



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### Follow-up progress report on individual communications

#### A. Introduction

1. At its thirty-ninth session (9–27 July 1990), the Human Rights Committee established a procedure and designated a special rapporteur to monitor follow-up on its Views adopted under article 5 (4) of the Optional Protocol to the Covenant. The Special Rapporteur for follow-up on Views prepared the present report in accordance with rule 106 (3) of the Committee's rules of procedure. In the light of the high number of Views on which follow-up is required and the limited resources that the secretariat can devote to follow-up on Views, it has not been possible to ensure systematic, timely and comprehensive follow-up on all cases, particularly given the applicable word limitations of the present report. The present report is based on the information available on the cases presented below, reflecting at least one round of exchanges with the State party and the author(s) and/or counsel.
2. At the end of the 136th session, in November 2022, the Committee had concluded that there had been a violation of the Covenant in 1,376 (85 per cent) of the 1,619 Views that it had adopted since 1979.
3. At its 109th session (14 October–1 November 2013), the Committee decided to include in its reports on follow-up to Views an assessment of the replies received from and action taken by States parties. The assessment is based on criteria similar to those applied by the Committee in the procedure for follow-up to its concluding observations on State party reports.
4. At its 118th session (17 October–4 November 2016), the Committee decided to revise its assessment criteria.

#### Assessment criteria (as revised during the 118th session)

##### Assessment of replies:

- A **Reply/action largely satisfactory:** The State party has provided evidence of significant action taken towards the implementation of the recommendation made by the Committee.
- B **Reply/action partially satisfactory:** The State party has taken steps towards the implementation of the recommendation, but additional information or action remains necessary.
- C **Reply/action not satisfactory:** A response has been received, but the action taken or information provided by the State party is not relevant or does not implement the recommendation.
- D **No cooperation with the Committee:** No follow-up report has been received after the reminder(s).
- E **Information or measures taken are contrary to or reflect rejection of the recommendation.**



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

**Decisions taken:**

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

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

7. At its 136th session (10 October–4 November 2022), the Committee adopted guidelines on the procedure for follow-up to Views,<sup>1</sup> in order to improve the process by which it aims to ascertain the measures taken by States parties to give effect to its Views. The guidelines, which draw on the Committee's experience since 1990, were conceived as a road map for the future activity of the Committee on the issue of follow-up to Views and will be implemented progressively. As the implementation of the guidelines is a pilot project, the Committee will assess the benefits and shortcomings and, if the guidelines prove useful, will recommend them to other treaty bodies. The implementation of the guidelines will be aligned and integrated with the new case management system that the Office of the United Nations High Commissioner for Human Rights is currently developing for handling individual communications, so that the information needed for the follow-up procedure is duly collected and processed by that system. In the first phase of the implementation of the guidelines, the current reporting procedure will continue to be followed (two reports on follow-up to Views per year). Nevertheless, the new criteria will be applied in the selection of cases for such reports.

## **B. Follow-up information received and processed up until March 2023<sup>2</sup>**

### **1. Angola**

**Communications Nos. 3106/2018-3122/2018, A.G. et al.**

<b>Views adopted:</b>	21 July 2020
<b>Violation:</b>	Articles 7 and 13
<b>Remedy:</b>	Effective remedy, including by: (a) proceeding to a review of the authors' cases, taking into account the State party's obligations under the Covenant and the Committee's Views; (b) refraining from expelling the authors and their families until their request for asylum is properly considered; and (c)

<sup>1</sup> CCPR/C/162.

<sup>2</sup> CCPR/C/SR.3991, paras. 38–75.

taking all the steps necessary to prevent similar violations from occurring in the future, including by ensuring the prompt implementation of the law on the right to asylum and refugee status and by putting in place fair and effective asylum procedures offering effective protection against refoulement.

**Subject matter:** Deportation to Türkiye  
**Previous follow-up information:** None  
**Submission from the State party:** 12 August 2021<sup>3</sup>

The State party takes note of the Committee's Views and provides its version of the facts. On 21 March 2017, the Criminal Chamber of the Provincial Tribunal of Luanda sentenced I.G.K., a Turkish national and owner of the Colégio Esperança Internacional to 15 years' imprisonment for the crimes of terrorism, international terrorism, money laundering and the financing of terrorism. The ruling also recognized the responsibility of the school for being a cover-up for those crimes, which subsequently led to administrative proceedings against the school by the Ministry of Education and against all 17 teachers by the Migration and Foreigners Service. The administrative sanctions ordered by those bodies were the closure of the school and the expulsion and cancellation of the visas of the 17 teachers and their families.

As Angola is a party to the Convention relating to the Status of Refugees, the authors were able to request international protection from the Office of the United Nations High Commissioner for Refugees (UNHCR) in Angola and they remained in the State party. As to the subject matter of the authors' communication to the Committee, the authors have appealed against the administrative decision ordering their expulsion. After taking into consideration the authors' association with the Gülen movement and the risks they would face if expelled to Türkiye, the State party's authorities decided not to expel the authors, thus respecting its non-refoulement obligations under article 7 of the Covenant. Two of the authors and their families have voluntarily left Angola. The other 15 authors and their families have remained in Angola and continued their integration in Angolan society.

The entry into force of Presidential Decree No. 200/18 of 27 August 2021, creating and regulating the National Refugee Council, completes the national structure for the protection of refugees in Angola. The Council is currently examining the asylum applications of the 15 remaining authors and is expected to adopt a final decision upon the request of UNHCR shortly. The Council guarantees the implementation of the Asylum Law (No.15/10) and the State party's respect of its international obligations in terms of assisting and protecting refugees, thus preventing violations of human rights in this area. By not expelling the authors and allowing them to remain in Angola, the State party helped to protect their right to freedom from torture, cruel, inhuman or degrading treatment in accordance with the Covenant. Furthermore, as the authors' requests for asylum are currently being examined, they have not exhausted all available domestic remedies. The Ministry of the Interior has recently issued an opinion in favour of granting the 15 authors refugee status, which makes the prospect of their expulsion to Türkiye even more unlikely.

The State party reiterates that some of the information submitted by the authors in their communication to the Committee was inaccurate, as they seem to lack knowledge on certain national administrative procedures. It therefore considers that some elements justifying the admissibility and merits of the communication also seem to be inapplicable.

**Submission from the authors:** 18 February 2022<sup>4</sup>

The authors refute the State party's assertion that I.G.K. was the owner of the Colégio Esperança Internacional and provide an extract of the school's commercial registry as proof.

<sup>3</sup> The submission was acknowledged to the State party and transmitted to the authors' counsel for comments on 22 December 2021.

<sup>4</sup> The submission was acknowledged to authors' counsel and transmitted to the State party for information on 17 March 2022.

They submit that the criminal proceedings which led to I.G.K.'s sentencing to 15 years' imprisonment concluded on 7 November 2017, when the Supreme Court acquitted him.<sup>5</sup> Therefore, the authors cannot understand why their work permits and passports were seized. The decision of the Ministry of Education, the authors' detention, the seizure of their passports and the closure of the school took place in February 2017, predating the Supreme Court decision regarding I.G.K. The authors reiterate that I.G.K. was acquitted and demand an end to the violation of their rights that they have suffered over the last five years.

The authors confirm that they have applied for asylum in Angola, with the assistance of UNHCR. They are grateful to the State party, which has implemented the Committee's Views regarding their non-refoulement in accordance with article 7 of the Covenant. Although five families were forced to leave Angola before August 2017, the authors submit that there has not been any pressure for any other families to leave since then. Seven families left Angola voluntarily and currently, nine families remain in Angola and are awaiting a decision on their asylum applications.<sup>6</sup>

The authors submit that they are psychologically exhausted. They feel humiliated and revictimized whenever they are stopped by the police, requested to present their passports and required to explain their situation. They face multiple administrative challenges when they need to go to a bank or get a SIM card for a mobile phone. Two of the authors got married,<sup>7</sup> but they could not obtain a marriage certificate owing to the absence of passports. In order to obtain birth certificates for their newborn children, the authors are also requested to present a passport. These experiences and the uncertainty they have been facing over the last five years have negatively affected their physical and mental health.

The persecution by the authorities in Türkiye of members of the Gülen movement continues, including abroad. The authors are pleased to see that the State party takes the refugee status of Turkish teachers seriously and that the Ministry of the Interior issued an opinion in favour of granting them refugee status. The authors hope that they will be able to continue their education and training activities in Angola with refugee status.

**Committee's assessment:**

- (a) Proceeding to a review of the authors' cases: B;
- (b) Refraining from expelling the authors and their families until their request for asylum is properly considered: A;
- (c) Non-repetition: B.

**Committee's decision:** Follow-up dialogue ongoing concerning the authors of nine communications who continue to reside in Angola and are awaiting a decision on their asylum applications.

## 2. Czechia

**Communication No. 757/1997, *Pezoldova***

<b>Views adopted:</b>	25 October 2002
<b>Violation:</b>	Article 26, read in conjunction with article 2
<b>Remedy:</b>	Effective remedy, including by: (a) providing the author with an opportunity to file a new claim for restitution or compensation; and (b) reviewing the State party's legislation and administrative practices to ensure that all persons enjoy both

<sup>5</sup> The authors provide a copy of the Luanda Provincial Tribunal's decision 415/17, dated 7 November 2017.

<sup>6</sup> The authors of the following communications continue to reside in Angola: No. 3106/2018, No. 3108/2016, No. 3109/2018, Nos. 3111/2018–3113/2018, No. 3116/2018, No. 3115/2018 and No. 3121/2018.

<sup>7</sup> Reference is made to communications No. 3109/2015 and No. 3115/2018.

equality before the law as well as the equal protection of law.

**Subject matter:** Confiscation of property; discrimination

**Previous follow-up information:** [A/60/40](#), [A/61/40](#), [A/60/40/Corr.1](#), [A/62/40](#) and [CCPR/C/125/3](#)

**Submission from the State party:** 29 September 2021<sup>8</sup>

The State party submits that the Committee's assessment of the implementation of the Views<sup>9</sup> was brought to the attention of the national Committee of Experts for the execution of judgments of the European Court of Human Rights, which also deals with decisions of international human rights bodies. The Committee of Experts is an interdepartmental advisory body composed of representatives of all ministries, Parliament, the highest courts, the Ombudsperson, non-governmental organizations and academia. Meeting reports of the Committee of Experts are published on the website of the Ministry of Justice.

The Views were translated into Czech and published on the website of the Ministry of Justice. The State party's implementation of the Views was described in several reports submitted during the follow-up dialogue; it currently has nothing further to add.

**Submission from the author:** 17 March 2022<sup>10</sup>

The author shares the Committee's concern, stated in its concluding observations on the fourth periodic report of Czechia,<sup>11</sup> about the State party's failure to implement its Views. Specifically referring to the recommendations in paragraph 6 of the concluding observations, she has not been approached by the State party on the matter of potential *ex gratia* compensation, nor is she aware of any steps towards application of such a remedy in Czechia. With regard to the State party's follow-up observations, the author invites the State party to present the outcome of the deliberations of the Committee of Experts. Government resolution No. 527 of 22 May 2002 provides for the establishment of effective procedures for the implementation of Views, delegating the responsibility for their implementation to the Ministry of Justice. No such procedures have yet been set up. The State party has also not taken any steps to implement the Committee's recommendations.

In 2012, Czechia set out its reasons for refusing to implement the Committee's Views in a report on cases of individual communications concerning the Czech Republic before the Human Rights Committee prepared by the Ministry of Justice and addressed to the Government.<sup>12</sup> In the report, the Ministry of Justice specifically referred to the lack of political will to amend the laws that could remedy a violation of the Covenant by the State party. The author submits that lack of political will cannot justify an ongoing violation of the Covenant by the State party. There has been no review of legislation or administrative practices relevant to the communication since the Committee's adoption of the Views in 2002. Therefore, the political will of the State party's legislative bodies has never been put to the test, as the State party's competent bodies have never taken steps to either implement the Views or to submit a draft law to Parliament allowing for the implementation of the Committee's Views in general.

The author initiated numerous court proceedings in order to ensure the implementation of the Committee's recommendations. She denounces the failure of the State party's courts, including the Municipal Court in Prague, the Supreme Administrative Court and the Constitutional Court, to recognize the binding character of the Committee's Views. In its follow-up observations, the State party fails to explain why, 20 years after the adoption of the Views, it has not proceeded with their implementation. She requests the Committee to

<sup>8</sup> The submission was acknowledged to the State party and transmitted to the author for comments on 18 January 2022.

<sup>9</sup> [CCPR/C/125/3](#), pp. 10–11.

<sup>10</sup> The submission was acknowledged to the author and transmitted to the State party for information on 13 February 2023.

<sup>11</sup> [CCPR/C/CZE/CO/4](#).

<sup>12</sup> The report is available at [ZprávaVLP\\_2003\\_pom.doc \(justice.cz\)](#) (in Czech).

call upon the State party to respect its commitments under the Covenant and to continue its follow-up dialogue with the State party.

**Committee's assessment:**

(a) Providing the author with an opportunity to file a new claim for restitution or compensation: E;

(b) Reviewing the State party's legislation and administrative practices: E.

**Committee's decision:** Follow-up dialogue ongoing. The Committee will also continue the follow-up dialogue with the State party in the framework of the State party's periodic reporting to the Committee on the measures adopted to give effect to the rights recognized in the Covenant.

### 3. Kyrgyzstan

**Communication No. 2500/2014, *Eliseev***

<b>Views adopted:</b>	21 October 2020
<b>Violation:</b>	Article 14 (1) and (3) (a) and (d)
<b>Remedy:</b>	Effective remedy, including by: (a) providing adequate compensation; and (b) taking all steps necessary to prevent similar violations from occurring in the future.
<b>Subject matter:</b>	Author's trial in absentia and other procedural violations
<b>Previous follow-up information:</b>	None
<b>Submission from the State party:</b>	9 November 2021 <sup>13</sup>

The State party recalls the facts on which the communication is based and reiterates its earlier arguments that were already considered by the Committee when determining the admissibility and merits of the communication.<sup>14</sup> Compensation for damages must be determined through court proceedings, as stipulated in paragraph 31 of the State party's regulations on the procedure for interaction between State bodies for the consideration of communications and decisions of the United Nations treaty bodies on human rights, which the Government approved on 8 November 2017. Pursuant to article 99 of the Criminal Code, individuals can file a claim for moral damage in a criminal case. Chapter 17 of the Criminal Procedure Code provides the list of exhaustive grounds and conditions that need to be satisfied in order to be eligible for compensation. Pursuant to article 1028 (2) of the Civil Code, the amount of compensation is determined by the courts of general jurisdiction, depending on the nature of the physical and moral suffering of the alleged victim, and on the extent of responsibility of the inflictor or perpetrator of the harm or damage in cases where responsibility is the basis for compensation. The requirements of reasonableness and fairness should be taken into account in determining the amount of compensation. The nature of the physical and mental suffering should be assessed by the courts in the light of the actual circumstances in which the moral harm was caused and the individual characteristics of the alleged victim.

**Submission from the author:** 24 January 2022<sup>15</sup>

In his comments on the State party's follow-up observations, the author indicates that the State party has not implemented the Committee's Views and that its submission did not contain any information about the action it has taken to restore his violated rights or to provide an effective remedy. The State party has merely reiterated its earlier arguments about

<sup>13</sup> The submission was acknowledged to the State party and transmitted to the author for comments on 21 December 2021.

<sup>14</sup> [CCPR/C/130/D/2500/2014](#), paras. 6.3, 7.3 and 7.4.

<sup>15</sup> The submission was acknowledged to the author and transmitted to the State party for information on 28 January 2022.

general legal rules permitting a criminal trial in absentia, which the Committee already rejected in its Views.<sup>16</sup> The Views have not been published or disseminated by the State party and he has not been provided with an effective remedy, received any reparation, including compensation, or any measures of restitution, rehabilitation or satisfaction. The State party has not taken any steps to prevent similar violations from occurring in the future, including prosecution of those responsible for the violations of the author's rights established by the Committee in its Views. The author respectfully requests the Committee's Special Rapporteurs for follow-up on Views to invoke rule 106 (2) of the Committee's rules of procedure and enforce the State party's obligations under the Views. Such enforcement should include mediation in settlement negotiations, dialogue with the State party to ensure full implementation of the Views and exercising diplomatic and other available leverage on the State party when it refuses to uphold or evades its obligations under article 2 (3) (a) of the Covenant.

The author requests the State party to provide him with the following measures of reparation: (a) render null and void all absentia convictions against him and all other judgments, decisions and procedural acts under any criminal case; (b) terminate all criminal cases in which he was subjected to accusations in absentia or in which he was involved as the defendant; (c) ensure that he has access to justice before a competent tribunal pursuant to the requirements of article 14 of the Covenant, including publicly assuring the judges that their rulings on the author's cases will not lead to de jure or de facto sanctions; (c) return the author's seized real estate without restrictions; (d) publicly state that the author is not affiliated with the former authorities and is not a threat to national security or the sovereignty of the State party; (e) retract all statements by officials regarding the author's commission of illegal acts or presumption of guilt; (f) publicly announce that all suspicions and accusations against the author have not been confirmed; (g) publicly and formally apologize for the violation of the author's rights guaranteed under the Covenant; (h) return confiscated funds in the amount of 2,875,365,924 soms and securities in the amount of 51 per cent of the shares in Alfa Telecom, or equivalent compensation at the fair market value; (i) pay adequate compensation for the violation of the author's rights, taking into account his physical and moral suffering; (j) investigate the violation of the author's rights and punish all persons responsible for the violations, such as former and current State officials and the judges involved in the criminal cases instituted against the author; and (k) take immediate measures to prevent similar violations of the author's rights in the future. The author expresses disapproval of the amendment made to the Constitution in December 2016, which removed the State party's constitutional obligation to provide reparations when the Committee finds a violation of the rights guaranteed under the Covenant. The author believes that this reform was specifically implemented by the State party in order not to comply the Views in the present communication.

**Committee's assessment:**

- (a) Providing adequate compensation: C;
- (b) Non-repetition: C.

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

#### 4. Lithuania

**Communication No. 2670/2015, Jagminas**

<b>Views adopted:</b>	24 July 2019
<b>Violation:</b>	Article 25 (c)
<b>Remedy:</b>	Effective remedy, including by: (a) providing full reparation and adequate compensation to the author; and (b) taking all steps necessary to

<sup>16</sup> CCPR/C/130/D/2500/2014, para. 7.3.

prevent similar violations from occurring in the future.

**Subject matter:** Arbitrary dismissal of civil servant

**Previous follow-up information:** [CCPR/C/131/3](#)

**Submission from the author's counsel:** 27 November 2021<sup>17</sup>

Counsel submits that the State party has been consistently unwilling to consider the Views of the Committee as binding. In support of this assertion, counsel refers to the statements of State officials,<sup>18</sup> the State party's refusal to compensate the author and orders by the Supreme Administrative Court regarding this communication. On 12 May 2021, the Supreme Administrative Court refused to reopen the author's case, arguing that reopening a case could trigger significant issues concerning the finality of court judgments. The Court also recommended that the State party prohibit those individuals whose cases have been rejected by the European Court of Human Rights from submitting communications to the Committee, which exemplifies the State party's unwillingness to consider the Committee's Views as binding. The State party's representative to the European Court of Human Rights reported that the State party would offer the author a maximum of €2,900 for pecuniary damages and €1,500 for non-pecuniary damages. In its order of 12 May 2021, the Supreme Administrative Court failed to explain why it had concluded that the author's dismissal was justified on grounds other than the classified data provided by the Office of the Prosecutor General from the operational surveillance case and to which the author did not have access in order to be able to present his arguments. According to counsel, the Supreme Administrative Court has failed to reassess the classified data of the operational surveillance in the context of a violation of the author's rights under article 14 (2) of the Covenant.

In the light of the State party's refusal to implement the Committee's Views, counsel requests several measures to ensure that the author is compensated. First, counsel requests that the Committee set a specific amount of compensation that should be provided to the author. For pecuniary damages, counsel asks that the author receive 20 gross average monthly salaries. For non-pecuniary damages, counsel asks that the author receive €30,000. In addition, for the cost of the author's counsel to represent him before the Committee, counsel asks for €16,500 and 0.05 bitcoin. Counsel also asks for 10 gross monthly salaries for the slander directed at him by State officials. Second, counsel requests the dismissal of the State party's representative to the European Court of Human Rights. Third, counsel asks that the State party's appointed judge at the European Court of Human Rights renounce his claims. Lastly, counsel requests that the State party educate State officials about the binding nature of the Committee's Views.

**Submission from the State party:** 27 May 2022<sup>19</sup>

The State party points out that it has fulfilled the obligation to prevent future misuse of criminal investigations into the work of civil servants. It has enacted legislation designed to safeguard criminal investigations into allegations of corruption made against civil servants in order not to infringe upon their rights. The State party has also declared unconstitutional parts of the law used to remove the author from his position.

On 16 December 2019, the Constitutional Court received a request from the Supreme Administrative Court to review the author's request to reopen his case. On 14 January 2020, the Constitutional Court adopted a resolution to admit the case for examination. However, on 26 August 2020, the Supreme Administrative Court withdrew its request because the

<sup>17</sup> The submission was acknowledged to the author's counsel and transmitted to the State party for comments on 15 December 2021.

<sup>18</sup> Counsel refers to the statements of the State party's representative to the European Court of Human Rights and the State party's appointed judge at the European Court of Human Rights, who have both publicly questioned the binding nature of the Committee's views (see, for example, <https://youtu.be/mBExIr8cTLM>). Counsel also claims that those State officials have sought to slander him as retribution for his work as a human rights attorney.

<sup>19</sup> The submission was acknowledged to the State party and transmitted to the author's counsel for comments on 11 August 2022.

Parliament of Lithuania had passed a law making it possible to reopen proceedings dealing with violations of the Covenant. On 12 May 2021, the Supreme Administrative Court did indeed refuse to reopen the author's case as, at that time, there was no law allowing a person to do so. However, in its order, the Supreme Administrative Court directed the author to submit his claims to the Ministry of Justice. According to the State party's law, compensation for damages arising from the actions of State officials could be claimed through the Ministry of Justice. There were classified data to which the author did not initially have access that were used in the analysis of whether the author's case should be reopened. However, the reason the author's case was not reopened was the domestic law in effect at the time the order was published. Furthermore, both classified and unclassified facts were used in the analysis. As at 27 May 2022, the author had not sought compensation from the Ministry of Justice.

**Submission from the author's counsel:** 23 September 2022<sup>20</sup>

In his submission, counsel reiterates the arguments he made in his submission of 27 November 2021, noting that the State party and its representatives continue to deny the binding nature of the Committee's Views. Counsel resubmits the list of measures of reparation desired, adding that the bitcoin amount that should be awarded to the author be changed from 0.05 to 0.25 as the case is still ongoing.

**Committee's assessment:**

- (a) Full reparation and adequate compensation: B;
- (b) Non-repetition: B.

**Committee's decision:** Follow-up dialogue ongoing.

## 5. Spain

**Communication No. 2844/2016, Garzón**

<b>Views adopted:</b>	13 July 2021
<b>Violation:</b>	Articles 14 (1) and (5) and 15
<b>Remedy:</b>	Effective remedy, including by: (a) expunging the author's criminal records; (b) providing the author with adequate compensation for the damage suffered; and (c) taking steps to prevent the occurrence of similar violations in the future.
<b>Subject matter:</b>	Prosecution of a judge for wilful abuse of power
<b>Previous follow-up information:</b>	None
<b>Submission from the State party:</b>	11 May 2022 <sup>21</sup>

The State party submits that the author has not made any request to the competent Spanish authorities to have his criminal record expunged or for adequate compensation for the damage suffered. With regard to the recommendation to take steps to prevent the occurrence of similar violations in the future, the Committee recognized, in paragraph 5.16 of its Views, that the author's interpretation of the current procedural legislation on the interception of communications between lawyers and their clients is correct. Regarding the violation of article 14 (5) of the Covenant, the European Court of Human Rights has considered prosecution by the highest judicial authority as a sufficient fair trial guarantee. The State party therefore understands that it is not required to take any particular action or measure in the light of the Committee's general recommendation on non-recurrence. The State party has given due consideration to the recommendations in the Committee's Views and requests the closure of the follow-up procedure concerning the present communication.

<sup>20</sup> The submission was acknowledged to the author's counsel and transmitted to the State party for information on 20 February 2023.

<sup>21</sup> The submission was acknowledged to the State party on 11 August 2022 and transmitted to the author's counsel for comments on 15 September 2022.

**Submissions from the author's counsel:** 26 September and 2 November 2022<sup>22</sup>

Counsel submits that, not only are the arguments provided by the State party completely false, they also undermine the Committee's authority. Counsel refutes the State party's assertion that no request to expunge the author's criminal record and provide him with compensation for the damage suffered has been made to the competent Spanish authorities. It is an obligation of the State party, not of the victim, to ensure compliance with the Views. The Ministry of Justice was expressly requested to implement both measures, on 18 January and 23 February 2022. On 26 April 2022, the Ministry responded with a formal objection, raising doubt as to whether the power of attorney conferred by the author was valid. Counsel clarified that to the State party and submitted another power of attorney on 3 May 2022.

Counsel regrets that the State party considers that it should not take any specific measures to prevent the occurrence of similar violations in the future. Although the State party considers that its existing procedural legislation constitutes a guarantee of non-repetition sufficient to prevent similar violations of article 15 of the Covenant, counsel notes that paragraph 5.7<sup>23</sup> of the Views does not specifically refer to that legislation, but rather to the substantive law and the criminal offence of prevarication under article 446 of the Spanish Criminal Code. As a matter of fact, the Committee considered that the provision was not sufficiently explicit, clear and precise to comply with the principle of predictability of criminal law. The State party's follow-up observations do not offer any resolution with regard to the violation of article 14 (1) of the Covenant. The State party seems to minimize its responsibility by alleging that the European Court of Human Rights has considered that a single instance judgment by the Supreme Court constitutes "sufficient guarantee of the rights of the accused". That is irrelevant in the context of the Views; the problem in the State party when it comes to the single instance judgment in the Supreme Court has not been resolved. The European Court judgment does not contradict the Committee's Views regarding the violation of the author's rights under article 14 (1) of the Covenant, in particular when it comes to the lack of impartiality of the judges and the arbitrary nature of the criminal procedure suffered by the author.

The publication of the Committee's Views on the website of the Ministry of Justice, without providing any context on the case or offering the author a public apology for the violation of his rights, does not comply with the Committee's Views. The wide dissemination of the Views should imply its publication in the *Official Gazette*. Considering the wide media coverage of the case, which negatively affected the author's image, the implementation of the Views also requires massive coverage through different media and official channels. The Views should also be formally communicated to all the institutional bodies of the executive, legislative and judicial branches, other judicial instances, the professional associations of lawyers and solicitors and non-governmental organizations. Counsel concludes that, apart from publishing the Committee's Views on the official website, the State party is not taking any action to effectively comply with the Views. Counsel urges the Committee's Special Rapporteurs for follow-up on Views to condemn the State party's lack of implementation of the Views.

**Committee's assessment:**

- (a) Expunging the author's criminal records: C;
- (b) Providing adequate compensation: C;
- (c) Non-repetition: E

**Committee's decision:** Follow-up dialogue ongoing. The Committee will continue the follow-up dialogue with the State party in the framework of the State party's periodic reporting to the Committee on the measures adopted to give effect to the rights recognized in the Covenant.

<sup>22</sup> The submissions were acknowledged to the author's counsel and transmitted to the State party for information on 24 January 2023.

<sup>23</sup> The correct reference should be to paragraph 5.17 of the Views.

## 6. Turkmenistan

### Communication No. 2227/2012, *Yegendurdyyew*

<b>Views adopted:</b>	14 July 2016
<b>Violation:</b>	Articles 7, 10 (1) and 18 (1)
<b>Remedy:</b>	Effective remedy, including by: (a) impartially, effectively and thoroughly investigating the author's claims of violations of article 7; (b) prosecuting any person or persons found to be responsible for committing those violations; (c) expunging the author's criminal record; (d) providing him with adequate compensation; and (e) avoiding similar violations in the future by revising the State party's legislation in accordance with its obligation under article 2 (2), in particular the Law on Military Duty and Military Service, as amended on 25 September 2010, with a view to ensuring the effective guarantee of the right to conscientious objection under article 18 (1) of the Covenant.
<b>Subject matter:</b>	Conscientious objection to compulsory military service; inhuman and degrading treatment; conditions of detention
<b>Previous follow-up information:</b>	None
<b>Submission from the State party:</b>	3 January 2022 <sup>24</sup>

The State party recalls that, since article 58 of the State party's Constitution provides that protecting Turkmenistan is every citizen's sacred duty, military service is compulsory for all male citizens of Turkmenistan. The courts were correct not to take account of the author's argument that he was obliged to refuse to perform military service owing to his convictions and his beliefs in the unregistered religious movement, Jehovah's Witnesses, since the secular laws of Turkmenistan do not provide for any such exemption from service. Article 18 of the Law on Military Duty and Military Service contains a list of the reasons for exemption from military service; affiliation with a religious organization does not exempt a conscript from fulfilling his military duties. The courts therefore correctly characterized the author's actions and imposed the punishment in the light of the crime he had committed, in accordance with the law. The author's allegations concerning alternative civilian service were not taken into account, since the law does not provide for such service in Turkmenistan.

The State party refutes the author's claims regarding poor detention conditions. It submits that individuals serving sentences in correctional facilities do so in the requisite living conditions. The accommodation provided for convicts, including for sleeping and sanitary and hygiene purposes, meet all sanitary and hygiene requirements and are suitable for the local climatic conditions. While serving his sentence in Lebap oblast, the author was provided with sufficient food and clean water and the opportunity to walk outside in the fresh air on a daily basis. The lighting, heating, ventilation and comfort level in the correctional facilities meet the requirements for the protection of the convicts' health. As to the author's claims that he shared a cell with convicts with an active form of tuberculosis and could therefore have easily contracted it himself, the State party submits that there are medical wards at the detention facilities for convicts' medical care and a separate medical correctional facility for the inpatient treatment of those with an active form of tuberculosis. Convicts in need of such specialized medical services are transferred to the central police directorate hospital in Mary oblast, which has a specialist clinic with appropriate ventilation. The State

<sup>24</sup> The submission was acknowledged to the State party and transmitted to the author's counsel for comments on 20 January 2022.

party submits that the author was not subjected to torture or any other form of ill-treatment while he was in prison.

**Submission from the author's counsel:** 21 March 2022<sup>25</sup>

Counsel submits that the State party has not yet implemented any of the remedies in the Committee's Views. Furthermore, since the date of the Committee's decision, at least 32 more Jehovah's Witnesses have been convicted and imprisoned in Turkmenistan for their conscientious objection to mandatory military service. In early 2021 alone, 6 Jehovah's Witnesses were jailed as conscientious objectors to military service.<sup>26</sup> On 7 May 2021, the President of Turkmenistan signed a decree to grant amnesty, inter alia, to 16 Jehovah's Witnesses who had been jailed as conscientious objectors to military service. All 16 of them were freed on 8 May 2021. Although counsel welcomes that development, he regrets that amnesty did not expunge their criminal records or remove the threat of repeat prosecution for those who had been called up and prosecuted only once.

Following that presidential amnesty, no criminal proceedings were initiated in Turkmenistan against any other Jehovah's Witnesses who are of military service age. The State party's observations regarding the communication demonstrate that the Government's position towards conscientious objectors remains unclear. The State party persists in using the same arguments that the Committee rejected in its Views. Furthermore, the State party considers it unnecessary to revise its legislation to bring it into line with its obligation under article 2 (2) of the Covenant and ensure the effective guarantee of the right to conscientious objection under article 18 (1) of the Covenant. The Committee has repeatedly called upon Turkmenistan to revise its legislation without undue delay in order to clearly recognize the right to conscientious objection to military service, provide for alternative service of a civilian nature outside the military sphere and not under military command for conscientious objectors, and halt all prosecutions of individuals who refuse to perform military service on grounds of conscience and release those who are currently serving prison sentences.<sup>27</sup> Regrettably, to date, Turkmenistan has failed to implement those recommendations.

The current legislation permits the repeated call-up of persons who have been criminally charged and convicted for refusing military service.<sup>28</sup> That means that each male citizen of Turkmenistan of military service age who wants to exercise his right to conscientious objection to military service is at risk of being called up and prosecuted a second time.

**Committee's assessment:**

- (a) Investigating the author's claims of violations of article 7: C;
- (b) Prosecuting persons responsible for committing those violations: C;
- (c) Expunging the author's criminal record: C;
- (d) Providing him with adequate compensation: C;
- (e) Non-repetition: C.

**Committee's decision:** Follow-up dialogue ongoing.

## 7. Ukraine

**Communication No. 2368/2014, Taran**

**Views adopted:** 12 March 2020

<sup>25</sup> The submission was acknowledged to the author's counsel and transmitted to the State party for information on 2 February 2023.

<sup>26</sup> See Forum 18, "TURKMENISTAN: 8 conscientious objectors jailed in 2021, UN special procedures ignored", 19 March 2021, and "TURKMENISTAN: 16 conscientious objectors freed, Muslim prisoners of conscience remain", 10 May 2021.

<sup>27</sup> *CCPR/C/TKM/CO/2*, paras. 40 and 41, and *Nasyrlyayev v. Turkmenistan (CCPR/C/117/D/2219/2012)*, para. 10.

<sup>28</sup> See, inter alia, *Nasyrlyayev v. Turkmenistan*, paras. 8.4 and 8.5.

<b>Violation:</b>	Article 7, read alone and in conjunction with article 2 (3), article 9 and article 14 (3) (b) and (g) and (5)
<b>Remedy:</b>	Effective remedy, including by taking appropriate steps to: (a) quash the author's conviction and, if necessary, conduct a new trial, in accordance with the principles of fair hearings, and other procedural safeguards; (b) conduct a thorough, prompt and impartial investigation into the author's allegations of torture; (c) provide the author with adequate compensation and other measures of satisfaction for the violations that occurred; and (d) take all steps necessary to prevent similar violations from occurring in the future.
<b>Subject matter:</b>	Unlawful detention, torture and mistreatment
<b>Previous follow-up information:</b>	None
<b>Submission from the State party:</b>	8 November 2021 <sup>29</sup>

The State party submits that the Committee's Views were translated into Ukrainian, published on official websites and sent to all the relevant authorities.

On 10 June 2021, the Suvorovsky District Court in Odesa decided not to uphold the author's application for review under newly discovered or exceptional circumstances, pursuant to article 460 (1) of the Criminal Procedure Code, of the judgment of 10 October 2005 of the Odesa Province Court of Appeal. The author's counsel appealed against that decision and, on 7 July 2021, the appeal was accepted for consideration by the Odesa Province Court of Appeal. The appeal is currently pending.

The State Bureau of Investigation, under the leadership of the Odesa regional prosecutor's office, is currently carrying out a pretrial investigation into the author's allegations of torture. The Bureau is seeking to locate, for the purposes of interrogation, the militia officers responsible for the events of 2002.

Regarding compensation, since there has been no acquittal, the criminal proceedings concerning the author are not closed, pursuant to the procedure established in the Criminal Procedure Code.<sup>30</sup> Thus, there are no legal grounds for compensating the author for the damage caused by the illegal actions of the pretrial investigation body, the prosecutor's office or the courts. Moreover, when initiating the review of his criminal case under newly discovered circumstances, the author did not raise the issue of compensation.

Regarding the prevention of similar violations in the future, since 2019, the following steps have been taken to prevent and investigate allegations of ill-treatment and torture committed by law enforcement officers: (a) 70 experienced investigators have been appointed to the State Bureau of Investigation; (b) in 2020, 83 indictments were brought to court against 117 officers for the crimes of torture, ill-treatment or abuse, and 155 criminal proceedings have been investigated thus far in 2021; (c) in July 2020, a first coordination meeting was held of all heads of law enforcement agencies on combating torture and ill-treatment; (d) following that meeting, an electronic system of custody records was established by the Ministry of Internal Affairs; (e) in January 2021, the Office of the Prosecutor General established the Department for Combating Human Rights Violations in Law Enforcement and Penitentiary Areas; (f) the Office of the Prosecutor General, together with the Ministry of Health, has developed guidance on identifying external injuries based on the principles and procedures of the Manual on the Effective Investigation and

<sup>29</sup> The submission was acknowledged to the State party and transmitted to the author's counsel for comments on 22 November 2021. A reminder was sent to the author's counsel on 29 September 2022.

<sup>30</sup> Criminal Procedure Code, arts. 128 (1) and (7), and law on the procedure for compensation for damage caused to citizens by illegal actions of pretrial investigation bodies, prosecutor's offices and courts, arts. 2 and 3.

Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), which has yet to be fully implemented; (g) the State Bureau of Investigation is currently amending its procedure for medical staff to detect injuries when allegations of torture or ill-treatment are reported; and (h) on 28 October 2021, the State party approved a new strategy and action plan for combating torture in the criminal justice system (2021–2023). Moreover, the law on the national police, which regulates excessive use of force, torture and ill-treatment by police officers, came into force on 7 November 2015.

**Submission from the author’s counsel:** 1 November 2022<sup>31</sup>

Counsel submits that the State party has not contacted him regarding the implementation of the Views. He has not received a copy of the Views, either in the original English<sup>32</sup> or translated into Ukrainian. He has had no opportunity to apply to the Ministry of Justice, the State party’s courts or the prosecutor’s office to ensure the implementation of the Views.

The State party has misrepresented the measures taken by the authorities to implement the Views in the present communication. While the author has indeed initiated a review of his criminal case based on newly discovered circumstances, his application was rejected by the Suvorovsky District Court in Odesa on 10 June 2021. On 7 July 2021, the author’s representative appealed against that decision to the Odesa Province Court of Appeal, arguing that the author’s sentence should be reviewed on the basis of the decision made by the European Court of Human Rights regarding the author’s co-defendant.<sup>33</sup> Therefore, the ongoing review proceedings are unrelated to the implementation of the Committee’s Views. In addition, the pretrial investigation into the author’s claims of having been subjected to ill-treatment and torture by police officers of the main directorate of the Ministry of Internal Affairs in Odesa Province during his detention in 2002 has long been completed and the case has been officially closed. Neither the police, the prosecutors, the courts or the Ministry of Justice took any action to implement the Committee’s Views.

The author, who is currently serving his sentence in Zhytomyr Penitentiary Institution No. 8, has voluntarily agreed to participate in the defence of Ukraine in the context of the ongoing armed conflict with the Russian Federation.

**Committee’s assessment:**

- (a) Quash the author’s conviction and, if necessary, conduct a new trial: C;
- (b) Conduct a thorough, prompt and impartial investigation into the author’s allegations of torture: B;
- (c) Provide adequate compensation and other measures of satisfaction: C;
- (d) Non-repetition: B.

Committee’s decision: Follow-up dialogue ongoing.

## 8. Uzbekistan

**Communication No. 2577/2015, Yakubova**

**Views adopted:** 6 April 2018

**Violation:** Article 7, read alone and in conjunction with article 2 (3), and articles 9 (1), 14 (2) and (3) (b), (d) and (g) and 19 (2)

<sup>31</sup> The submission was acknowledged to the author’s counsel and transmitted to the State party for information on 12 January 2023.

<sup>32</sup> The advance unedited text of the Views in English was transmitted to the parties on 29 May 2020. The text of the Views in Russian was transmitted to them on 8 March 2021. The official English and Russian versions of the Views were resent to the author’s counsel on 12 January 2023, at his request.

<sup>33</sup> European Court of Human Rights, *Grigoryev v. Ukraine*, Application No. 51671/07, Judgment, 15 May 2012.

<b>Remedy:</b>	Effective remedy, including by: (a) conducting a thorough and effective investigation into Mr. Formonov's allegations of torture and, if confirmed, prosecuting, trying and punishing those responsible; (b) quashing the trial court verdicts; (c) providing Mr. Formonov with adequate compensation for the violations he suffered; and (d) taking all steps necessary to prevent similar violations in the future.
<b>Subject matter:</b>	Arbitrary detention; torture; unfair trial of a human rights activist
<b>Previous follow-up information:</b>	None
<b>Submission from the State party:</b>	1 March 2019 <sup>34</sup>

The State party expresses its disagreement with the Committee's findings in its Views. The State party submits that the domestic authorities thoroughly examined the arguments set forth in the Views, but were unable to confirm the arguments owing to the absence of facts corroborating the alleged violations.

On 15 June 2006, Mr. Formonov was convicted under article 165 (extortion) of the Criminal Code of Uzbekistan and was sentenced to nine years' imprisonment in a general-regime prison. A higher court upheld that sentence. Mr. Formonov's guilt was proven and the trial was conducted in accordance with the provisions of national legislation and with generally accepted standards and principles. Mr. Formonov's criminal actions were categorized correctly and the punishment imposed was proportional to the crime and compliant with the law. The author's claim that Mr. Formonov was prosecuted for "human rights activities" was incorrect and he was not subjected to any unlawful measures with regard to such activities. While serving his sentence, Mr. Formonov repeatedly and maliciously violated penitentiary rules. As a result, on 1 May 2015, he was sentenced to an additional five years and 26 days' imprisonment. A part of the additional sentence (two years, six months and 27 days) was replaced by community service.

With respect to the violation of article 7, read alone and in conjunction with article 2 (3) of the Covenant, the prosecuting authorities conducted numerous investigations into Mr. Formonov's complaints about being subjected to torture. The investigators did not find any evidence corroborating his allegations. Therefore, there was no violation of article 7, read alone and in conjunction with article 2 (3) of the Covenant. In relation to the Committee's finding that Mr. Formonov's rights under articles 9 (1) and 19 (2) of the Covenant were violated, Mr. Formonov's guilt was proven, *inter alia*, by his explanatory letters, witness testimonies, crime scene examination, seizure of electronic equipment and other evidence. Therefore, there was no basis for the author to allege a violation of articles 9 (1) and 19 (2) of the Covenant.

With respect to the violation of article 14 (2) of the Covenant, the State party refers to the provisions of its national legislation and reiterates that Mr. Formonov's pretrial detention and its duration (from 29 April to 15 June 2006) comply with the Criminal Procedure Code. Therefore, there is no reason to believe that Mr. Formonov's rights under article 14 (2) of the Covenant were violated. With regard to the violation of rights guaranteed under article 14 (3) (b), (d) and (g) of the Covenant, the examination conducted by the national prosecution authorities found no proof of the alleged procedural violations.

**Submission from the author's counsel:** 22 February 2022<sup>35</sup>

Counsel submits that the State party inadequately addressed the allegations contained in the initial communication and incorrectly responded to the findings of the Committee. Rather than addressing the specific allegations, the State party merely reiterated its position

<sup>34</sup> The submission was acknowledged to the State party and transmitted to the author's counsel for comments on 6 March 2019. A reminder was sent to the author's counsel on 20 December 2021.

<sup>35</sup> The submission was acknowledged to the author's counsel and transmitted to the State party for information on 2 March 2022.

and denied that the violations established by the Committee in the Views had actually occurred. With respect to the State party's submission that its relevant authorities found no corroboration of the allegations of torture made by the author, counsel recalls that the State party did not provide any documentary evidence showing that an investigation into Mr. Formonov's respective complaints was actually carried out. In its observations, the State party provides contradicting information regarding the authority that supposedly carried out the investigation into Mr. Formonov's allegations of being subjected to torture.<sup>36</sup> In its follow-up observations, the State party does not respond to the allegations that the evidence used to convict Mr. Formonov was forged and that his confession was obtained under physical duress. Counsel recalls the conflicting narrative set forth in the court's decision, which variously described Mr. Formonov having been caught "in flagrante delicto" as he received the extortion money and as having been caught when the money was recovered from inside his computer during a subsequent search of his apartment.<sup>37</sup>

The State party also fails to address the allegations that Mr. Formonov was targeted for his human rights activism in order to prevent him from exercising the right to freedom of expression. Having searched Mr. Formonov's apartment without a valid warrant and with extraordinary brutality, police officers seized items and materials relating to his human rights activities and irrelevant to the extortion charges brought against him. Counsel refutes the State party's assertion that there were no procedural violations during Mr. Formonov's trial. On the contrary, the evidence was not examined during the trial and no witnesses were questioned in the presence of Mr. Formonov or his representative. Furthermore, the State party has never challenged the fact that a lawyer chosen by Mr. Formonov's counsel was allowed to consult his case-file materials for only 11.5 hours before being removed from the trial altogether. The State party equally fails to respond to other specific procedural violations invoked in the author's communication.<sup>38</sup> The State party's account of Mr. Formonov's alleged violations of penitentiary rules is contradictory and was merely a pretext to extend Mr. Formonov's initial sentence of imprisonment. Although Mr. Formonov was released from prison on 3 October 2017, the State party is still required to comply with the Committee's Views.

**Submission from the State party: 6 May 2022<sup>39</sup>**

Regarding Mr. Formonov's allegations of being subjected to torture, the State party recalls that the arguments of the author's counsel have been thoroughly examined by its prosecuting authorities and deemed to be unfounded. There was no violation of Mr. Formonov's rights under article 7 of the Covenant. The author's assertion that Mr. Formonov was prosecuted for his human rights activities is untrue. On 15 June 2006, Mr. Formonov was convicted under article 165 of the Criminal Code (extortion). The State party provides detailed information about the factual circumstances on which his conviction based.<sup>40</sup> Mr. Formonov's guilt was proven beyond reasonable doubt and his acts were correctly categorized in law, the punishment imposed was proportionate to the crime he committed and was compliant with the law. The State party therefore refutes the Committee's finding that there was a violation of Mr. Formonov's rights under article 19 (2) of the Covenant and recalls that article 19 (3) of the Covenant allows for legitimate restrictions of

<sup>36</sup> According to the State party's observations of 25 October 2016, which were submitted prior to the Committee's adoption of its Views, Mr. Formonov's complaints about being subjected to torture were examined by the court of appeal. However, according to the State party's follow-up observations of 1 March 2019, these complaints were examined by a prosecutor.

<sup>37</sup> [CCPR/C/122/D/2577/2015](#), para. 5.4.

<sup>38</sup> Counsel refers to Mr. Formonov's rights to not be compelled to confess guilt, to have adequate time and facilities to prepare a defence and to communicate with a counsel of his own choosing, to cross-examine witnesses and to a fair and public hearing by an impartial tribunal.

<sup>39</sup> The submission was acknowledged to the State party and transmitted to the author's counsel for comments on 22 September 2022.

<sup>40</sup> The State party submitted that Mr. Formonov, calling himself a representative of the Human Rights Society of Syrdarya region, had sent a report to the head of an oil company describing irregularities in the delivery of petroleum products, which would result in the dismissal of one of the petroleum distribution agents. The State party alleged that Mr. Formonov had threatened to publish the report on the Internet unless the agent in question gave him 600,000 sum ([CCPR/C/122/D/2577/2015](#), paras. 4.2 and 4.3).

the right to freedom of expression. It also requests the Committee to note that the author herself abuses her right to freedom of expression in her communication to the Committee.

With regard to the author's claim that the search of Mr. Formonov's apartment was carried out without a valid warrant and with extraordinary brutality, the State party notes that, under article 161 of the Criminal Procedure Code, in urgent cases, a search may be carried out without the prosecutor's prior authorization, provided the prosecutor is subsequently notified within 24 hours.<sup>41</sup>

As for the author's submission that police officers seized items and materials relating to Mr. Formonov's human rights activities (his photocopier and all his human rights-related publications), the State party notes that Mr. Formonov also used the materials in question in the course of committing the crime of extortion.<sup>42</sup> Thus, the State party submits that the seizure of the items and materials in question was justified. The State party submits that counsel did not provide any evidence corroborating the author's allegations that the evidence against Mr. Formonov was forged. The courts had found Mr. Formonov guilty on several counts. He was represented by two lawyers throughout the proceedings and pleaded guilty to a crime prescribed under article 168 of the Criminal Code (fraud). He did not complain either at the investigation stage or during the court proceedings about being subjected to torture. He was removed from the courtroom as a result of his inappropriate behaviour, then refused to make his final statement after being brought back to the courtroom.

While serving his initial term of imprisonment, Mr. Formonov systematically violated penitentiary rules, for which he was given 20 disciplinary sanctions and had his sentence extended by the additional five years and 26 days' imprisonment. While serving the additional sentence, Mr. Formonov did not improve his behaviour. Between 2015 and 2016, Mr. Formonov was granted six family visits. His lawyers did not request to visit him and Mr. Formonov did not make any request to the prison administration to see his lawyers. Thus, the State party requests the Committee to conclude that there was no violation of Mr. Formonov's rights under article 14 of the Covenant. In the light of the foregoing, the State party requests the Committee to declare the author's communication inadmissible for lack of credible evidence that there was a violation of Mr. Formonov's rights under the Covenant.

**Submission from the author's counsel:** 7 October 2022<sup>43</sup>

With regard to the State party's obligation to conduct a thorough and effective investigation into Mr. Formonov's allegations of torture, the author's counsel submits that the State party has not initiated any investigation into those allegations. As for the State party's obligation to quash the trial court verdicts, since Mr. Formonov's release from prison, he has written to the Supreme Court and the Prosecutor General five times requesting that the trial court verdicts be quashed. All five requests have been refused. Concerning the State party's obligation to provide Mr. Formonov with adequate compensation for the violations he suffered, counsel recalls that neither Mr. Formonov nor his wife have received any compensation. With regard to the State party's obligation to take all steps necessary to prevent the occurrence of similar violations in the future, counsel submits that the State party is currently drawing up a new Criminal Code. However, the suggested legislative amendments do not significantly change any of the laws the Committee or other treaty bodies have identified as violating international human rights law.

**Committee's assessment:**

- (a) Conducting an investigation and prosecuting those responsible: E;
- (b) Quashing the trial court verdicts: E;

<sup>41</sup> The State party does not explain whether the procedure in question was followed in Mr. Formonov's case.

<sup>42</sup> The State party does not explain how the confiscated human rights-related publications were linked to the extortion charges.

<sup>43</sup> The submission was acknowledged to the author's counsel and transmitted to the State party for information on 31 January 2023.

- (c) Providing adequate compensation: E;
- (d) Non-repetition: E.

**Committee's decision:** Follow-up dialogue ongoing.

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