article 14 of the Covenant. While article 14 (1) does not as such give persons subject to extradition access to a court or tribunal, whenever domestic law entrusts a judicial body with a judicial task, the first sentence of article 14 (1) guarantees in general terms the right to equality before courts and tribunals and thus the principles of impartiality, fairness and equality, as enshrined in that provision must be respected.

113. In case No. 1989/2010 (*E.V. v. Belarus*), the Committee recalled that the concept of a "criminal charge" under article 14 (1) bears an autonomous meaning, independent of the

categorizations employed by the national legal system of States parties, and has to be understood within the meaning of the Covenant. Leaving States parties the discretion to transfer the decision over a criminal offence, including the imposition of punishment, to the administrative authorities and thus avoid the application of the fair trial guarantees under article 14, might lead to results incompatible with the object and purpose of the Covenant. In the instant case, the issue before the Committee was whether the sanctions imposed on the author for his participation in a mass event concerned "any criminal charge" within the meaning of the Covenant. The Committee noted that, although administrative under the domestic law, the sanctions imposed on the author under article 23.34 of the Code of Administrative Offences had the aim of repressing, through penalties, the offences alleged against him and of serving as a deterrent to others – objectives analogous to the general goal of the criminal law. In that regard, the Committee noted that article 23.34 of the Code included as a sanction "administrative arrest" (i.e. detention). It further noted that the rules of law infringed by the author were directed not towards a given group possessing a special status — in the manner, for example, of disciplinary law — but towards everyone in his or her capacity as individuals participating in unsanctioned mass events. They prescribed conduct of a certain kind and made the resultant requirement subject to a sanction that is punitive. Therefore, the general character of the rules and the purpose of the penalty, being both deterrent and punitive, sufficed to show that the offence in question was, in terms of article 14 of the Covenant, criminal in nature.

114. In case No. 1991/2010 (*Volchek v. Belarus*), the author claimed that he was not informed about the time and date of the hearing in the administrative proceedings in which he was sanctioned, in violation of his rights under article 14 (1) of the Covenant. The Committee recalled that the Covenant provides for everyone to have the right to a fair and public hearing by a competent, independent and impartial tribunal established by law, and that the equality of arms is an indispensable aspect of the fair trial principle. General comment No. 32 (2007) on the right to equality before the courts and tribunals and to a fair trial (art. 14) states that courts must make information regarding the time and venue of oral hearings available. The author claimed that the letter informing him about the time and date of the hearing to take place on 17 October 2006 was delivered to him only on 27 October 2006. He also claimed that the evidence that he obtained from the post office in that regard was ignored by the court when it examined his appeal. In those circumstances, and in the absence of any observations from the State party, the Committee concluded that the author's rights under article 14 (1) had been violated. A similar conclusion was reached in case No. 1999/2010 (*Evrezov and others v. Belarus*).

115. In case No. 1860/2009 (*Al-Rabassi v. Libya*), the Committee noted that Mr. Al-Rabassi was sentenced to 15 years of imprisonment by a special court that is not independent from the executive; that the court's hearing was held in private session which not even family members could attend; and that he was not able to avail himself of the assistance of a lawyer. In the absence of any information from the State party, the Committee concluded that the trial and sentencing of Mr. Al-Rabassi in the circumstances described disclosed a violation of article 14 (1) and (3) (b) of the Covenant.

116. In case No. 2069/2011 (*Shikhmuradova v. Turkmenistan*), the Committee noted that Mr. Shikhmuradov was sentenced first to 25 years of imprisonment, and that his trial was held only four days after his arrest. The court hearing, according to the author, was not open to public, lasted one day, and the conviction was based solely on Mr. Shikhmuradov's forced confession. The Committee further noted that, after a separate and closed hearing the next day, the People's Council sentenced Mr. Shikhmuradov to life imprisonment. Mr. Shikhmuradov did not have sufficient time to prepare for his defence, could not consult his lawyers, and did not have an opportunity to have his conviction and sentence reviewed by a higher tribunal according to law. The People's Council, a political body led by the President and including members of the Parliament and cabinet ministers, cannot be

considered as a competent, independent and impartial tribunal, within the meaning and requirements of article 14 (1). In the absence of any information from the State party the Committee considered that due weight had to be given to the author's allegations and concluded that the trial and the final conviction of Mr. Shikhmuradov, in the circumstances described, disclosed a violation of article 14 (1) and (5) of the Covenant.

117. In case No. 2085/2011 (*García Bolívar v. Bolivarian Republic of Venezuela*), the Committee recalled that an important aspect of the fairness of a hearing is its expeditiousness and that delays in proceedings that cannot be justified by the complexity of the case or the behaviour of the parties are not compatible with the principle of a fair trial enshrined in paragraph 1 of this provision. The Committee therefore considered that the proceedings in the author's case regarding payment of social benefits were unduly delayed, in violation of article 14 (1) of the Covenant.

12. Right to the presumption of innocence (Covenant, art. 14 (2))

118. In case No. 1773/2008 (*Kozulin v. Belarus*), the author claimed that her father was placed in a cage during the trial, and could thus not properly communicate with his lawyers in court, and that the Minister of Interior had designated him as a culprit on a public television station immediately after his arrest, and that the Procurator-General's Office issued a similar statement on the same day. The State party did not address these issues in detail but merely contended that no violation of Mr. Kozulin's defence rights occurred throughout the proceedings. The Committee recalled that the presumption of innocence, which is fundamental to the protection of human rights, imposes on the prosecution the burden of proving the charge, guarantees that no guilt can be presumed until the charge has been proved beyond reasonable doubt, ensures that the accused has the benefit of doubt, and requires that persons accused of a criminal act must be treated in accordance with this principle. It is a duty for all public authorities to refrain from prejudging the outcome of a trial, e.g. by abstaining from making public statements affirming the guilt of the accused. Defendants should normally not be shackled or kept in cages during trials or otherwise presented to the court in a manner indicating that they may be dangerous criminals. The media should avoid news coverage undermining the presumption of innocence. In the circumstances, and in the absence of any other pertinent information on file, the Committee gave due weight to the author's allegations and concluded that the facts as presented revealed a violation of Mr. Kozulin's right to a fair trial under article 14 (1) and (2) of the Covenant.

119. In case No. 2055/2011 (*Zinsou v. Benin*), the Committee recalled that everyone charged with a criminal offence is presumed innocent until proven guilty according to law. Accordingly, it is a duty for all public authorities to refrain from prejudging the outcome of a trial. Defendants should normally not be shackled or kept in cages during trials or otherwise presented to the court in a manner indicating that they may be dangerous criminals. In the instant case, and in the absence of any justification from the State party, the Committee considered that the requirement to appear at his public hearing handcuffed and wearing a jacket indicating his place of detention constituted a violation of the author's right to presumption of innocence.

120. Violations of article 14 (2) were also found in cases Nos. 2013/2010 (*Grishkovtsov v. Belarus*) and 2165/2012 (*Belyatsky v. Belarus*).

13. Right to be tried in one's presence (Covenant, art. 14 (3) (d))

121. In case No. 2041/2011 (*Dorofeev v. Russian Federation*), the Committee took note of the author's allegations that his right to defence under article 14 (3) (d) of the Covenant was violated during the second review in cassation, because he participated in the hearing through a video conference connection. The Committee found that article 14 (3) (d) applied

to this communication, as the court examined the facts and the law and made a new assessment of the issue of guilt or innocence. The Committee recalled that article 14 (3) (d) requires that accused persons are entitled to be present during their trial and that proceedings in the absence of the accused are only permissible if this is in the interest of the proper administration of justice, i.e. when accused persons, although informed of the proceedings sufficiently in advance, decline to exercise their right to be present. The Committee noted the author's allegation that, on three occasions, he had submitted written requests to be allowed to participate in person in the cassation hearing, but those requests were ignored. The Committee further noted the author's allegation that he did not have the opportunity to consult with his lawyer regarding the submissions that the prosecutor made in court. The Committee found that the facts before it revealed a violation of article 14 (3) (d) of the Covenant.

122. Violation of this provision was also found in case No. 2013/2010 (*Grishkovtsov v. Belarus*), where the Committee noted that during the five months of pretrial detention, the author did not have effective access to legal assistance and confessed guilt under duress; and that, during the preparations for the cassation appeal, he was not allowed to meet with his lawyer privately. Referring to its general comment No. 32 (2007) on the right to equality before the courts and tribunals and to a fair trial (art. 14), the Committee recalled its jurisprudence that, in cases involving capital punishment, it is axiomatic that the accused must be effectively assisted by a lawyer at all stages of the proceedings.

14. Right to have one's conviction and sentence being reviewed by a higher tribunal (Covenant, art. 14 (5))

123. In case No. 2097/2011 (*Timmer v. Netherlands*), the author claimed that he had been unable to exercise his right to appeal under article 14 (5) in an effective and meaningful way. The Committee recalled that the right to have one's conviction reviewed requires that the convicted person is entitled to have access to a duly reasoned, written judgement of the trial court and to other documents, such as trial transcripts, necessary to enjoy the effective exercise of the right to appeal. In the absence of a motivated judgment, a trial transcript or even a list of the evidence used, the author was, therefore, not provided in the circumstances of this case with the facilities necessary for the proper preparation of his appeal. The Committee further noted the State party's acceptance that a violation of article 14 (5) of the Covenant occurred in that the Court of Appeal denied his application for leave to appeal with the motivation that a hearing of the appeal was not in the interests of the proper administration of justice. The Committee considered that article 14 (5) of the Covenant requires a review by a higher tribunal of a criminal conviction and sentence. Any such review, in the context of a decision regarding a leave to appeal, must be examined on its merits, taking into consideration the evidence presented before the first instance judge, and the conduct of the trial on the basis of the legal provisions applicable to the case in question. Accordingly, in the specific circumstances, the Committee found that the right to appeal of the author under article 14 (5) of the Covenant had been violated, due to the failure of the State party to provide adequate facilities for the preparation of his appeal and conditions for a genuine review of his case by a higher tribunal.

124. In case No. 1942/2010 (*T.L.N. v. Norway*), the author claimed that article 14 (5) of the Covenant was violated as the jury failed to provide grounds for its decision in the Agder Court of Appeal judgement by which he was convicted and thus deprived him of a duly reasoned written judgement. The Committee recalled that the right to have one's conviction and sentence reviewed by a higher tribunal imposed 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. States parties may determine the modalities of such review by a higher tribunal, based on their legal traditions and applicable legislation, provided that such substantive review is

undertaken. In the instant case, the Committee observed that the Sandefjord District Court delivered a duly reasoned written judgement which formed the basis of the author's appeal before the Agder Court of Appeal. Based on section 331 of the Criminal Procedure Act, he was afforded a completely new trial before the Court of Appeal, in which the Court examined all aspects of the case, including the facts and applicable law. From the material before the Committee, it appeared that: the Court was composed of three professional judges; the jury was established pursuant to the relevant rules of the Criminal Procedure Act and was instructed by the President of the Court; the questions — which were drawn up in accordance with the law, read out in court and put to the jury — were precise and factually detailed; based on the jury's findings, which answered the questions in the affirmative, the Court of Appeal found the author guilty on several counts under the Penal Code; further to the jury's finding that the author was guilty, the Court of Appeal provided, within the framework of the jury's answers, a description of the facts and criminal offences at stake under the applicable law; the sentence was explained in the judgement on the basis of the applicable law; and the order to pay compensation encompassed a description of the relevant aggravating facts and the applicable law. The Committee further observed that the material before it did not indicate that the author was unable to submit a properly motivated appeal to the Supreme Court, which reviewed the judgement of the Court of Appeal pursuant to article 306 of the Criminal Procedure Act on procedural grounds, and with respect to the sentence. Based on the above circumstances, the Committee could not accept the author's argument that he was deprived of an opportunity to have his conviction and sentence reviewed by a higher tribunal.

125. No violation of article 14 (5) was either found in case No. 2004/2010 (*H.K. v. Norway*) as, contrary to the author's claim, the Committee considered that the Court of Appeal had clearly set out the main reasons to reject the appeal.

15. Right not to be punished again for the same offence (Covenant, art. 14 (7))

126. In case No. 2218/2012 (*Abdullayev v. Turkmenistan*), the Committee noted the author's claim that he had been convicted and punished twice for his objection to perform the compulsory military service. Article 18 (4) of the Law on Conscription and Military Service permits repeated call-up for military service and stipulates that a person refusing military service is exempt from further call-up only after he has received and served two criminal sentences. The Committee recalled its general comment No. 32 on the right to equality before the courts and tribunals and to a fair trial (art. 14), where it stated that article 14 (7) of the Covenant provides that no one shall be liable to be tried or punished again for an offence of which they have already been finally convicted in accordance with the law and penal procedure of each country. It held that repeated punishment of conscientious objectors for not obeying a renewed order to serve in the military may amount to punishment for the same crime if such subsequent refusal is based on the same constant resolve grounded in reasons of conscience. In the present case, the author had been tried and punished twice under the same provision of the Turkmen Criminal Code on account of the fact that, as a Jehovah's Witness, he objected to and refused to perform his compulsory military service. In the circumstances, and in the absence of contrary information from the State party, the Committee concluded that the author's rights under article 14 (7) of the Covenant had been violated.

16. Right not to be imposed a heavier penalty than the one applicable at the time when the criminal offence was committed (Covenant, art. 15 (1))

127. In case No. 1972/2010 (*Quliyev v. Azerbaijan*), the Committee took note of the author's claim that the commutation of his death sentence into life imprisonment for a crime committed at a time when life imprisonment was not provided by law violated article 15 (1) of the Covenant, as he should have benefited from a sentence of 15 years,

which was the highest penalty (except for the death penalty) provided by law at the time of commission of the offence, and which should have been the highest penalty applicable to his case after the death penalty was abolished. The Committee recalled that, according to article 15 (1) of the Covenant if, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby. The Committee noted that the penalty of life imprisonment established by the Law of 10 February 1998 superseded the death penalty, a penalty which is more severe than life imprisonment. Furthermore, for some of the offences of which the author was convicted, such as murder, there were no subsequent provisions made by law for the imposition of any lighter penalty from which the author could benefit, other than the above-mentioned amendment on life imprisonment. In such circumstances, the Committee could not conclude that the State party, by substituting life imprisonment for capital punishment for the crimes of which the author was convicted, violated the author's rights under article 15 (1) of the Covenant.

128. In case No. 2069/2011 (*Shikhmuradova v. Turkmenistan*), the author claimed that he was given a heavier penalty than that which was applicable at the time when he committed the criminal offence. The Committee noted the author's uncontested statement that the heaviest penalty under Turkmen law at the time of the alleged crimes was 25 years, in accordance with the Criminal Code that was then in force, and that life imprisonment as a penalty was enacted by the People's Council only after Mr. Shikhmuradov's conviction. Accordingly, the Committee concluded that there had been a violation of article 15 (1) of the Covenant.

17. Right to recognition as a person before the law (Covenant, art. 16)

129. In cases concerning enforced disappearances, 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 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. The Committee therefore found violations of this provision in cases Nos. 1860/2009 (*Al-Rabassi v. Libya*), 1882/2009 (*Al Daquel v. Libya*), 1924/2010 (*Boudehane v. Algeria*), 1931/2010 (*Bouzeriba v. Algeria*), 2000/2010 (*Katwal v. Nepal*), 2026/2011 (*Zaier v. Algeria*), 2031/2011 (*Bhandari v. Nepal*), 2051/2011 (*Basnet v. Nepal*), 2083/2011 (*Kroumi v. Algeria*), 2086/2011 (*Dehimi and Ayache v. Algeria*), 2098/2011 (*Ammari v. Algeria*), 2111/2011 (*Tripathi v. Nepal*), 2117/2011 (*Louddi v. Algeria*) and 2132/2012 (*Allioua and Kerouane v. Algeria*).

18. Right not to be subjected to interference with one's privacy, family and home (Covenant, art. 17)

130. In cases Nos. 1924/2010 (*Boudehane v. Algeria*), 2083/2011 (*Kroumi v. Algeria*), 2026/2011 (*Zaier v. Algeria*) and 2086/2011 (*Dehimi and Ayache v. Algeria*), the Committee found a violation of article 17 regarding the circumstances in which the victims were arrested, such as forced entry of soldiers into their homes in the middle of the night and without a warrant. The Committee held that these facts constituted unlawful interference with their home. Equally, in case No. 2046/2011 (*Hmeed v. Libya*), the Committee held that the entry of State officials into the home of the author and her family in the circumstances described and the destruction of the house constituted unlawful interference with their privacy, family and home, in violation of article 17.

131. In case No. 1958/2010 (*El Hojouj v. Libya*), the Committee took note of the authors' claim regarding daily incidents of harassment, surveillance, and intimidation against them;

the apparently deliberate intention to damage their honour and reputation and incite public hostility towards them; and the punitive measures adopted against them on the basis of the "Charter of Honour", which included the deliberate disruption of electricity, water supplies and the telephone line at their private domicile. The Committee further took note of the authors' contention that such measures were inflicted upon them because of their family ties with Ashraf El-Hojouj, a Palestinian doctor arrested on charges of premeditated murder and causing an epidemic by injecting children with HIV/AIDS. The Committee concluded that the material before it revealed multiple unlawful interferences with the authors' privacy, family and home, as well as unlawful attacks against their honour and reputation, which amounted to a violation of article 17 of the Covenant.

132. In case No. 1937/2010 (*Leghaei and others v. Australia*), the author claimed that the State party's refusal to grant him a visa, which led to a duty to leave the country, constituted arbitrary interference with his family life under articles 17 and 23. The Committee observed that the author of the communication had been living with his family in Australia for 16 years without ever having been charged or warned by the domestic authorities with regard to his personal conduct. His two elder sons had been Australian citizens since 2003 and his youngest daughter had been born in Australia and attended Australian schools, developing social relationships there. Upon the author's request for a permanent visa, the State party decided not to grant it for what it considered to be "compelling reasons of national security", while it allowed the other family members to remain on its soil. Eventually, the author's wife decided not to be separated from her husband, they both decided that their minor daughter should stay with them and they departed from Australia on 27 June 2010, the author having been denied the right to stay.

133. The Committee considered that a decision by the State party that involves the obligatory departure of a father of a family that includes a minor child, and that compels the family to choose whether they should accompany him or stay in the State party, is to be considered "interference" with the family, at least in circumstances where, as here, substantial changes to long-settled family life would follow in either case. As to whether such interference with his family life was arbitrary or unlawful the Committee recalled that the notion of arbitrariness includes elements of inappropriateness, injustice, lack of predictability and due process of law. The author had lived more than 16 years legally in the territory of the State party, apparently without any legal restrictions, when he had to leave, a fact that was not refuted by the State party. Furthermore, the author was never formally provided with the reasons for the refusal to grant him the requested visa, except for the general explanation that he was a threat to national security based on security assessments of which he did not even receive a summary. While his legal representatives were provided with information on the evidence held against him, they were prevented, by a decision by the judge, from communicating to the author any information that would permit him to instruct them in return and to refute the threat that he allegedly posed to national security. In the light of the foregoing, the Committee found that the procedure lacked due process of law and that the State party had not provided the author with an adequate and objective justification for the interference with his long-settled family life. In the specific circumstances, the Committee concluded that the State party had violated the author's and his family's rights under article 17, read in conjunction with article 23, of the Covenant.

134. In case No. 2009/2010 (*Ilyasov v. Kazakhstan*), the author claimed that the State party endangered his family life by arbitrarily preventing him from entering the country and living with his wife and son. The Committee observed that the author had been residing lawfully in the territory of the State party since 1994 and had a permanent residence permit since 2000 which had never been revoked; that he was married to a national of the State party and his son was a national of the State party; and that the author had developed private and family life in the State party over the course of 14 years before being refused

entry. The undisputed fact that the author was denied entry into the State party, where he had lived permanently together with wife and son, thus constituted an interference with the family life of the author. The question was whether such interference would be arbitrary and contrary to articles 17 and 23 of the Covenant.

135. The Committee observed that the State party had made numerous references to having information that the author had been involved in some unspecified "illegal activity", presumably in the territory of the Russian Federation, which had supplied the information, and that it proceeded to draw the conclusion that the above "illegal activity" made the author dangerous for the safety of the society and the state of Kazakhstan. The Committee, however, observed that no evidence had been presented that either the National Security Committee or the national courts had investigated the relevant circumstances, interviewed or questioned the author on the circumstances of the case. It appeared that the decision to deny the entry was reached solely on the grounds of the information received from another state in absence of any formal procedure of verification of the credibility of the information received. The author was not allowed to enter the territory of the State party for more than three years, but was neither informed of the specific reasons of this decision, nor was provided with a possibility to access the information (case file) in order to challenge it. Moreover, the State party allowed the author to re-enter the country again based on intelligence information that he had renounced his illegal activities. No criminal investigation had ever been initiated against the author, neither in the State party, nor in the Russian Federation. Furthermore, the Committee observed that it had not been verified in any contested legal procedure that the author posed any threat to the State party's national security, public order (*ordre public*), public health or morals or the rights and freedoms of others. The Committee therefore considered that the State party had failed to justify its interference with the right of the author as protected by articles 17 and 23, of the Covenant, and that the unjustified refusal to allow him to enter the territory of the State party constituted an arbitrary interference with the family, contrary to articles 17 and 23 of the Covenant.

136. In case No. 2079/2011 (*Khadzhiev v. Turkmenistan*), the Committee noted the author's allegations that he was denied his right to see his family and relatives while in prison or to exchange correspondence with them. The Committee recalled its jurisprudence that prisoners shall be allowed under necessary supervision to correspond with their families and reputable friends on a regular basis without interference, as stipulated in the United Nations Standard Minimum Rules for the Treatment of Prisoners which also provides for communication "both by correspondence and by receiving visits" (rule 37). Noting that the State party had not specifically refuted the author's allegations regarding his first two years of imprisonment, the Committee concluded that the facts, as submitted by the author, revealed a violation of his rights under article 17 (1).

19. Freedom of thought, conscience and religion (Covenant, art. 18)

137. In case No. 2131/2012 (*Leven v. Kazakhstan*), the Committee noted that, not having been registered as a foreign missionary on behalf of his church, the author was convicted for conducting missionary activity, which consisted of preaching and praying and conducting meetings and religious rituals among the followers of the church. Consistent with its general comment No. 22 (1993) on the right to freedom of thought, conscience and religion, the Committee considered that those activities formed part of the author's right to manifest his beliefs and that the conviction and sentence to a fine and deportation and the resulting loss of his residence permit constituted limitations of that right. As to whether these limitations were "necessary to protect public safety, order, health, or morals, or the fundamental rights and freedoms of others", within the meaning of article 18 (3), the Committee recalled its general comment No. 22, which states that paragraph 3 of article 18 is to be interpreted strictly, and that limitations may be applied only for those purposes for

which they were prescribed and must be directly related to and proportionate to the specific need on which they are predicated. The Committee further recalled that, in interpreting the scope of permissible limitation clauses, States parties should proceed from the need to protect the rights guaranteed under the Covenant, including the right to equality and non-discrimination on all grounds specified in articles 2, 3 and 26. The Committee noted that the State party had not advanced any argument as to why it was necessary for the author, in order to engage in prayer together with his associates from the same church, in conducting meetings between them in the premises of the church and in preaching, to first register as a foreign missionary. In fact, the State party had not sought to justify the infringement of rights, other than by citing a provision of the domestic law that requires foreign missionaries to register their religious associations.

138. The Committee reiterated that article 18 (1) of the Covenant protects the right of all members of a religious congregation, not only missionaries, and not only citizens, to manifest their religion in community with others, in worship, observance, practice and teaching. The Committee also noted the author's submission, uncontested by the State party, that the church that he was frequenting had existed in Kazakhstan since he was a child and that he had participated in its religious activities before and after he had obtained German citizenship. The Committee concluded that the punishment and in particular its harsh consequences for the author, who was facing deportation, amounted to a limitation of the author's right to manifest his religion under article 18 (1); that the limitation had not been shown to serve any legitimate purpose identified in article 18 (3); and that neither had the State party shown that this sweeping limitation of the right to manifest religion was proportionate to any legitimate purpose that it might serve. The limitation therefore did not meet the requirements of article 18 (3) and the Committee accordingly found that the author's rights under article 18 (1) had been violated.

139. In case No. 2179/2012 (*Young-kwan Kim and others v. Republic of Korea*), the Committee noted the authors' claim that their rights under article 18 (1) of the Covenant have been violated, owing to the absence in the State party of an alternative to compulsory military service, as a result of which their failure to perform military service on account of their religious conscience led to their criminal prosecution and imprisonment. The Committee noted that, in the instant case, the State party reiterated arguments advanced in response to earlier communications before the Committee, notably on the issues of national security, equality between military and alternative service, and lack of a national consensus on the matter. The Committee considered that it had already examined these arguments in its earlier Views and found no reason to depart from its earlier position.

140. The Committee recalled its general comment No. 22 (1993) on the right to freedom of thought, conscience and religion, in which it considered that the fundamental character of the freedoms enshrined in article 18 (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 (2) of the Covenant. The Committee recalled its prior jurisprudence that, although the Covenant does not explicitly refer to a right of conscientious objection, 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 right to conscientious objection to military service inheres in the right to freedom of thought, conscience and religion. It entitles any individual to an exemption from compulsory military service if such service cannot be reconciled with that individual's religion or beliefs. The right must not be impaired by coercion. A State may, if it wishes, compel the objector to undertake a civilian alternative to military service, outside the military sphere and not under military command. The alternative service must not be of a punitive nature. It must be a real service to the community and compatible with respect for human rights. The State party disagrees with this position on the grounds that the claim of conscientious objection could be extended in order to justify acts such as refusal to pay taxes or refusal of mandatory education.

However, the Committee considered that military service, unlike schooling and payment of taxes, implicates individuals in a self-evident level of complicity with a risk of depriving others of life. In the instant case, the Committee considered that the authors' refusal to be drafted for compulsory military service derives from their religious beliefs, which, it is uncontested, were genuinely held, and that the authors' subsequent convictions and sentences amounted to an infringement of their freedom of conscience, in breach of article 18 (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, is incompatible with article 18 (1) of the Covenant.

141. The Committee reached a similar conclusion in case No. 2218/2012 (*Abdullayev v. Turkmenistan*). In its Views the Committee recalled that, during the consideration of the State party's initial report under article 40 of the Covenant, it expressed concern that the Law on Conscription and Military Service, as amended on 25 September 2010, does not recognize a person's right to exercise conscientious objection to military service and does not provide for any alternative military service, and recommended that the State party, inter alia, take all the necessary measures to review its legislation with a view to providing for alternative service.

20. Freedom of opinion and expression and right of peaceful assembly (Covenant, arts. 19 and 21)

142. The Committee found violations of these provisions in a number of cases against Belarus involving claims of violations of the right to freedom of opinion and expression and/or the right of peaceful assembly, as the authors had been subjected to sanctions for having taken part in events not authorized under the Law on Mass Events; or had been refused authorization to organize public events; or participated in political meetings; or distributed unauthorized printed materials. This was true for cases Nos. 1929/2010 (*Lozenko v. Belarus*), 1933/2010 (*Aleksandrov v. Belarus*), 1952/2010 (*Symonik v. Belarus*), 1976/2010 (*Kuznetsov and others v. Belarus*), 1987/2010 (*Stambrovsky v. Belarus*), 1999/2010 (*Evrezov and others v. Belarus*), 2029/2011 (*Praded v. Belarus*), 2030/2011 (*Poliakov v. Belarus*), 2103/2011 (*Poliakov v. Belarus*), 2103/2011 (*Poliakov v. Belarus*), 2114/2011 (*Sudalenko v. Belarus*) and 2156/2012 (*Nepomnyaschikh v. Belarus*). Violations of articles 19 and 21 were also found in case No. 2137/2012 (*Toregozhina v. Kazakhstan*).

143. In all these cases the Committee considered whether the restrictions imposed on the authors' rights were justified under any of the criteria set out in article 19 (3). It recalled that article 19 provides for certain restrictions but only as provided by law and necessary: (a) for respect of the rights or reputations of others; and (b) for the protection of national security or of public order (*ordre public*), or of public health or morals. It also recalled that freedom of opinion and freedom of expression are indispensable conditions for the full development of the person; that such freedoms are essential for any society and that they constitute the foundation stone for every free and democratic society. Any restrictions to the exercise of such freedoms must conform to strict tests of necessity and proportionality and "be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated". If the State imposes a restriction, it is up to the State party to show that this is necessary for the aims set out in this provision.

144. In case No. 1933/2010 (*Aleksandrov v. Belarus*), for instance, the Committee noted the State party's explanation that the restriction imposed in the author's case was in accordance with the law, but pointed out that the State party had not attempted to explain why it was necessary — under domestic law and for one of the legitimate purposes set out in article 19 (3) of the Covenant — to obtain authorization prior to holding a peaceful,

silent, street march in which only three persons intended to participate. Neither had it explained how in practice, in the case at issue, the silent movement of the author and his two acquaintances along the pavement down a pedestrian street during lunchtime would have violated the rights and freedoms of others or would have posed a threat to public safety or public order (*ordre public*). In the absence of any other pertinent explanations from the State party, the Committee considered that due weight had to be given to the author's allegations and concluded that the facts as submitted revealed a violation of the author's rights under article 19 (2).

145. In case No. 1949/2010 (*Kozlov et al. v. Belarus*), the Committee recalled that the right of peaceful assembly, as guaranteed under article 21 of the Covenant, is a fundamental human right that is essential for public expression of one's views and opinions and indispensable in a democratic society. This right entails the possibility of organizing and participating in a peaceful assembly, including the right to a stationary assembly (such as a picket) in a public location. The organizers of an assembly generally have the right to choose a location within sight and sound of their target audience and no restriction to this right is permissible, unless (a) imposed in conformity with the law, and (b) necessary in a democratic society, in the interests of national security or public safety, public order, protection of public health or morals or protection of the rights and freedoms of others. When a State party imposes restrictions with the aim of reconciling an individual's right to assembly and the aforementioned interests of general concern, it should be guided by the objective to facilitate the right, rather than seeking unnecessary or disproportionate limitations to it. The State party is thus under the obligation to justify the limitation of the right protected by article 21 of the Covenant. In the present case, a pedestrian zone in the city of Brest was chosen by the authors as the intended location to hold a picket, on 27 September 2009, with the purpose of drawing citizens' attention to the alleged systematic violation of the law on petitions by state officials, but their request was rejected. In these circumstances and in absence of any explanations from the State party, the Committee found the decision of the State party's authorities denying the authors' right to assemble peacefully at the public location of their choice to be unjustified. The Committee also noted, based on the material on file, that in their replies to the authors, the national authorities failed to demonstrate how a picket held in the said location would jeopardize national security, public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. The de facto prohibition of an assembly in any public location in the entire city of Brest, with the exception of the Lokomotiv stadium, unduly limited the right to freedom of assembly. In these circumstances, the Committee concluded that the authors' right under article 21 had been violated, as well as the right to impart information under article 19 (2) of the Covenant. A violation of article 21 for similar reasons as those indicated above was found in case No. 1992/2010 (*Sudalenko v. Belarus*).

146. In case No. 1985/2010 (*Koktish v. Belarus*), the Committee held that the refusal to grant the author's accreditation to the State party's National Assembly, which would enable her, as a journalist, to access information and, thereafter, to impart it in order to inform the readers of the *Narodnaya Volya* newspaper of the work of the National Assembly, amounted to a restriction on the exercise of her right to freedom of expression. The Committee noted, inter alia, that the author was denied accreditation because her security clearance had been refused by the security services, resulting in the fact that she did not have access to the Sovetskaya 11 administrative premises where the National Assembly is located. According to the available information on file, the authorities' refusal was based on the Law on the Press and Other Mass Media and the Rules of Accreditation for Journalists from the Mass Media to the House of Representatives. The Committee had to consider whether those grounds were sufficiently precise to qualify the author's denial of accreditation as provided by law and necessary for the grounds set out in subparagraphs (a) and (b) of article 19 (3).

147. The Committee noted the author's claim that article 42 of the Law on the Press and Other Mass Media, which provides for the accreditation of journalists, does not contain any grounds for denying accreditation, whereas rule No. 11 of the Rules of Accreditation for Journalists from the Mass Media to the House of Representatives of Belarus excludes accreditation if a journalist is refused access to the Sovetskaya 11 administrative complex. The Committee recalled that it is for the State party to demonstrate the legal basis for any restrictions imposed on freedom of expression. For the purposes of article 19 (3), a norm must be formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly. A law may not confer unfettered discretion for the restriction of freedom of expression on those charged with its execution but must provide sufficient guidance to those charged with their execution to enable them to ascertain the basis for restricting the rights protected under article 19. In the instant case, in the absence of any further information from the State party on the legal grounds for denying access to the premises of the Sovetskaya 11 administrative complex, the Committee concluded that the State party had failed to show for the purposes of article 19 (3) of the Covenant, that the refusal to grant accreditation to the author was based on the law, and, moreover, why it was necessary for respect of the rights or reputations of others, for the protection of national security or of public order (*ordre public*) or of public health or morals. The Committee, therefore, found that the denial of accreditation of the author to the National Assembly constituted a violation of article 19 (2) of the Covenant.

148. The Committee further observed that the national courts refused to examine the author's complaint concerning the denial of accreditation on the grounds that such complaints fell outside their jurisdiction. In that connection, the Committee noted that there is no possibility of recourse, either to the courts or to the National Assembly, to determine the legality of the author's exclusion or its necessity for the purposes spelled out in article 19 of the Covenant. The Committee recalled that whenever a right recognized by the Covenant is affected by the action of a State agent, there must be a procedure established by the State allowing the person whose right has been affected to claim before a competent body that there has been a violation of his/her rights. In the light of the information available and in the absence of any information from the State party as to the merits of the communication, the Committee concluded that the author's rights under article 19 (2), read alone and in conjunction with article 2 (3), of the Covenant had been violated.

149. In case No. 1986/2010 (*Kozlov v. Belarus*), the issue before the Committee was whether the administrative fine imposed on the author for his letter to the Minister for Finance of Belarus in which, inter alia, he referred to Ms. T., Deputy Director of the Promtransinvest society, as "empty-headed", "not business-oriented", and "at a general level of an eighth-grade student with the knowledge of an insurance agent", constituted a violation of the author's rights to freedom of expression, as protected under article 19. In order to determine whether the imposition of a fine for using those expressions constitutes a justifiable restriction with the purpose of protecting Ms. T.'s rights and reputation, the Committee took account of the form and context of the expression at issue as well as the means of its dissemination and recalled that public interest in the subject matter of a criticism is a factor to be taken into account when considering allegations of defamation.

150. The Committee noted in that respect that the expressions used by the author formed part of a letter calling the Ministry of Finance's attention to the alleged irresponsible management of a State-owned insurance company, and was aimed to attract the government official's attention to the "unsustainable" use of the payments of the agency's members and harm to the rights of individuals involved in traffic accidents. In his letter, the author expressed criticism not only regarding Ms. T., but also with regard to several other persons. The expressions used by the author, although being abusive and insulting, had to be considered as part of a context in which the critique of the company was the main issue. Since the company was owned by the State party, the critique of the perceived lack of

responsibility and monitoring of the company was a matter of public interest. The Committee also noted that the author sent his letter to the Minister of Finance only, without making it public through media or otherwise and, therefore, any damage to Ms. T.'s reputation was of a limited nature. The Committee further observed that the State party had advanced no justification that, under those circumstances, fining the author on charges of slander was necessary. Neither had the State party explained why no other means were available to reply to the author's criticism and protect Ms. T.'s reputation. The Committee recalled in that respect that to meet the test of necessity any restriction on the right to freedom of expression which seeks to protect the reputation of others must be shown to be appropriate to achieve its protective function; must be the least intrusive instrument among those which might achieve their protective function; and must be proportionate to the interest to be protected. Taking into account the nature of the penalty imposed and considering the impact and the context of the remarks found to be derogatory, as well as the public interest in the issues raised by the author, the restriction of the author's right to freedom of expression had not been shown to be a proportionate measure to protect the honour and the reputation of others. In the circumstances and in the absence of any information from the State party to justify the restriction for purposes of article 19 (3), the Committee concluded that the author's rights under article 19 (2) of the Covenant had been violated.

21. Right to freedom of association (Covenant, art. 22)

151. In case No. 1993/2010 (*Mikhailovskaya and Volchek v. Belarus*), the issue before the Committee was whether the refusal of the authorities to register a new non-governmental organization (NGO) by the name of Legal Protection of Citizens as an association authorized to operate on a nationwide basis and the subsequent dissolution of the existing NGO, Legal Aid to the Population, unreasonably restricted the authors' right to freedom of association. The Committee observed that article 22 of the Covenant guarantees that everyone shall have the right to freedom of association with others, and the protection afforded by that article extends to all the activities of an association. Restrictions on the operation of an association, including its dissolution, must satisfy the requirements of paragraph 2.

152. In the instant case, the decision of the Ministry of Justice to deny the registration of Legal Protection of Citizens, and the court decision dissolving Legal Aid to the Population, was based on two perceived violations of the State party's domestic law: (a) that the NGO was providing legal assistance to citizens without the necessary legal licence, and (b) that there were violations of the applicable rules of registration of the NGO. On those two points, the State party had advanced no arguments as to why it was necessary, for the purposes set out in article 22 (2), to deny the registration of one NGO, or order the dissolution of the other. Even if the allegations against Legal Aid to the Population were true, the denial of registration of Legal Protection of Citizens and the dissolution of Legal Aid to the Population constituted a disproportionate response by the State party to the allegations. That was especially so in the light of the authors' assurances that they had rectified all of the alleged deficiencies in the operation of the existing NGO, and the affirmation by the Constitutional Court in its decision of 5 October 2000 of the right of all citizens in Belarus to receive legal assistance, including by non-lawyers. Taking into account the serious consequences of the denial of the registration and the dissolution of the NGOs in question for the exercise of the authors' right to freedom of association, the Committee concluded that those actions did not meet the requirements of article 22 (2) and that the authors' rights under article 22 (1) had been violated.

153. Violations of article 22 were also found in cases Nos. 2153/2012 (*Kalyakin and others v. Belarus*) and 2165/2012 (*Belyatsky v. Belarus*).

22. Right of family to protection (Covenant, art. 23 (1))

154. In case No. 2243/2013 (*Husseini v. Denmark*), the Committee considered that the decision of the State party to deport the author, a father of two small children from a divorced family, coupled with a permanent re-entry ban, was "interference" with the family, at least in circumstances where substantial changes in family life would follow. The Committee reiterated that, in cases where one member of a family must leave the territory of a State party, while the other members would be entitled to remain, the relevant criteria for assessing whether or not the specific interference with family life can be objectively justified must be considered, on the one hand, in the light of the significance of the State party's reasons for the removal of the person concerned and, on the other hand, the degree of hardship that the family and its members would suffer as a consequence of such removal.

155. The State party justified the author's removal from the country by the fact that he had been repeatedly convicted of several serious offences which can lead, in the case of aliens who have been lawfully residing in Denmark, to expulsion. The State party was furthermore of the view that "the expulsion decision is necessary in the public interest and to protect [public] safety from further criminal activity by the author and [is] thus in furtherance of a legitimate State interest". The Committee took note of the author's argument that his children could not be expected to follow him to Afghanistan, as they are Danish nationals who do not speak Pashto, have no ties with the country and have been living with their mother since the divorce. The Committee also noted that if the author were to be deported to Afghanistan — a country that he left at the age of 5 — the nature and quality of his family relationships could not be adequately maintained through regular visits, due to the permanent re-entry ban imposed on him. The Committee further noted that the State party never examined to what extent the deportation of the author was compatible with the right of his children to such measures of protection as required by their status as minors (art. 24 of the Covenant). The material before the Committee did not allow it to conclude that due consideration was given by the State party to the right of the family to protection by society and the State, nor to the right of children to special protection. Under those circumstances, the Committee concluded that removing the author and separating his children from their father, without reviewing the new personal circumstances, would amount to a violation of article 23 (1), read in conjunction with article 24 of the Covenant.

156. In case No. 1875/2009 (*M.G.C. v. Australia*), concerning the deportation of the author to the United States, the Committee noted the author's allegation that his expulsion constituted an arbitrary interference with his family life under articles 17 and 23. The Committee also noted the State party's argument that the author and his son did not constitute a family under articles 17 and 23, as their contact was minimal. The Committee recalled its general comment No. 16, according to which the concept of the family refers to the relations in general between parents and child. The Committee could not exclude that the author and his son had family ties beyond the biological since the author had obtained contact orders from the Federal Magistrate Court and those contact orders were not implemented for a number of reasons, including the fact that his ex-partner and the author had a strained relationship and the mere fact that the author was in immigration detention. Therefore the Committee considered that the decision of the State party to deport the author, with the effect that this might have of a permanent impact on his relationship with his son, coupled with a permanent re-entry ban, was to be considered "interference" with the family.

157. The issue then arose as to whether such interference would be arbitrary and contrary to articles 17 and 23 (1) of the Covenant. The Committee recalled that even interference provided for by law should be in accordance with the provisions, aims and objectives of the Covenant and should be reasonable in the particular circumstances. In the light of the information before it, the Committee found that the State party's decision to cancel the

author's visa was based on objective and reasonable grounds, namely the author's substantial criminal record, while taking into account the author's family circumstances both in the delegate Minister's decision and in the decision of the Administrative Appeals Tribunal. In the particular circumstances, the Committee considered that the author's personal family situation had been thoroughly assessed by the competent authorities and that the interference with the author's family life which had occurred was therefore not arbitrary within the meaning of article 17 of the Covenant. The Committee concluded that the facts before it did not reveal a violation of articles 17 and 23 of the Covenant.

23. Right of children to measures of protection (Covenant, art. 24)

158. In case No. 1968/2010 (*Blessington and Elliot v. Australia*), concerning the imposition of life sentence on the authors as juveniles (see para. 87), the Committee recalled that article 24 (1) of the Covenant requires that States parties afford children such measures of protection as are required by their status as minors. That provision takes into account the vulnerability and immaturity of children, as well as their capacity for development. The entitlement of children to special consideration also informs article 10 (2) (b) and (3), and article 6 (5) of the Covenant, which prohibits the imposition of death sentences for crimes committed by persons below 18 years of age. The Committee considered that treating juvenile offenders in a manner appropriate to their age and legal status precluded a definitive conclusion that a juvenile's actions make that person incapable of rehabilitation and undeserving of release, regardless of any future personal and social development, for the entire length of a lifetime. The Committee recalled in that regard article 37 (a) of the Convention on the Rights of the Child, which stipulates that "neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age". While the main role of the Committee is to monitor the implementation of the Covenant, the Committee considered this provision, which is included in a treaty that has been ratified or acceded to almost universally, including by the State party, as a valuable source informing the interpretation of the Covenant in the instant case.

24. Right to vote and to be elected (Covenant, art. 25 (b))

159. In case No. 1992/2010 (*Sudalenko v. Belarus*), the Committee noted the allegations of the author, a member of an opposition party running as a candidate for the position of councilor on the Gomel Region Council, that he was denied the possibility of meeting with his constituents in the square near the cultural centre, "Festivalnaya", and that a distant place outside of the city was proposed as being the only location for holding such meetings. The Committee recalled its general comment No. 25 (1996) on the right to participate in public affairs, voting rights and the right of equal access to public service, which states that citizens also take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves. States parties support such participation by ensuring freedom of expression, assembly and association. Those freedoms are essential conditions for the effective exercise of the right to vote and must be fully protected. The Committee considers the possibility of meeting with potential voters as integral to the rights guaranteed under article 25 of the Covenant, which includes the right to be elected to public office. Although the State party may establish rules and regulations governing political campaigns, those rules and regulations must not disproportionally restrict the rights guaranteed under the Covenant. In the absence of any pertinent information from the State party in that regard, the Committee concluded that the author's rights under article 25 (b), read in conjunction with article 21 of the Covenant, had been violated.

25. Right to equality before the law (Covenant, art. 26)

160. In case No. 2001/2010 (*Q v. Denmark*), the issue before the Committee was whether, by refusing to grant the author an exemption from the requirement of proficiency in the Danish language in order to become naturalized, the State party violated article 26 of the Covenant. The Committee recalled that article 26 provides an autonomous right prohibiting discrimination in law or in fact in any field regulated and protected by public authorities and that the application of the principle of non-discrimination contained in article 26 is not limited to those rights which are provided for in the Covenant. When legislation is adopted by a State party, it must comply with the requirement of article 26 that its content should not be discriminatory. In the context of the present communication, this meant that the Committee examine whether the consideration of the author's application for an exception was carried out by the competent Danish authorities in a manner that guaranteed his right to equality before the law and equal protection of the law without any discrimination.

161. The Committee considered that the State party had failed to demonstrate that the refusal to grant the exemption was based on reasonable and objective grounds. The Ministry was unable to give details about the reasons for the Naturalization Committee's decision to deny the author's request, since the Committee proceedings were confidential. According to the State party's own submission, the exemption provision was open to interpretation and practice was laid down by the majority of the Naturalization Committee at any time. The Committee was of the view that the lack of motivation for the decision and transparency of the procedure made it very difficult for the author to submit further documentation in order to support his request, as he did not know the real reasons for the refusal and the general trends regarding decisions of the Naturalization Committee. The fact that the Naturalization Committee is part of the legislature did not exempt the State party from taking measures so that the author was informed, even if in brief form, of the substantive grounds of the Naturalization Committee's decision. In the absence of such justification, the State party had failed to demonstrate that its decision not to accept the author's mental disability as a basis for a language exception provided for in the law, and to require from him language proficiency despite his learning disabilities was based on reasonable and objective grounds. The Committee therefore concluded that the facts before it revealed a violation of the author's right to equality before the law and equal protection of the law under article 26 of the Covenant.

VI. Remedies called for under the Committee's Views

162. After the Committee has made a finding of a violation of a provision of the Covenant in its Views under article 5 (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 the following: "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".

163. During the period under review the Committee took the following decisions regarding remedies.

164. In case No. 1906/2009 (*Yuzepchuk v. Belarus*), where the Committee found violations of articles 6, 7, 9 (3) and 14 (1) and (3) (e) and (g) of the Covenant and of article 1 of the Optional Protocol, the State party was requested to provide adequate monetary compensation to the author's family for the loss of his life, including reimbursement of the legal costs incurred. The State party was also under an obligation to prevent similar violations in the future and, in the light of its obligations under the Optional Protocol, to cooperate in good faith with the Committee, particularly by complying with the requests of the Committee for interim measures. Similar remedies were requested in case No. 2013/2010 (*Grishkovtsov v. Belarus*), where the author had also been sentenced to death and executed.

165. In case No. 2018/2010 (*Chaulagain v. Nepal*), where the Committee found violations of the right of the author's daughter under articles 6 (1), 7, 9 and 10, read all in conjunction with article 2 (3), as well as the author's right under article 7, read in conjunction with article 2 (3), of the Covenant, the State party was requested to provide the author with an effective remedy, including an effective and complete investigation of the facts; the prosecution and punishment of those guilty; full reparation; and appropriate measures of satisfaction. Similar remedies were requested in case No. 2087/2011 (*Guneththige v. Sri Lanka*), regarding the victim's death in custody, but the Committee also specified that a public apology should be given to the family.

166. In case No. 2054/2011 (*Ernazarov v. Kyrgyzstan*), where the Committee found violations of the victim's rights under articles 6 (1) and 7 and of the author's rights under article 2 (3) read in conjunction with articles 6 (1) and 7, the State party was requested to provide the author with an effective remedy, which should include an impartial, effective and thorough investigation into the circumstances of his brother's death, prosecution of those responsible and full reparation, including appropriate compensation.

167. In case No. 1965/2010 (*Monika v. Cameroon*), where the Committee found violations of article 7, read alone and in conjunction with article 2 (3), the State party was requested to provide the author with an effective remedy, including by ensuring a swift conclusion of the judicial proceedings, which should include a thorough investigation of the author's allegations, the prosecution of perpetrators, and adequate compensation to the author.

168. In cases of enforced disappearances Nos. 1860/2009 (*Al-Rabassi v. Libya*), 1882/2009 (*Al Daquel v. Libya*), 1924/2010 (*Boudehane v. Algeria*), 2069/2011 (*Shikhmuradova v. Turkmenistan*) and 2132/2012 (*Allioua and Kerouane v. Algeria*), the respective State parties were requested to provide the authors with an effective remedy by, inter alia (as applicable): (a) conducting thorough, prompt and impartial investigations into the disappearances; (b) providing the families with detailed information on the results of its investigations; (c) releasing the victim immediately if still being detained incommunicado; (d) handing over the remains to the families in the event that the victims are deceased; (e) prosecuting, trying and punishing those responsible for the violations committed; and (f) providing adequate compensation to the families and the disappeared person if still alive. In cases Nos. 2000/2010 (*Katwal v. Nepal*), 2026/2011 (*Zaier v. Algeria*), 2083/2011 (*Kroumi v. Algeria*), 2086/2011 (*Dehimi and Ayache v. Algeria*), 2111/2011 (*Tripathi v. Nepal*), providing appropriate satisfaction was added to this list, whereas in cases Nos. 2031/2011 (*Bhandari v. Nepal*) and 2111/2011 (*Tripathi v. Nepal*), the State party was also requested to ensure that the necessary and adequate psychological rehabilitation and medical treatment be provided to the authors. In 2098/2011 (*Ammari v. Algeria*) the Committee also added guarantees for the author and his family of access to appropriate rehabilitation. A request that the State party's legislation allow the criminal prosecution of the facts that constituted a violation of the Covenant was made in cases of enforced disappearances against Nepal Nos. 2000/2010, 2031/2011 and 2111/2011.

169. In cases of enforced disappearances or arbitrary executions Nos. 1924/2010 (*Boudehane v. Algeria*), 1931/2010 (*Bouzeriba v. Algeria*), 1964/2010 (*Fedsi v. Algeria*), 1974/2010 (*Bousseloub v. Algeria*), 2026/2011 (*Zaier v. Algeria*), 2083/2011 (*Kroumi v. Algeria*), 2086/2011 (*Dehimi and Ayache v. Algeria*), 2098/2011 (*Ammari v. Algeria*), 2117/2011 (*Louddi v. Algeria*) and 2132/2012 (*Allioua and Kerouane v. Algeria*), the Committee added that, notwithstanding the terms of Ordinance No. 06-01, Algeria should ensure that it does not impede enjoyment of the right to an effective remedy for crimes such as torture, extrajudicial killings and enforced disappearances. As for cases Nos. 2031/2011 (*Bhandari v. Nepal*) and 2111/2011 (*Tripathi v. Nepal*), the State party was requested to ensure that its legislation allows for the criminal prosecution of the facts that constitute a violation of the Covenant.

170. In case No. 2051/2011 (*Basnet v. Nepal*), where one of the authors was released after having been subjected to enforced disappearance, the State party was requested to provide the authors with an effective remedy, including by: (a) conducting a thorough and effective investigation into the facts surrounding the detention of Jit Man Basnet and the treatment suffered at the Bhairavnath barracks; and prosecuting, trying and punishing those responsible for the violations committed; (b) providing the authors with detailed information about the results of this investigation; (c) providing adequate compensation to the authors for the violations suffered; (d) ensuring that the necessary and adequate psychological rehabilitation and medical treatment is provided to the authors; and (e) providing appropriate measures of satisfaction. The State party was also under an obligation to take steps to prevent similar violations in the future. In that connection, the State party should ensure that its legislation allows the criminal prosecution of the facts that constituted a violation of the Covenant.

171. In cases Nos. 1956/2010 (*Durić v. Bosnia and Herzegovina*), 1966/2010 (*Hero v. Bosnia and Herzegovina*), 1970/2010 (*Kožljak v. Bosnia and Herzegovina*) and 2003/2010 (*Selimović and others v. Bosnia and Herzegovina*), concerning the enforced disappearance of the authors' relatives, the State party was requested to provide the authors with an effective remedy, including, as applicable: (a) continuing its efforts to establish the fate or whereabouts of the victims, as required by the Law on Missing Persons of 2004; (b) continuing its efforts to bring to justice without unnecessary delay those responsible for the disappearances, as required by the National Strategy for War Crimes Processing; and (c) ensuring adequate compensation. The State party was also requested 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, and that the current legal framework is not applied in a manner that requires relatives of victims of enforced disappearance to obtain certification of the death of the victim as a condition for obtaining social benefits and measures of reparation.

172. A slightly different formulation was made in cases Nos. 2022/2011 (*Hamulić and Hodžić v. Bosnia and Herzegovina*) and 2028/2011 (*Ičić v. Bosnia and Herzegovina*), where an effective remedy should include: (a) strengthening the State party's investigations to establish the fate or whereabouts of the victims, as required by the Law on Missing Persons 2004, and having its investigators contact the authors as soon as possible to obtain the information that they can contribute to the investigation; (b) strengthening its efforts to bring to justice those responsible for his disappearance, without unnecessary delay, as required by the national war crimes strategy; and (c) providing effective reparation to the authors, including adequate compensation and appropriate measures of satisfaction. The State party was also under an obligation to prevent similar violations in the future and must ensure, in particular, that investigations into allegations of enforced disappearances are accessible to the families of missing persons. Ensuring that necessary psychological rehabilitation and medical care are provided to the author was also requested in case No. 2028/2011.

173. In case No. 1958/2010 (*El Hojouj v. Libya*), where the Committee found violations of several provisions of the Covenant for the attacks and harassment inflicted upon the authors the State party was requested to provide the authors with an effective remedy, to conduct a thorough, in-depth investigation of their allegations; to prosecute those responsible for the violations committed against the authors; and to grant them appropriate redress, including compensation. In case No. 2046/2011 (*Hmeed v. Libya*), involving violations of articles 2 (3), 7, 9 and 17 against several members of the same family, the State party was requested to provide the author with an effective remedy by, inter alia, prosecuting, trying and punishing those responsible for the violations and to award adequate compensation to the author and her family.

174. In case No. 2041/2011 (*Dorofeev v. Russian Federation*), where the Committee found violations of article 14 (3) (d) and of article 2 (3), read in conjunction with article 14, (3) (d), the State party was requested to provide the author with an effective remedy, including adequate compensation.

175. In case No. 2008/2010 (*Aarrass v. Spain*), where the Committee concluded that the extradition of the author to Morocco disclosed a violation of article 7 of the Covenant, the State party was requested to provide the author with an effective remedy, including by (a) providing adequate compensation for the violation of his rights, taking account of the acts of torture and ill-treatment to which he was subjected as a result of his extradition to Morocco; and (b) taking all possible steps to cooperate with the Moroccan authorities in order to ensure effective oversight of the author's treatment in Morocco.

176. In case No. 2126/2011 (*Khakdar v. Russian Federation*), where the Committee found that the expulsion of the author to Afghanistan would constitute a violation of article 7, the State party was requested to provide the author with an effective remedy, including a full reconsideration of his allegations of the risk of torture.

177. In case No. 2091/2011 (*A.H.G. v. Canada*), where the Committee found that the deportation of the author to Jamaica constituted a violation of article 7, the State party was requested to provide the author with an effective remedy. The State party was under an obligation (a) to make reparation to the author, by allowing him to return to Canada if he so wished; and (b) to provide adequate compensation to him.

178. In case No. 2055/2011 (*Zinsou v. Benin*), where the Committee found violations of articles 7 and 14 (2) of the Covenant, the State party was requested to provide the author with an effective remedy by, inter alia, providing appropriate compensation.

179. In case No. 2079/2011 (*Khadzhiev v. Turkmenistan*), where the Committee found violations of articles 7, 9 (1), 14 (3 (g)) and 17 (1), the State party was requested to provide the author with an effective remedy by, inter alia: (a) conducting a thorough and effective investigation into his pretrial detention and subsequent imprisonment; (b) providing him with detailed information on the results of the investigation; (c) prosecuting, trying and, if confirmed, punishing those responsible for the violations committed; and (d) providing adequate reparation including compensation to the author for the violations suffered.

180. In case No. 1968/2010 (*Blessington and Elliot v. Australia*), where the Committee found violations of the authors' rights under article 7, read together with articles 10 (3) and 24 of the Covenant, in connection with the imposition of a life sentence on the authors as juveniles, the State party was requested to provide the authors with an effective remedy, including compensation. The State party was also requested to take steps to prevent similar violations in the future and, in that connection, should review its legislation to ensure its conformity with the requirements of article 7, read together with articles 10 (3) and 24 of the Covenant without delay, and allow the authors to benefit from the reviewed legislation.

181. In case No. 1973/2010 (*Griffiths v. Australia*), where the Committee found violations of article 9 (1) and (4), the State party was requested to provide the author with an effective remedy, including adequate compensation and compensation of the legal costs incurred by the author. The State party was also requested to take steps to prevent similar violations in the future. In this connection, the State party should review its legislation and practice, in particular, the Extradition Act No. 4 of 1988, as it had been applied in the present case, with a view to ensuring that the rights under articles 9 and 2 of the Covenant could be fully enjoyed in the State party.

182. In case No. 1875/2009 (*M.G.C. v. Australia*), where the Committee found that the detention of the author pending deportation revealed a violation of article 9, the State party was requested to provide the author with an effective and appropriate remedy, including compensation. The State party should also review its migration legislation to ensure its conformity with the requirements of article 9.

183. In case No. 1972/2010 (*Quliyev v. Azerbaijan*), where the Committee found violations of articles 10, paragraph 1 and 14 (1), the State party was requested to provide the author with an effective remedy, including adequate compensation.

184. In case No. 2085/2011 (*García Bolívar v. Bolivarian Republic of Venezuela*), involving violation of article 14 (1) for delays in domestic proceedings the State party was requested to provide the author with an effective remedy by, inter alia: (a) ensuring that the proceedings afford all the judicial guarantees provided for in article 14 (1) of the Covenant, in particular with regard to the need to issue a ruling as soon as possible; and (b) providing the author with redress, particularly in the form of appropriate compensation.

185. In case No. 2097/2011 (*Timmer v. Netherlands*), where the Committee found a violation of article 14 (5) of the Covenant, the State party was requested to provide the author with an effective remedy. The Committee took note of the author's assertion that the financial compensation of 1,000 euros proposed by the State party did not constitute an effective remedy because it did not provide for a review of the criminal sentence and conviction adopted against the author, and it did not remedy the harm to his reputation. The Committee considered that, in this case, an effective remedy would allow a review of the author's conviction and sentence by a higher tribunal, or implementation of other appropriate measures capable of removing the adverse effects caused to the author, together with adequate compensation. The Committee also considered that the State party should bring the relevant legal framework into conformity with the requirements of article 14 (5) of the Covenant.

186. In case No. 1773/2008 (*Kozulin v. Belarus*), where the Committee found violations of articles 9 (1) and (3); 10; and 14 (1) and (2), the State party was requested to provide the victim with an effective remedy, including adequate compensation, together with reimbursement of any legal costs incurred.

187. In case No. 1937/2010 (*Leghaei and others v. Australia*), the Committee found a violation of article 17, read in conjunction with article 23, regarding the denial of the author's visa for reasons of national security. The State party was requested to provide the author with an effective and appropriate remedy, including a meaningful opportunity to challenge the refusal to grant him a permanent visa; and compensation.

188. In case No. 2131/2012 (*Leven v. Kazakhstan*), involving a violation of article 18 (1), the State party was requested to provide the author with an effective remedy, including review of his conviction and of the cancellation of his residence permit.

189. In case No. 2179/2012 (*Young-kwan Kim and others v. Republic of Korea*), concerning violation of articles 9 (1) and 18 (1) in connection with conscientious objection to compulsory military service, the State party was requested to provide the authors with an

effective remedy, including expunging their criminal records and providing them with adequate compensation. 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.

190. In case No. 2218/2012 (*Abdullayev v. Turkmenistan*), where the Committee found violations of articles 7, 10 (1), 14 (7) and 18 (1) in connection with the author's imprisonment for his objection to military service the State party was requested to provide the author with an effective remedy, including an impartial, effective and thorough investigation of the claims under article 7; expunging of his criminal record; and full reparation, including appropriate compensation. The State party was under an obligation to avoid similar violations in the future, including the adoption of legislative measures guaranteeing the right to conscientious objection.

191. In cases in which the Committee found violations of the right to freedom of opinion and expression and/or the right to peaceful assembly against Belarus the Committee requested the State party to provide the victims with an effective remedy, as well as adequate compensation and, as applicable, reimbursement of the fine imposed on the victims and/or any legal costs paid by the victims. The State party was also reminded of its obligation to take steps to prevent similar violations in the future. In this connection, the Committee reiterated in a number of cases that the State party should review its legislation, in particular, the Law on Mass Events of 30 December 1997, as it had been applied in the cases in question, with a view to ensuring that the rights under article 19 and 21 of the Covenant may be fully enjoyed in the State party (cases Nos. 1933/2010 (*Aleksandrov v. Belarus*), 1934/2010 (*Bazarov v. Belarus*), 1949/2010 (*Kozlov and others v. Belarus*), 1976/2010 (*Kuznetsov and others v. Belarus*), 1987/2010 (*Stambrovsky v. Belarus*), 2029/2011 (*Praded v. Belarus*) and 2156/2012 (*Nepomnyaschikh v. Belarus*)).

192. In case No. 2137/2012 (*Toregozhina v. Kazakhstan*), involving violations of articles 9, 19 and 21, the State party was requested to provide the author with an effective remedy, including review of her conviction and adequate compensation, including reimbursement of the legal costs incurred. The State party should review its legislation, in particular the Law on the Order of Organization and Conduct of Peaceful Assemblies, Meetings, Processions, Pickets and Demonstrations in the Republic of Kazakhstan, as it has been applied in the instant case, with a view to ensuring that the rights under articles 19 and 21 of the Covenant may be fully enjoyed in the State party.

193. In case No. 1985/2010 (*Koktish v. Belarus*), the State party was requested to provide the author with an effective remedy, including an independent review of the application to grant her accreditation and access to the State party's National Assembly in full respect of her rights under article 19 (2). The State party was also requested to review its legislation, particularly the Rules of Accreditation for Journalists from the Mass Media to the House of Representatives of Belarus, to ensure their compatibility with article 19 of the Covenant.

194. In case No. 1993/2010 (*Mikhailovskaya and Volchek v. Belarus*), in which the Committee found violations of the authors' right to freedom of association, the State party was requested to provide the authors with an effective remedy, including reimbursement of any legal costs incurred by them, together with compensation, as well as re-establishment of the NGO, Legal Aid to the Population, and a renewed consideration of the registration of the nationwide NGO, Legal Protection of Citizens, in a manner consistent with article 22 of the Covenant.

195. An effective remedy, including reconsideration of the application for registration of the association "For Fair Elections" based on criteria compliant with article 22, was requested in case No. 2153/2012 (*Kalyakin and others v. Belarus*), where the Committee found a violation of article 22 (1).

196. As for case No. 2165/2012 (*Belyatsky v. Belarus*), the State party was requested to provide the author with an appropriate remedy, including (a) the reconsideration of the application for registration of the Viasna association, based on criteria compliant with the requirements of article 22 of the Covenant; (b) removal of the criminal conviction from his criminal record; and (c) adequate compensation, including reimbursement of the legal costs incurred. The State party was also under the obligation to prevent similar violations in the future. In this connection, the State party should review its internal legislation to ensure its compliance with the requirements of article 22 of the Covenant.

197. In case No. 2009/2010 (*Ilyasov v. Kazakhstan*), involving arbitrary interference with the family contrary to articles 17 and 23 of the Covenant, the State party was requested to provide the author with an effective and appropriate remedy, including adequate compensation.

198. In case No. 2243/2013 (*Husseini v. Denmark*), where the Committee found that the expulsion of the author would amount to a violation of article 23 (1), read in conjunction with article 24, the State party was requested to provide the author with an effective remedy by proceeding to a review of the decision to expel him with a permanent re-entry ban, taking into account the State party's obligations under the Covenant.

199. In case No. 1992/2010 (*Sudalenko v. Belarus*), where the Committee found a violation of article 25 (b), the State party was requested to provide the author with an effective remedy, including compensation, and review its legislation as applied in the case.

200. In case No. 2001/2010 (*Q v. Denmark*), where the Committee found a violation of article 26 in connection with the author's naturalization procedure, the State party was requested to provide the author with effective remedy, including compensation and a reconsideration of his request for exemption of the language skills requirement through a procedure that take into consideration the Committee's findings.

Annex

List of Views and inadmissibility decisions adopted at the 111th, 112th and 113th sessions

CCPR/C/112/D/1773/2008 Communication No. 1773/2008	*Kozulin v. Belarus*
CCPR/C/111/D/1860/2009 Communication No. 1860/2009	*Al-Rabassi v. Libya*
CCPR/C/113/D/1875/2009 Communication No. 1875/2009	*M.G.C. v. Australia*
CCPR/C/111/D/1882/2009 Communication No. 1882/2009	*Al Daquel v. Libya*
CCPR/C/112/D/1906/2009 Communication No. 1906/2009	*Yuzepchuk v. Belarus*
CCPR/C/111/D/1924/2010 Communication No. 1924/2010	*Boudehane v. Algeria*
CCPR/C/111/D/1926/2010 Communication No. 1926/2010	*S.I.D. and others v. Bulgaria*
CCPR/C/112/D/1929/2010 Communication No. 1929/2010	*Lozenko v. Belarus*
CCPR/C/111/D/1931/2010 Communication No. 1931/2010	*Bouzeriba v. Algeria*
CCPR/C/111/D/1933/2010 Communication No. 1933/2010	*Aleksandrov v. Belarus*
CCPR/C/111/D/1934/2010 Communication No. 1934/2010	*Bazarov v. Belarus*
CCPR/C/113/D/1937/2010 Communication No. 1937/2010	*Leghaei and others v. Australia*
CCPR/C/111/D/1942/2010 Communication No. 1942/2010	*T.L.N. v. Norway*
CCPR/C/112/D/1946/2010 Communication No. 1946/2010	*Bolshakov v. Russian Federation*
CCPR/C/113/D/1949/2010 Communication No. 1949/2010	*Kozlov and others v. Belarus*
CCPR/C/112/D/1952/2010 Communication No. 1952/2010	*Symonik v. Belarus*
CCPR/C/111/D/1956/2010 Communication No. 1956/2010	*Durić v. Bosnia and Herzegovina*
CCPR/C/111/D/1958/2010 and Corr.1 Communication No. 1958/2010	*El Hojouj v. Libya*

CCPR/C/113/D/1961/2010 Communication No. 1961/2010	*X v. Czech Republic*
CCPR/C/111/D/1964/2010 Communication No. 1964/2010	*Fedsi v. Algeria*
CCPR/C/112/D/1965/2010 Communication No. 1965/2010	*Monika v. Cameroon*
CCPR/C/112/D/1966/2010 Communication No. 1966/2010	*Hero v. Bosnia and Herzegovina*
CCPR/C/113/D/1967/2010 and Corr.1 Communication No. 1967/2010	*B and C v. Czech Republic*
CCPR/C/112/D/1968/2010 Communication No. 1968/2010	*Blessington and Elliot v. Australia*
CCPR/C/112/D/1970/2010 Communication No. 1970/2010	*Kožljak v. Bosnia and Herzegovina*
CCPR/C/113/D/1971/2010 Communication No. 1971/2010	*N.D.M. v. Democratic Republic of the Congo*
CCPR/C/112/D/1972/2010 and Corr.1 Communication No. 1972/2010	*Quliyev v. Azerbaijan*
CCPR/C/112/D/1973/2010 Communication No. 1973/2010	*Griffiths v. Australia*
CCPR/C/111/D/1974/2010 Communication No. 1974/2010	*Bousseloub v. Algeria*
CCPR/C/111/D/1976/2010 Communication No. 1976/2010	*Kuznetsov and others v. Belarus*
CCPR/C/111/D/1985/2010 Communication No. 1985/2010	*Koktish v. Belarus*
CCPR/C/111/D/1986/2010 Communication No. 1986/2010	*Kozlov v. Belarus*
CCPR/C/112/D/1987/2010 Communication No. 1987/2010	*Stambrovsky v. Belarus*
CCPR/C/112/D/1989/2010 Communication No. 1989/2010	*E.V. v. Belarus*
CCPR/C/111/D/1990/2010 Communication No. 1990/2010	*Yachnik v. Belarus*
CCPR/C/111/D/1991/2010 Communication No. 1991/2010	*Volchek v. Belarus*
CCPR/C/113/D/1992/2010 Communication No. 1992/2010	*Sudalenko v. Belarus*
CCPR/C/111/D/1993/2010 Communication No. 1993/2010	*Mikhailovskaya and Volchek v. Belarus*
CCPR/C/111/D/1995/2010 Communication No. 1995/2010	*Hickey v. Australia*

CCPR/C/112/D/1998/2010 Communication No. 1998/2010	*A.W.K. v. New Zealand*
CCPR/C/112/D/1999/2010 and Corr.1 Communication No. 1999/2010	*Evrezov and others v. Belarus*
CCPR/C/113/D/2000/2010 Communication No. 2000/2010	*Katwal v. Nepal*
CCPR/C/113/D/2001/2010 Communication No. 2001/2010	*Q v. Denmark*
CCPR/C/111/D/2003/2010 Communication No. 2003/2010	*Selimović and others v. Bosnia and Herzegovina*
CCPR/C/112/D/2004/2010 Communication No. 2004/2010	*H.K. v. Norway*
CCPR/C/111/D/2008/2010 Communication No. 2008/2010	*Aarrass v. Spain*
CCPR/C/111/D/2009/2010 Communication No. 2009/2010	*Ilyasov v. Kazakhstan*
CCPR/C/113/D/2013/2010 Communication No. 2013/2010	*Grishkovtsov v. Belarus*
CCPR/C/113/D/2015/2010 Communication No. 2015/2010	*H.S. v Australia*
CCPR/C/112/D/2018/2010 Communication No. 2018/2010	*Chaulagain v. Nepal*
CCPR/C/113/D/2021/2010 Communication No. 2021/2010	*E.Z. v. Kazakhstan*
CCPR/C/113/D/2022/2011 Communication No. 2022/2011	*Hamulić and Hodžić v. Bosnia and Herzegovina*
CCPR/C/112/D/2026/2011 Communication No. 2026/2011	*Zaier v. Algeria*
CCPR/C/113/D/2028/2011 Communication No. 2028/2011	*Ičić v. Bosnia and Herzegovina*
CCPR/C/112/D/2029/2011 Communication No. 2029/2011	*Praded v. Belarus*
CCPR/C/111/D/2030/2011 Communication No. 2030/2011	*Poliakov v. Belarus*
CCPR/C/112/D/2031/2011 Communication No. 2031/2011	*Bhandari v. Nepal*
CCPR/C/111/D/2037/2011 Communication No. 2037/2011	*M.R.R. v. Spain*
CCPR/C/111/D/2041/2011 Communication No. 2041/2011	*Dorofeev v. Russian Federation*
CCPR/C/111/D/2042/2011 Communication No. 2042/2011	*Huseynov v. Azerbaijan*

CCPR/C/112/D/2046/2011 Communication No. 2046/2011	*Hmeed v. Libya*
CCPR/C/111/D/2049/2011 Communication No. 2049/2011	*Z v. Australia*
CCPR/C/113/D/2050/2011 Communication No. 2050/2011	*E.L.K. v. Netherlands*
CCPR/C/112/D/2051/2011 Communication No. 2051/2011	*Basnet v. Nepal*
CCPR/C/112/D/2053/2011 Communication No. 2053/2011	*B.L. v. Australia*
CCPR/C/113/D/2054/2011 Communication No. 2054/2011	*Ernazarov v. Kyrgyzstan*
CCPR/C/111/D/2055/2011 Communication No. 2055/2011	*Zinsou v. Benin*
CCPR/C/112/D/2068/2011 Communication No. 2068/2011	*Vojnović v. Croatia*
CCPR/C/112/D/2069/2011 Communication No. 2069/2011	*Shikhmuradova v. Turkmenistan*
CCPR/C/112/D/2070/2011 Communication No. 2070/2011	*Cañada Mora v. Spain*
CCPR/C/111/D/2071/2011 Communication No. 2071/2011	*D'Amore v. Argentina*
CCPR/C/113/D/2079/2011 Communication No. 2079/2011	*Khadzhiev v. Turkmenistan*
CCPR/C/112/D/2083/2011 Communication No. 2083/2011	*Kroumi v. Algeria*
CCPR/C/112/D/2085/2011 Communication No. 2085/2011	*García Bolívar v. Bolivarian Republic of Venezuela*
CCPR/C/112/D/2086/2011 Communication No. 2086/2011	*Dehimi and Ayache v. Algeria*
CCPR/C/113/D/2087/2011 Communication No. 2087/2011	*Guneththige v. Sri Lanka*
CCPR/C/113/D/2091/2011 Communication No. 2091/2011	*A.H.G. v. Canada*
CCPR/C/111/D/2097/2011 Communication No. 2097/2011	*Timmer v. Netherlands*
CCPR/C/112/D/2098/2011 Communication No. 2098/2011	*Ammari v. Algeria*
CCPR/C/111/D/2103/2011 Communication No. 2103/2011	*Poliakov v. Belarus*
CCPR/C/112/D/2105/2011 Communication No. 2105/2011	*S.S.F. and others v. Spain*

CCPR/C/112/D/2111/2011 Communication No. 2111/2011	*Tripathi v. Nepal*
CCPR/C/112/D/2114/2011 Communication No. 2114/2011	*Sudalenko v. Belarus*
CCPR/C/112/D/2117/2011 Communication No. 2117/2011	*Louddi v. Algeria*
CCPR/C/112/D/2123/2011 Communication No. 2123/2011	*Tonenkaya v. Ukraine*
CCPR/C/112/D/2126/2011 Communication No. 2126/2011	*Khakdar v. Russian Federation*
CCPR/C/112/D/2131/2012 Communication No. 2131/2012	*Leven v. Kazakhstan*
CCPR/C/112/D/2132/2012 Communication No. 2132/2012	*Allioua and Kerouane v. Algeria*
CCPR/C/112/D/2137/2012 Communication No. 2137/2012	*Toregozhina v. Kazakhstan*
CCPR/C/112/D/2153/2012 Communication No. 2153/2012	*Kalyakin and others v. Belarus*
CCPR/C/112/D/2156/2012 Communication No. 2156/2012	*Nepomnyaschikh v. Belarus*
CCPR/C/112/D/2165/2012 Communication No. 2165/2012	*Belyatsky v. Belarus*
CCPR/C/113/D/2176/2012 Communication No. 2176/2012	*M. v. Belgium*
CCPR/C/112/D/2179/2012 Communication No. 2179/2012	*Young-kwan Kim and others v Republic of Korea*
CCPR/C/112/D/2186/2012 Communication No. 2186/2012	*X v. Denmark*
CCPR/C/113/D/2192/2012 and Corr.1 Communication No. 2192/2012	*N.S. v. Russian Federation*
CCPR/C/113/D/2211/2012 Communication No. 2211/2012	*L.F. v. New Zealand*
CCPR/C/113/D/2218/2012 Communication No. 2218/2012	*Abdullayev v. Turkmenistan*
CCPR/C/112/D/2243/2013 Communication No. 2243/2013	*Husseini v. Denmark*
CCPR/C/113/D/2272/2013 Communication No. 2272/2013	*P.T. v. Denmark*
CCPR/C/112/D/2325/2013 Communication No. 2325/2013	*Foumbi v. Cameroon*
CCPR/C/112/D/2341/2014 Communication No. 2341/2014	*N.U. v. Norway*

CCPR/C/111/D/2390/2014 Communication No. 2390/2014	*Pronina v. France*
CCPR/C/113/D/2515/2014 Communication No. 2515/2014	*X v. Denmark*
CCPR/C/113/D/2523/2015 Communication No. 2523/2015	*X v. Denmark*