



## International Covenant on Civil and Political Rights

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### Human Rights Committee

#### Report of the Special Rapporteur for follow-up on concluding observations of the Human Rights Committee (106th session, October 2012)

The following report sets out the information received by the Special Rapporteur for follow-up on concluding observations of the Human Rights Committee between the 105th and 106th sessions pursuant to the Committee's rules of procedure, and the analyses and decisions adopted by the Committee during its 106th session. All the available information concerning the follow-up procedure used by the Committee since its eighty-seventh session (July 2006) is outlined in the table appended to this report.

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*Assessment criteria*

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Reply/action satisfactory

A Reply largely satisfactory

Reply/action partially satisfactory

B1 Substantive action taken, but additional information required

B2 Initial action taken, but additional information required

Reply/action not satisfactory

C1 Reply received but actions taken do not implement the recommendation

C2 Reply received but not relevant to the recommendation

No cooperation with the Committee

D1 No reply received within the deadline, or no reply to any specific question in the report

D2 No reply received after reminder(s)

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## **Eighty-seventh session (July 2006)**

### **United Nations Interim Administration Mission in Kosovo (UNMIK)**

**COB: CCPR/C/UNK/CO/1, adopted on 27 July 2006**

**Follow-up paragraphs:**

12, 13, 18

**Follow-up history:**

*April–September 2007:* Three reminders were sent.

*10 December 2007:* Request by the Special Rapporteur to meet with the Secretary-General's Special Representative or his designated representative.

*11 March 2008:* First follow-up reply from UNMIK. Reply incomplete with regard to paragraphs 13 and 18.

*11 June 2008:* Request by the Special Rapporteur to meet with a UNMIK representative.

*22 July 2008:* Meeting with Mr. Roque Raymundo.

*7 November 2008:* Second follow-up reply: incomplete. Request for supplementary information on paragraphs 13 and 18.

*12 November 2009:* Third follow-up reply: incomplete.

*28 September 2010:* Letter from the Committee requesting additional information.

*10 May 2011:* Request by the Special Rapporteur to meet with the Secretary-General's Special Representative for Kosovo.

*20 July 2011:* The Special Rapporteur met with the Director of the UNMIK Office of Legal Affairs (Mr. Tschöpke), who indicated that information would be forwarded by UNMIK before the October 2011 session.

*9 September 2011:* Letter from UNMIK stating that, while its institutional mandate no longer permitted it to implement the Committee's recommendations, it was committed to collecting information from international organizations involved in the situation.

*10 December 2011:* Letter from the Committee acknowledging the commitment by UNMIK to collect information on the implementation of the Committee's recommendations.

*22 December 2011:* Letter from the Committee to the Office of Legal Affairs (Ms. O'Brien) requesting advice on the general status of Kosovo and on the strategy to adopt in the future to maintain a dialogue with Kosovo.

*13 February 2012:* Additional reply from UNMIK.

**Paragraph 13:**

**UNMIK, in cooperation with the Provisional Institutions of Self-Government, should effectively investigate all outstanding cases of disappearances and abductions and bring perpetrators to justice. It should ensure that the relatives of disappeared and abducted persons have access to information about the fate of the victims, as well as to adequate compensation.**

**Summary of reply by UNMIK:**

- The International Committee of the Red Cross records list 1,795 persons as still missing. Altogether 4,225 cases have been closed, including those of 2,640 persons confirmed dead and buried by their families. UNMIK has not been involved since April 2010. Its activities have been taken over by EULEX, which works with forensic doctors of Kosovo and with the Department of Forensic Medicine (DFM) of the Ministry of Justice. EULEX DFM is working to identify 200 remains held at the DFM mortuary.
- The investigation, prosecution and punishment of outstanding cases has been transferred to the EULEX Police Component. Altogether 114 cases have been resolved; 65 are still pending and 69 are at the preliminary stage.
- According to the 2011 Act on the status and rights of [...] civilian victims of war and their families, the close family members of a civilian who disappeared between January 1998 and December 2000 are entitled to a monthly pension of 135 euros. Compensation is now also offered in cases where a person disappeared after June 1999, the last date of disappearance for which the 2006 law granted compensation. Under the Missing Persons Act of August 2011, once remains have been identified, the State will cover burial costs.

**Evaluation:**

**[DI]:** No reply to the question regarding relatives' access to information on the fate of victims and to adequate compensation.

**Paragraph 18:**

**UNMIK, in cooperation with the provisional institutions, should intensify efforts to ensure safe conditions for the sustainable returns of displaced persons, in particular those belonging to minorities. In particular, it should ensure that they may recover their property, receive compensation for damage and be entitled to rental schemes for property temporarily administered by the Kosovo Property Agency (KPA).**

**Summary of reply by UNMIK:**

- The Kosovo Property Agency (KPA) has taken over from UNMIK the restitution of tenancy rights and has registered 41,687 claims. In 98.9 per cent of cases, claimants are invoking their ownership rights. KPA has reviewed the cases and requested additional information in about 1,110 cases.
- Criteria and procedures for determining rights and compensation were adopted in July 2011 and KPA, with UNMIK's help, is currently seeking funding for the programme. Some owners of property destroyed during the conflict have received compensation under programmes administered by the EULEX War Crimes Investigation Unit. Victims of forced displacement have not received any type of compensation. The Kosovo authorities need to address the issue.

- A voluntary rental scheme administered by KPA allows the rental of property which owners do not wish to occupy (in exchange for regular rental income) or whose owners have not been identified.
- Despite various efforts and the implementation of programmes costing millions of euros, only 10 per cent of displaced persons from minority communities have returned to Kosovo, and the sustainability of returns is uncertain. The majority of displaced persons have expressed a wish to resettle locally, without returning to Kosovo, although many are still seeking compensation for the loss or partial destruction of their property in Kosovo.
- Specific legislation has been adopted to enhance the economic development and stabilization of minority communities. Local authorities are responsible for implementing municipal return strategies, which include activities to inform displaced persons about the situation in their places of origin and on the assistance available to them upon return. The results of such programmes vary from region to region, mainly depending on local authorities' capacities and level of commitment. Inhibiting factors include discrimination faced by members of minority communities, lack of progress on reconciliation among communities, and acts of violence against displaced persons and their property.

**Evaluation:**

**[B2]:** Efforts have yielded disappointing results, mainly as regards the return of displaced persons. Additional information is needed on actions taken to create safe conditions for the sustainable return of displaced persons, an issue on which no information has been provided.

**Recommended action:**

**Letter reflecting the Committee's analysis and requesting UNMIK to provide the necessary additional information concerning paragraphs 13 and 18.**

**Next periodic report:**

No date for UNMIK. CCPR/C/SRB/CO/2: The Committee notes that, as the State party continues to accept that it does not exercise effective control over Kosovo, and in accordance with Security Council resolution 1244 (1999), civil authority continues to be exercised by the United Nations Interim Administration Mission in Kosovo (UNMIK). The Committee considers that the International Covenant on Civil and Political Rights continues to apply in Kosovo, and it therefore encourages UNMIK to provide it, in cooperation with the institutions of Kosovo, and without prejudice to the final legal status of Kosovo, with a report on the human rights situation in Kosovo since July 2006.

**Ninety-sixth session (July 2009)****Azerbaijan**

**COB: CCPR/C/AZE/CO/3**

**Follow-up paragraphs:**

9, 11, 15, 18

**First reply:**

Date information due: 28 July 2010. Date information received: 24 June 2010

**Evaluation:**

The procedure has been completed with respect to the following issues:

- (a) Compulsory training for newly recruited prison officials (para. 11);
- (b) Recognition of the right of foreign radio stations to broadcast directly on Azerbaijani territory (para. 15).

Additional information was requested concerning the other recommendations (letter of 20/10/2011).

**Second reply:**

Date information received: 31 May 2012

**Paragraph 9:**

**The State party should not extradite, expel, deport or forcibly return aliens to a country where they would face the real risk of torture or ill-treatment. The Committee recalls that article 2 of the Covenant requires that States parties should respect and ensure Covenant rights for all persons in their territory and all persons under their control, whence the obligation not to extradite, deport, expel or otherwise remove a person from their territory, where there are substantial grounds for believing that there is a real risk of irreparable harm, such as that contemplated by articles 6 and 7 of the Covenant, either in the country to which removal is to be effected or in any country to which the person may subsequently be removed (general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant). The Committee further recalls that the relevant judicial and administrative authorities should be made aware of the need to ensure compliance with the Covenant obligations in such matters. The State party should also establish a mechanism allowing aliens who claim that their forced removal would put them at risk of torture or ill-treatment to file an appeal with suspensive effect.**

**Follow-up questions (letter of 30 October 2011):**

- Number of extradition requests submitted to the State party during the last five years, and number of refusals.
- Existence or establishment of a mechanism allowing aliens who allege that their forced removal would put them at risk of torture or ill-treatment to file an appeal with suspensive effect; content of diplomatic assurances in cases of extradition to countries where persons would be at risk of torture or ill-treatment.

**Summary of State party's reply:**

	<i>Extradition requests</i>	<i>Number of refusals</i>
2007	4	
2008	2	1 (criminal action statute-barred)
2009	1	
2010	13	
2011	2	

According to the 2001 Act on the extradition of persons who have committed crimes, extradition may be refused if there is a risk of torture or ill-treatment. In its extradition requests, the Ministry of Justice guarantees that the person being extradited will not be exposed to torture or ill-treatment.

**Evaluation:**

[D1]: The information does not reply to the question asked.

**Paragraph 11:**

**The State party should establish without delay an independent body with authority to receive and investigate all complaints of use of force incompatible with the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169) and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990), and other abuses of power by law enforcement officials. The State party should ensure that all complaints relating to torture or ill-treatment are examined promptly and thoroughly and that the victims receive compensation. Those responsible should be prosecuted and punished. The State party should also ensure that all places of detention are subject to regular independent inspection. The State party should provide adequate training to its law enforcement and prison officials and ensure that Covenant rights are fully protected. The introduction of the systematic use of audio and video equipment in police stations and detention facilities should also be seriously considered.**

**Follow-up questions (letter of 30 October 2011):**

- (a) Number of cases in which reparations have been granted to victims of torture or ill-treatment over the last five years and the nature of those reparations;
- (b) Progress made in the implementation of the programme for the development of the Azerbaijani justice system for 2009–2013 and of the bill on safeguarding the rights and freedoms of pretrial detainees;
- (c) Since the systematic use of audiovisual recordings at police stations and places of detention is not guaranteed, the recommendation has not been implemented.

**Summary of State party's reply:**

Subparagraphs (a) and (b): In 2011, 15 prisons underwent renovation and new ones meeting international standards were built. Other projects are currently being developed, including some under the 2009–2013 Programme for Development of the Justice System.

A study has been undertaken to identify the legislative reforms needed to promote the rights of prisoners. The bill on “the protection of the rights and freedoms of prisoners” is currently in the final review stage. The National Action Programme for increasing the effectiveness of the protection of human rights and freedoms was approved in December 2011 and includes a programme for improving prison conditions and preventing torture.

Subparagraph (c): The right of police officials to use audiovisual recordings is set out in articles 232–234 of the Criminal Procedural Code. During the past five years, 26 detention centres have been rebuilt. Other projects are under way, and audiovisual equipment has been installed in 61 detention centres. In 2010 and 2011, a total of 523 inspection visits to temporary detention centres were conducted by representatives of international organizations (United Nations, Council of Europe, International Committee of the Red Cross) and national human rights institutions. During the past five years 1,068 officials have been disciplined in cases of ill-treatment, and 800 police officers have received training in the prevention of torture and ill-treatment.

**Evaluation:**

[D1]: No information has been provided on (a) the grant of reparations to victims of torture or ill-treatment over the past five years or the nature of those reparations; (b) action taken to guarantee the independence of bodies responsible for the registration and examination of cases and for monitoring the enforcement of sentences.

**Paragraph 15:**

**The Committee urges the State party to take the necessary measures to put an end to direct and indirect restrictions on freedom of expression. Legislation on defamation should be brought into line with article 19 of the Covenant by ensuring a proper balance between the protection of a person's reputation and freedom of expression. In this respect, the State party is urged to consider finding a balance between information on the acts of so-called “public figures”, and the right of a democratic society to be informed on matters of public interest. The State party is also urged to effectively protect media workers against attempts on their integrity and life, and to pay special attention and react vigorously if such acts occur. The State party should not unreasonably restrain independent newspapers, as well as local broadcasting of radio stations. Finally, the State party should treat users of non-conventional media in strict compliance with article 19 of the Covenant.**

**Follow-up questions (letter of 30 October 2011):**

Measures taken to effectively protect media workers against attempts on their integrity and life.

**Summary of State party's reply:**

- Under article 163 of the Criminal Code, any form of obstruction of the work of media representatives and journalists is punishable. The necessary measures are in place to guarantee the safety of all concerned, and to enhance relations with civil society and the media. Round-table talks have been held between representatives of the Ministry of the Interior and journalists in the framework of the project on "the improvement of relations between the police and the media".
- The Ministry of the Interior and the Press Council are working to develop their relations and their "interactions". A Press Council commission is currently investigating cases involving the restriction of journalists' professional activity. Journalists have been provided with jackets for their identification and protection during public and mass events.

**Evaluation:**

**[B1]:** Further information is needed on court decisions and measures taken in cases of attacks on the integrity or life of media workers, or of restriction of their professional activity.

**Paragraph 18:**

**The State party should simplify its address registration procedure so as to enable all individuals who reside legally in Azerbaijan, including internally displaced persons, to fully exercise their rights and freedoms under the Covenant.**

**Follow-up questions (letter of 30 October 2011):**

(a) Measures taken to ensure that temporary identity documents and registration of the Ministry of the Interior as the address for homeless Azerbaijani citizens do not become factors of discrimination;

(b) Numbers of cases involving address registration for aliens or displaced persons over the last five years.

**Summary of State party's reply:**

Between 2006 and 2011, the police authorities issued 238,054 registration certificates to foreigners applying for a temporary residence permit. The Committee on Affairs of Refugees and Internally Displaced Persons oversees registration of refugees and internally displaced persons in the country's regions and cities.

**Evaluation:**

**[D1]:** No reply regarding measures taken to ensure that temporary identity documents and registration of the Ministry of the Interior as the address for homeless Azerbaijani citizens do not become factors of discrimination.

**Recommended action:**

Letter reflecting the Committee's analysis.

**Next periodic report:** 1 August 2013



**100th session (October 2010)****Poland****COB: CCPR/C/POL/CO/6****Follow-up paragraphs:**

10, 12, 18

**First reply:**

Date information due: 26 October 2010. Date information received: 3 April 2012

**Paragraph 10:**

**The State party should amend the Act on Domestic Violence to empower police officers to issue immediate restraining orders at the scene. It should incorporate domestic violence issues into the standard training offered to law enforcement and judicial officials. It should ensure that victims of domestic violence have access to assistance, including legal and psychological counselling, medical help and shelter.**

**Summary of State party's reply:**

## (a) Measures taken:

- Adoption of the Act of June 2010 amending the law on preventing domestic violence. The amendments introduced were presented to the Committee during consideration of the sixth periodic report. Since then, the regulations implementing the provisions of the 2010 Act have been adopted.
- Actions to disseminate the 2010 Act and its regulations among the implementing institutions and the general public (a telephone helpline, a guidebook, application forms, a charter of domestic violence victims' rights, creation of a database of institutions combating domestic violence and promotion of cooperation among such institutions, adaptation of the databases of judiciary institutions to the new legislative provisions).

(b) Out of the total of complaints, 35.6 per cent involving cases where evidence is insufficient are shelved. The General Prosecution Authority will shortly be surveying a representative sample of dismissed cases from various regions to analyse the reasons for dismissal.

(c) Most proceedings last no more than three months, a period that can be extended in the case of child victims to ensure that confidentiality can be maintained and psychosocial support provided during hearings and court appearances. The Committee's recommendation to empower police officers to issue immediate restraining orders is not justified; the relevant legislation allows the police to arrest the offender immediately if the victim is in danger. Coercive measures can be used only to prevent the commission of another crime. Under the Act of 2010, the police can issue a restraining order against a perpetrator of domestic violence if the person is likely to commit other violent acts, especially if he or she has threatened to do so. Such an injunction can be issued for up to three months and extended for another three. While these measures have been applied frequently, it is too early to assess their effectiveness. Domestic violence issues are systematically included in training provided to police officers and judiciary workers, particularly since the adoption of the 2010 Act. Victims of domestic violence have

access to specialized assistance centres providing medical, social, psychological and legal assistance. Reception facilities are managed by the committees, the State or the municipalities. Their numbers vary depending according to local requirements.

**NGO information:**

**15 February 2012: Helsinki Foundation for Human Rights/CCPR Centre:** The procedure is governed by the Criminal Procedure Code of 1997. Restraining orders can be issued only by prosecutors or judges during pretrial proceedings. No change has been made to enable police officers to issue restraining orders. It is too early to evaluate the effects of the 2010 Act on domestic violence.

**Evaluation:**

**[B1]: Progress has been made. Information should be requested on the following:**

- (a) Progress made in the survey of dismissed cases by the General Prosecution Authority;
- (b) Statistical data on the capacity of assistance centres to meet the requirements of domestic violence victims;
- (c) The provision of the Act of 2010 that enables the police to issue a restraining order if the individual in question is likely to commit other violent acts;
- (d) The effective implementation of the 2010 Act making it possible to issue a restraining order against perpetrators of violence, and outcomes of criminal prosecutions of domestic violence cases, rulings handed down and preventive measures taken.

**Paragraph 12:**

**The State party should urgently review the effects on women of the restrictive provisions of the anti-abortion Act. It should conduct research into and provide statistics on the use of illegal abortion. It should introduce regulations to prohibit the improper use and performance of the “conscience clause” by the medical profession. The State party should also drastically reduce the response time allowed to medical commissions in abortion cases. Lastly, the State party should strengthen measures aimed at the prevention of unwanted pregnancies, such as making a full range of contraceptives widely available at an affordable price and including them on the list of subsidized medicines.**

**Summary of State party’s reply:**

- The legislation governing abortion (1993 Act) has not been changed. Its impact and the criteria for authorizing abortions are reviewed regularly. The reports are made public and are available on the Internet.
- The “conscience clause” may be invoked by individual doctors but not collectively by a health-care facility. A doctor invoking the clause must refer the person requesting an abortion to a colleague, justify the decision, and record it in the patient’s medical file.
- Under the Act of 2008, the Medical Commission is obliged to issue a decision within 30 days, and within a period that will not cause detriment to the woman seeking an abortion.

- Contraceptives can be obtained easily at affordable prices. As a matter of principle, they are not refunded, except for contraceptive pills, which can also be used to treat menstrual pain. The Ombudsman for the Rights of the Patient has produced campaigns for patients to promote awareness of their rights.

#### **NGO information:**

No research on illegal abortions has been carried out and no statistics are available. No steps have been taken to prohibit the improper use of the “conscience clause”. It is used not only by individual doctors but in some cases by entire health care facilities. The relevant law has not been amended. The deadlines remain unchanged and the burden of proof can be very heavy for patients. Contraceptives are not refunded and access to them remains limited.

#### **Evaluation:**

**[C1]: There has been no reform in this area; the Committee reiterates its recommendation and requests additional information on the following points:**

- Legal provisions prohibiting collective use of the “conscience clause”.
- Criteria used by the Medical Commission to ensure that response deadlines do not cause detriment to the women concerned; remedies available to women who suffer such detriment; and the consequences in the event of the non-observation of the 30-day deadline by the Medical Commission.
- Steps taken to give adolescent girls and indigent women access to contraceptives.

#### **Paragraph 18:**

**The State party should take measures to ensure that the detention of foreigners in transit zones is not excessively protracted and that, if the detention needs to be extended, the decision is taken by a court. The State party should ensure that the regime, services and material conditions in all deportation detention centres are in conformity with minimum international standards. Lastly, the State party should ensure that detained foreigners have easy access to information on their rights, in a language they can understand, even if this requires the provision of a qualified interpreter.**

#### **Summary of State party’s reply:**

- The detention of foreigners is regulated by the Aliens Act of 2003. Detention is possible (a) when there are reasons for issuing a deportation order; (b) when the foreigners do not comply with a deportation order (the only situation where detention can be extended after the deportation deadline).
- The grounds for deportation (and thus indirectly detention) can arise only from illegal entry to or residence in Polish territory, non-compliance with a deportation order (2003 Act, art. 88), or criminal proceedings (in which case the detained persons enjoy guarantees applicable under the Criminal Procedure Code).
- Only the police and border guards are authorized to detain foreigners. Detention may not exceed 48 hours starting from the moment of deprivation of liberty. Detained persons are informed of their rights and obligations. If necessary, they may be provided with an interpreter. If the detention is considered illegal, the court will order the foreigners’ immediate release.

- Detained foreigners will also be released immediately if: (a) they have not been brought before a court within 48 hours of being detained; (b) within 24 hours of being brought before a court, they have not been placed under guard or arrested pending expulsion; (c) the reasons for their detention have ceased to apply.
- The decision to place persons under guard or under arrest must be taken by a court and is subject to judicial review. A bill on foreigners is currently under discussion, which would authorize the enforcement judge to monitor conditions of detention. In the case of unjustifiable placement under guard, an individual can claim reparation or compensation. Under current legislation, prolonged detention is not possible in transit zones after the deportation deadline and without a court order. Detention applies only to foreigners who are already on Polish territory.
- Airport transit zones can be used only by foreigners not authorized to enter Polish territory. Their stay in such zones cannot exceed the time of waiting for the next return flight of the airline that brought them to Poland. Their movements may be restricted only if there is a risk that they may cross the border.
- The information concerning the alleged poor quality of medical care in centres for asylum seekers is unfounded. The head of the Office of Foreigners is obliged to provide adequate medical care as required to asylum seekers, who have the same rights as Polish citizens covered by the general social security scheme (except with regard to sanatorium and rehabilitation care). The limitations encountered by asylum seekers are due to the general state of the health-care system.
- Living conditions in centres for asylum seekers are strictly prescribed by law. They are monitored and assessed regularly by the government authorities and by independent institutions, including NGOs. Audits have confirmed that they meet international standards.
- Relevant information is provided to foreigners at various stages of the procedure in a language they can understand. Difficulties may arise in isolated cases, if foreigners come from countries with which Poland has limited contacts and speak only their mother tongue. In such cases information awaits the arrival of a qualified interpreter, at the earliest possible moment.

**NGO information:**

- Generally speaking, legal and health-care services in detention facilities are inadequate. Detainees have a limited choice of activities and often suffer from health problems.
- Children have no access to formal education. Courses are taught by non-professional teachers but do not follow standard curricula.
- Detention of migrants in an irregular situation is used routinely, not as a measure of last resort. Justifications issued by the courts are not always sufficient or clear.
- Interpretation services are not available. Legal documents relating to asylum-seeking procedures are only partially translated. Deportation-related orders are not translated.

**Evaluation:**

**[C1]: No new measures have been taken to implement the recommendation:** The prevailing legislation dates from 2003 and the described services have not changed since the adoption of the concluding observations. Additional information is needed on the following points:

- Progress on the discussion and adoption of the “new foreigners’ Act” (mentioned on p. 13 of the State party’s follow-up report) and the main reforms introduced.
- The capacity of legal and health-care services to respond to demand.
- The proportion of foreigners in an irregular situation who have been detained during the past five years.
- The capacity of interpretation services to meet the needs of detained or interned foreigners (including the number of foreigners who request interpretation services, by language; number of interpreters available, by language; languages requested for which interpretation services have not been available).

**Recommended action:** Letter reflecting the Committee’s analysis.

**Next periodic report:** 26 October 2015

## Ninety-eighth session (March 2010)

### Uzbekistan

**COB:** CCPR/C/UZB/CO/3, adopted on 24 March 2010

**Follow-up paragraphs:**

8, 11, 14, 24

**First reply:**

Date information due: 24 March 2011. Date information received: 30 January 2012

**Paragraph 8:**

**The State party should conduct a fully independent investigation and ensure that those responsible for the killings of persons in the Andijon events are prosecuted and, if found guilty, punished, and that victims and their relatives are given full compensation. The State party should review its regulations governing the use of firearms by the authorities, in order to ensure their full compliance with the provisions of the Covenant and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990).**

**Summary of State party’s reply:**

The Andijon events led to the following actions:

- Investigation by an objective and impartial investigation group led by qualified staff of the country’s judicial services.
- Establishment of an independent parliamentary commission.
- Formation of a working group composed of high-level representatives of the diplomatic corps to monitor events.

- Discussion of the matter during meetings between a group of experts of Uzbekistan and a delegation of European Union experts in December 2006 and April 2007. The latter were informed of the results of the investigation and received answers to their questions. They unanimously concluded that the Andijon events were due to a serious terrorist attack against Uzbekistan.
- Consideration by the country's courts of six criminal cases involving 39 internal affairs officials and members of the military. They were found guilty of complicity and negligence in the performance of their duties, were sentenced to terms of deprivation of liberty and to punitive deduction of earnings, and were assigned to a disciplinary unit.

**Evaluation:**

**[B2]:** The State party describes the actions taken to investigate the Andijon events and the decisions taken with regard to 39 internal affairs officers and members of the military. Nevertheless, **no new actions have been taken** since consideration of the State party by the Committee in March 2010.

**[D1]: No information has been provided** on the amendment of the regulations governing the use of firearms by the authorities. The recommendation has therefore not been implemented.

**Paragraph 11:**

**The State party should:**

- Make sure that an inquiry is conducted by an independent body in each case of alleged torture;**
- Strengthen its measures to put an end to torture and other forms of ill-treatment, initiate judicial proceedings for and investigate each case and prosecute and punish all offenders, in order to combat impunity;**
- Compensate the victims of torture and ill-treatment;**
- Consider introducing audiovisual recording of interrogations in all police stations and places of detention;**
- Ensure that the specialized medical-psychological examination of alleged cases of ill-treatment is carried out in line with the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol);**
- Review all criminal cases based on allegedly forced confessions and use of torture and ill-treatment and verify whether these allegations were properly addressed.**

**Summary of State party's reply:**

Subparagraph (a): The Further Training Centre for Lawyers has courses including modules for judges and lawyers on judgements in cases involving torture. Other courses are frequently offered on the same topic.

Subparagraph (b): Under article 329 of the Criminal Procedure Code, complaints concerning unlawful actions committed by law enforcement officers, including torture, must be registered and resolved without delay. The legality of motives and the validity of grounds for bringing a criminal case must be verified within 10 days. Representatives of the Human Rights Commissioner of the Oliy Majlis (Ombudsman) and the National Centre for Human Rights take part in the investigations.

The investigation of complaints concerning the use of unlawful methods by members of the law enforcement agencies is the responsibility of the special internal security units (special staff inspection units), which are attached to the Ministry of the Interior. These units are independent, since they are not subordinate to anti-crime agencies and services.

An interdepartmental working group set up in 2004 is tasked with monitoring the observance of human rights by law enforcement agencies.

Under an order by the Procurator-General, the prosecution services are obliged to implement the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Prosecutors verify the legality of the detention of prisoners held in police cells and the conditions of detention in remand units. In the event of unlawful actions, appropriate measures are taken. The prosecution services keep a database of cases where unlawful treatment or punishment has been used.

The Supreme Court is planning to conduct a review of judicial practice in order to identify acts of torture and of evidence obtained through physical or psychological coercion and to compensate victims of torture for harm suffered during the period 2011–2012.

Altogether 2,374 complaints were lodged during the first nine months of 2011, compared to 2,283 in the first nine months of 2010. Some 130 of these cases involved the use of torture or other cruel, inhuman or degrading treatment. Nine criminal cases were brought against law enforcement officials under article 235 of the Criminal Code.

Subparagraph (c): The Criminal Procedure Code provides for personal rehabilitation and sets out the grounds and procedures for rehabilitation and for granting compensation for any harm suffered. In the case of unlawful arrest or remand in custody, unlawful suspension from duties in connection with being charged with a crime, or unlawful internment in a medical establishment, the person affected is entitled to compensation and to reparation for moral injury.

Subparagraph (d): In accordance with the Criminal Procedure Code, investigators make use of audio and video recordings for interrogations, witness confrontations, verification of statements taken at the crime scene, expert evaluations, identity parades and identification of important physical evidence, and crime scene inspections, among others. Consideration is currently being given to the option of equipping holding cells and isolation cells with additional audio and video monitoring equipment.

Subparagraph (e): During the period 2010–2011, 55 doctors from the prison system of the Ministry of the Interior received training in forensic aspects of determining biological signs of torture and other cruel, inhuman or degrading treatment or punishment.

Quarterly reviews are received and analysed by the services of the Ministry of the Interior and territorial authorities. Despite the measures adopted, cases do still occur. Training and media campaigns are conducted for the general population and Ministry of the Interior staff to explain existing domestic and international norms for safeguarding human rights and prohibiting torture and other ill-treatment.

The use of evidence obtained under duress is prohibited (art. 17 and art. 22, para. 2, of the Criminal Procedure Code). All evidence must be verified and evaluated (art. 112 of the Criminal Procedure Code). Jurisprudence confirms the relevant instructions issued by the Supreme Court.

If the defendant alleges that he confessed under torture or other unacceptable treatment, the court is obliged, if there are sufficient grounds, to initiate criminal proceedings (Criminal Procedure Code, art. 321). Criminal proceedings may also be opened if there is evidence that an offence has been committed (Criminal Procedure Code, art. 322).

**NGO information:**

Subparagraph (a): There is no independent body responsible for investigating alleged cases of torture. The interministerial working group is not representative since civil society is represented only by pro-government organizations. The investigative bodies follow procedures that are not known to the public, and they do not have sufficient human or material resources to do their work.

The Office of the Human Rights Commissioner can conduct its own investigations into cases of human rights violations and can order national bodies to take the necessary measures to prevent such violations and compensate victims. In practice, the Commissioner does not conduct investigations but merely sends a letter to the alleged perpetrator and his or her supervisor to inform them that a complaint has been received and that they should respond to it.

Subparagraphs (b) and (c): To gain access to places of detention, civil society organizations must obtain special authorization through a procedure that is not clear. Few organizations receive such authorization.

There is no system for compensating or rehabilitating torture victims. The resistance of courts and other judicial bodies to recognizing acts of torture or ill-treatment and declaring testimony and other evidence obtained by torture inadmissible is preventing the establishment of such a system. While the rehabilitation centres of each region's or district's administrative centres help former prisoners to find work and to deal with health and reintegration issues, they do not offer any post-torture rehabilitation.

The State party asserts that it has established several mechanisms for ensuring that complaints of torture are handled appropriately. Nevertheless, impunity for perpetrators remains as common as the practice of torture. Statistics are shown indicating that since 2004 an average of 2 per cent of complaints have resulted in trials.

Victims, their families, human rights defenders, journalists and lawyers have been subjected to threats and persecution, which makes it dangerous to disseminate information on the topic. Perpetrators of torture or ill-treatment are also sometimes amnestied.

Subparagraphs (d) and (e): There is no clear information on the audiovisual equipment available in police stations and places of detention. Interrogations are filmed only at the request of the inspector in charge of the investigation. The 2009 Act on forensic medical examinations does not allow the defence to use the results of medical-psychological examinations as evidence.

Subparagraph (f): The legal prohibition against using coercion to obtain confessions and against the use of torture and other ill-treatment is not observed in practice. Examples are given.



**Evaluation:**

Subparagraphs (a) and (b): **[B2]: Additional actions are needed.** The information provided does not guarantee the independence of the body investigating cases of torture and ill-treatment because such cases are “checked” by the special internal security units, which are attached to the Ministry of the Interior, on which staff members of the police and security services also depend. The training mentioned appears to be the only measure taken to combat impunity. There is no description of the implementation of the principles advocated in the course of the training.

Subparagraph (c): **[B2]: More information is needed** on the proportion of cases in which victims were compensated and on the amount of the compensation, as well as on the State party’s plans to institute compensation or rehabilitation for the psychological and social impact of torture and other cruel, inhuman or degrading treatment. The State party refers to rehabilitation measures for victims, but information is still needed on the psychological and social support they actually receive.

Subparagraph (d): **[B1]: More information is needed** on the implementation of the principles enshrined in the Criminal Procedure Code with regard to the recording of interrogations conducted at police stations and detention centres, such as the proportion of police stations and detention centres equipped with recording devices, and the proportion of cases in which recordings are actually made.

Subparagraph (e): **[C1]: Recommendation not implemented:** The information provided does not make it possible to evaluate the implementation of the Istanbul Protocol, in particular in connection with specialized medical and psychological examinations.

Subparagraph (f): **[B1]: More information is needed** on the implementation of the legal prohibition against the use of coercion, torture and ill-treatment to obtain confessions. Information should be provided on the number of complaints filed against the use of coercion, torture or ill-treatment to obtain confessions, and about the follow-up decisions adopted.

**Paragraph 14:****The State party should:**

(a) **Amend its legislation to ensure that length of custody is fully in line with the provisions of article 9 of the Covenant;**

(b) **Ensure that the legislation governing judicial control of detention (habeas corpus) is fully applied throughout the country, in compliance with article 9 of the Covenant.**

**Summary of State party’s reply:**

The prevailing legislation and the application of habeas corpus were analysed. Given that in most countries detention in custody is limited to 48 hours, and given the growing use of information technology in law enforcement, “it would be desirable to reduce the period of custody to 48 hours”.

Since 2008 the authority to order remand in custody as a preventive measure has rested not with the prosecutors but with the courts.

The results of the study of the application of habeas corpus were sent to all the Ministry of the Interior structural units and all territorial authorities with a request for proposals for legislative reform.

**Evaluation:**

**[B2]: The recommendation has not been implemented. Additional actions are needed** for the adoption of legislative reforms with regard to the duration of detention in custody and judicial oversight of detention.

**Paragraph 24:**

**The State party should allow representatives of international organizations and NGOs to enter and work in the country and guarantee journalists and human rights defenders in Uzbekistan the right to freedom of expression in the conduct of their activities. It should also:**

**(a) Take immediate action to provide effective protection to journalists and human rights defenders who were subjected to assaults, threats, and intimidation due to their professional activities;**

**(b) Ensure the prompt, effective, and impartial investigation of threats, harassment and assaults on journalists and human rights defenders and, when appropriate, prosecute and institute proceedings against the perpetrators of such acts;**

**(c) Provide the Committee with detailed information on all cases of criminal prosecutions relating to threats, intimidation and assaults of journalists and human rights defenders in the State party in its next periodic report;**

**(d) Review the provisions on defamation and insult (arts. 139 and 140 of the Criminal Code) and ensure that they are not used to harass, intimidate or convict journalists or human rights defenders.**

**Summary of State party's reply:**

- In 2010 and the first nine months of 2011, no cases of threats, intimidation or attacks on journalists or human rights defenders were investigated by the Public Prosecutor, the National Security Service or the internal affairs agencies. The Ministry of Justice is not aware of cases of entry into Uzbekistan being refused to representatives of national or international organizations, or of journalists or human rights defenders being deprived of liberty, physically assaulted, harassed or intimidated.
- No criminal cases arising from threats, intimidation or attacks directed at journalists have been brought by the internal affairs agencies, the National Security Service or the Public Prosecutor, and the courts have examined no such cases.
- Under the Non-Profit Non-Governmental Organizations Act, the Ministry of Justice accredits foreign staff of international and foreign NGOs, as well as dependent members of their families.
- Particular attention is paid to ensuring the development of the media and conditions of transparency and freedom for their work. A solid legal and regulatory framework has been developed for the media in line with international norms and principles.
- The number of non-State media, which include more than 50 per cent of all television and radio channels, is growing.

- The enhancement and strengthening of press activity are priorities for the “presidential strategy for further extending democratic reforms and developing a civil society in the country”.

**Evaluation:****[D1]: No information is provided on:**

- Measures taken to prevent cases of harassment and threats against journalists and human rights defenders. Additional actions are needed to identify, recognize and prevent assaults, threats and acts of intimidation against journalists and human rights defenders such as those reported to the Committee.
- The review of the provisions on defamation and insult (articles 139 and 140 of the Criminal Code) and the steps taken to ensure that they are not used to harass, intimidate or convict journalists and human rights defenders.

The recommendation has therefore not been implemented.

**Recommended action:** Letter reflecting the Committee’s analysis.

**Next periodic report:** 30 March 2013

**101st session (March 2011)****Slovak Republic**

**COB:** CCPR/C/SLV/CO/3, adopted on 28 March 2011

**Follow-up paragraphs:**

7, 8, 13

**First reply:**

Date information due and received: 28 March 2012.

**Paragraph 7:**

**The State party is encouraged to ensure that such a bill is enacted into law to provide a remedy to persons who allege an infringement of their rights arising from the incompatibility of provisions of national law with international treaties that the State party has ratified.**

**Summary of State party’s reply:**

The Ministry of Justice has abandoned work on the bill as its adoption would have necessitated a constitutional reform.

**Evaluation:**

**[C1]:** The decision adopted is contrary to the Committee’s recommendation. Information is needed on the remedies available to victims.

**Paragraph 8:**

**The State party should strengthen its efforts to combat racist attacks committed by law enforcement personnel, particularly against Roma, by, inter alia, providing special training to law enforcement personnel aimed at promoting respect for human rights and tolerance for diversity. The State party should also strengthen its efforts to ensure that police officers suspected of committing such offences are thoroughly investigated and prosecuted, and, if convicted, punished with appropriate sanctions, and that the victims are adequately compensated.**

**Summary of State party's reply:**

Under the Act on compensation for the victims of crimes of violence, financial compensation is provided to victims without discrimination. The Ministry of the Interior has taken steps to implement the recommendations of United Nations and European Commission bodies, including the following:

Permanent control of the activities of the internal control department and inspection services of the Ministry of the Interior in cases of alleged injuries caused by police action, subject to an annual report.

Implementation of the "government strategy for dealing with problems of the national Roma minority". This includes training for members of the police force.

The development of compulsory training programmes for the police on the prevention of racism and discrimination, including against the Roma minority (see inter alia the courses organized in the framework of the 2011–2014 plan to fight extremism).

The Ministry of the Interior taking part in the activities of the Committee on the Elimination of Racial Discrimination.

Implementation of a methodology of intervention in cases of criminal activity motivated by questions of extremism and racism.

Evaluation of the implementation of the recommendations of the Committee against Torture and the European Committee for the Prevention of Torture. Any shortcomings found will lead to sanctions being passed against the members of the police forces involved.

Adoption of a cooperation and information exchange agreement between the Ministry of the Interior and the Ministry of Justice on cases of acts of violence committed by police and prison staff in 2009, renewed in 2012. Sanctions and prevention measures must be adopted within five days of the acts of violence being identified.

**Evaluation:**

**[B2]:** Action and information is needed regarding compensation provided to victims of racist acts committed by law enforcement personnel and with regard to implementing mechanisms for investigating, prosecuting and punishing police officers suspected of having committed such offences.

**Paragraph 13:**

**The State party should take the necessary measures to monitor the implementation of Act No. 576/2004 to ensure that all the necessary procedures are followed in obtaining the full and informed consent of women, particularly Roma women, who seek sterilization services at health facilities. In this regard, the State party should introduce special training for health personnel aimed at raising awareness about the harmful effects of forced sterilization.**

**Summary of State party's reply:**

- Existing legislation prohibits all forms of discrimination in the provision of health care. If these provisions are violated the affected person can complain to the Health Care Surveillance Authority. To ensure that full and informed consent is obtained prior to sterilization, a consent form in the Roma language is now available throughout the country. Campaigns have been conducted to inform all medical staff of the harmful effects of forced sterilization and of their criminal liability if sterilization is performed without prior consent.
- Access by women from socially disadvantaged communities, to which Roma women generally belong, to sexual and reproductive rights, and full and informed consent are among the priorities of the Ministry of Labour, Social Affairs and the Family and the Socially Excluded Communities Act.
- The Committee for Gender Equality participates in prevention, information and education activities to improve access to health care for all.

**Evaluation:**

**[C1]:** Positive steps have been taken. Nevertheless, **no information is provided on measures taken** to monitor implementation of the provisions of Act No. 576/2004. The recommendation has therefore not been implemented.

**Recommended action:** Letter reflecting the Committee's analysis.

**Next periodic report:** 1 April 2015

**Mongolia**

**COB: CCPR/C/MNG/CO/5, adopted on 30 March 2011**

**Follow-up paragraphs:**

5, 12, 17

**First reply:**

Date information due: 30 March 2012. Date information received: 21 May 2012

**Paragraph 5:**

**The State party should strengthen its efforts to ensure that the National Human Rights Commission enjoys independence by providing it with adequate funding and human resources, and revising the appointment process of its members.**

**Summary of State party's reply:**

Since the adoption of the Committee's concluding observations, the Commission's budget has increased by 38 per cent, and six new posts have been created. A further increase would be necessary. The Commission is also developing a project "to build national capacity for supervising human rights", financed by the United Nations Development Programme.

**NGO information:**

Chinese Human Rights Defenders-Globe International/CCPR Centre, January 2012: The budget increase is not sufficient to enable the Commission's level of activity to match the growing demand for assistance.

**Evaluation:**

**[B2]:** Additional information is needed on the measures taken (a) to provide the National Human Rights Commission with adequate funding to enable it to do its work properly, and (b) to safeguard the Commission's independence.

**[D1]:** No information is provided on reforming the procedure for appointing Commission members. The recommendation has therefore not been implemented.

**Paragraph 12:**

**The State party should take the necessary measures to thoroughly investigate all allegations of human rights violations committed during the state of emergency of July 2008, including in the cases where compensation has been paid to the families. It should also ensure that those involved are prosecuted and, if convicted, punished with appropriate sanctions, and ensure that the victims are adequately compensated.**

**Summary of State party's reply:**

- The 2009 Act on Granting Compensation to Victims was adopted to combat human rights violations and restore victims' rights. Compensation totalling MNT 17.1 billion (US\$ 12,122,284.13) has been paid to victims and a total of MNT 442.5 million (US\$ 313,690.69) to the police officers affected.
- The 2009 Amnesty Act dismissed a criminal case concerning actions by four police officers during the state of emergency. The cases were reopened in November 2010. The investigation was conducted by the Procurator-General's Office and transferred to Sühbaatar District Court for the hearing, which is ongoing.

**NGO information:**

The investigation is in progress but has not yet yielded results.

**Evaluation:**

**[B2]:** The reopening of the case against four police officers involved in the state of emergency is a positive step. Information is needed on the outcomes of ongoing cases (court rulings and compensation provided to victims).

**[D1]:** No information is provided on the measures taken with regard to other complaints about human rights violations during the state of emergency. The recommendation has therefore not been implemented.

**Paragraph 17:**

The State party should adopt the reform project of the judiciary after having reviewed its full compliance with the Covenant and making sure that the structures and mechanisms introduced guarantee the transparency and independence of its institutions. The State party should make sure that the project is drafted, adopted and implemented through a process that integrates the consultation of specialized sectors, including civil society actors. The State party should also take all the necessary measures to guarantee the thorough investigation of all allegations of corruption of the judiciary.

**Summary of State party's reply:**

The Parliament has adopted bills on the courts, the legal status of judges and the legal status of lawyers. The bills contain provisions on the organization of judicial institutions, their independence and access to them; it updates the procedure for selecting judges by enhancing its transparency as well as that of court rulings (publication on the Internet). It introduces new disciplinary mechanisms.

**NGO information:**

The reform is being pursued seriously and legislative proposals have been made following an exemplary consultation process. Allegations of corruption are examined by the Judicial Disciplinary Committee and, in cases of criminal offences, by a specialized unit of the Procurator-General's Office. This unit, established in 2010, lacks the necessary financial and human resources to do its work properly.

**Evaluation:**

**[A]:** Progress has been made in reforming the criminal justice system. Information must be provided in the next periodic report on the adoption and implementation of the projects referred to.

**[D1]:** No information is provided on the investigation of allegations of corruption in the judicial system. The recommendation has therefore not been implemented and additional information is required.

**Recommended action:** Letter reflecting the Committee's analysis.

**Next periodic report:** 1 April 2015

**103rd session (October 2011)****Kuwait**

**COB:** CCPR/C/KWT/CO/2, adopted on 2 November 2011

**Follow-up paragraphs:**

18, 19, 25

**First reply:**

Date information due: 2 November 2012. Date information received: 27 April 2012

**Paragraph 18:**

**The State party should abandon the sponsorship system and should enact a framework that guarantees respect for the rights of migrant domestic workers. The State party should also create a mechanism that actively controls the respect for legislation and regulations by employers and investigates and sanctions their violations, and that does not depend excessively on the initiative of the workers themselves.**

**Summary of State party's reply:**

- All employment relationships involve employees and employers. Employers have rights that certain narrow-minded people have tried to exploit and that certain States and human rights organizations have used as a pretext for interfering in the internal affairs of States.
- The rights granted to employers are subject to precise rules to prevent abuse of those rights. The State takes all appropriate measures to guarantee the rights of migrant domestic workers.
- The Domestic Workers Office oversees adherence to the law by employers, investigates abuses and punishes wrongdoers, and its powers have been broadened since its conversion into a directorate.
- Act No. 6/2010 updating the Private Sector Labour Act established a public body to regulate issues relating to labour, including migrant workers, with the aim of eliminating the negative aspects of the sponsorship system.

**Evaluation:**

**[C2]:** The recommendation has not been implemented. Additional information should be requested on the measures adopted by the body established under Act No. 6/2010 to “eliminate the negative aspects of the sponsorship system” since the adoption of the Committee’s concluding observations (actual existence of the body; measures adopted by the body; scope of its competence with regard to domestic workers).

**Paragraph 19:**

**The State party should adopt legislation to ensure that anyone arrested or detained on a criminal charge is brought before a judge within 48 hours. The State party should also guarantee that all other aspects of its law and practice on pretrial detention are harmonized with the requirements of article 9 of the Covenant, including by providing detained persons with immediate access to counsel and contact with their families.**

**Summary of State party's reply:**

- Kuwaiti legislation conforms to article 9 of the Covenant, given that persons who are arrested or detained enjoy all the fair trial guarantees, including the opportunity to contact their family, to engage a defence attorney and to be brought promptly before an independent judicial authority.
- The Government has already presented a bill that would reduce the maximum length of police custody to 24 hours, and the maximum duration of pretrial detention from three weeks to one week.



**Evaluation:**

**[B2]:** Additional information should be requested on progress in the adoption of the draft legislation on the length of police custody and pretrial detention.

**[D1]:** No information is provided on the measures taken to ensure that all persons who are arrested or detained are brought before a judge within 48 hours.

**Paragraph 25:**

**The State party should revise the Press and Publication Law and related laws in accordance with the Committee's general comment No. 34 (2011) in order to guarantee all persons the full exercise of their freedoms of opinion and expression. The State party should also protect media pluralism, and should consider decriminalizing defamation.**

**Summary of State party's reply:**

The matter lies within the competence of the Ministry of the Interior. No information is provided on the subject.

**Evaluation:**

**[C1]:** The Committee should remind the State party that "The obligations of the Covenant in general and article 2 in particular are binding on every State Party as a whole. All branches of government (executive, legislative and judicial), and other public or governmental authorities, at whatever level — national, regional or local — may engage the responsibility of the State party. The executive branch, which generally represents the State party internationally, including before the Committee, may not argue that an action incompatible with the provisions of the Covenant was carried out by another branch of government as a means of relieving the State party from responsibility for the action and consequent incompatibility." This understanding flows directly from the principle contained in article 27 of the Vienna Convention on the Law of Treaties, according to which a State Party "may not invoke the provisions of its internal law as justification for its failure to perform a treaty".

**Recommended action:** Letter reflecting the Committee's analysis.

**Next periodic report:** 1 April 2015