United Nations CCPR/C/130/3

International Covenant on Civil and Political Rights

Distr.: General
17 December 2020

Original: English

Human Rights Committee

Follow-up progress report on individual communications*

A. Introduction

1. At its thirty-ninth session, 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, paragraph 3, of the Committee's rules of procedure. In 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 been and continues to be impossible to ensure systematic, timely and comprehensive follow-up on all cases, particularly given the applicable word limitations. The present report is therefore based exclusively on the information available, reflecting at least one round of exchanges with the State party and the author(s) and/or counsel.

2. At the end of the 129th session, in July 2020, the Committee concluded that there had been a violation of the Covenant in 1,190 (83.1 per cent) of the 1,432 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.

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:[1]

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.

* Adopted by the Committee at its 130th session (12 October–6 November 2020).

[1] The full assessment criteria are available at http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/INT_CCPR_FGD_8108_E.pdf.

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 by 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.

B. Follow-up information received and processed up until September 2020

1. Chile

Communication No. 2627/2015, *Marchant Reyes et al.*

Views adopted:	7 November 2017
Violation:	Articles 2 (3) (a), 14 and 19
Remedy:	Effective remedy, including (a) locating the missing banners and, where possible, returning them or providing the authors with information on what happened to them; (b) making a public acknowledgement of the violation of the authors' rights, in accordance with the Committee's Views; (c) adopting any other appropriate measure of satisfaction; and (d) taking all steps necessary to prevent similar violations in the future.
Subject matter:	Seizure of artwork, by the Carabineros of Chile
Previous follow-up information:	None
Submission by the State party:	19 March 2018[2]

In accordance with the spirit of permanent collaboration that the State party maintains with the mechanisms for human rights promotion and protection, and by virtue of its

[2] The submission was acknowledged to the State party and transmitted to the authors for comments on 5 March 2020.

determination to advance in any area that is deemed necessary for full compliance with its obligations under the International Covenant on Civil and Political Rights and its Optional Protocol, the State party states its readiness to implement the Committee's Views.

On 27 November 2017, the Ministry of Foreign Affairs (Department of Human Rights) set up a working group to address the Committee's Views.

The measures to be taken to implement the Committee's Views were agreed upon at the meeting of the working group and were divided up according to the responsibilities and competencies of each institution represented at the meeting.

The measures adopted are as follows: (a) The State party accepts the decision of the Committee, publicly recognizing the violations of the victims' rights. The decision is published on the website of the Ministry of Foreign Affairs for a period of six months, starting on 1 March 2018; (b) four canvases have already been restored to the municipality of Santiago and reinstalled as works of art. This has been recognized by the authors, who state that the remaining canvases have been destroyed. Because the remaining canvases have been destroyed, their restitution is impossible and there is no information about their whereabouts; and (c) regarding non-recurrence in the future, the police force (Carabineros) of Chile issued an order with indefinite validity to guarantee human rights standards in the maintenance of public order, including the importance of the right to freedom of expression in the institutional educational process, particularly as far as capacity-building of law enforcement personnel is concerned. These instructions were disseminated through General Order No. 2287 of 14 August 2014, which, among other objectives, is aimed at preventing similar violations from occurring in the future. The police force will further strengthen its human rights training modules, which will feature debate about the importance of freedom of expression, specifically in the training received by police officers in charge of maintaining public order.

In accordance with article 5 of the Optional Protocol to Covenant as well as the Committee's rules of procedure, the State party requests the Committee, by virtue of the information provided, to hold that it has complied with the Views.

Submissions from the authors: 10 July 2019[3] and 4 May 2020[4]

In their submission dated 10 July 2019, the authors explained that the State party had not implemented the Views of the Committee, in spite of multiple hearing requests and reports to the universal periodic review and before the Committee on Enforced Disappearances.

With regard to the measures taken by the State party, the authors stressed the following points: (a) Regarding the canvases that have been destroyed, it is the responsibility of the State party to provide information about where and how the canvases were destroyed, as well as to investigate the events in order to find the perpetrators and hold them accountable; (b) since only 4 out of the 15 canvases were reinstated by the municipality of Santiago, the authors consider that the measure is insufficient, since it does not restore the integrity of the artwork; (c) regarding General Order No. 2287 of 14 August 2014, the authors request the State party to inform them of the content of the order, as well as of the content of the human rights training modules for law enforcement officers and carabineros; (d) contrary to the Committee's Views, no reparation was provided to the authors, in view of the fact that the only acceptable reparation for them would be the restitution of the work, that is, the mounting of a similar exhibition to the one destroyed, either through financing or organizing such an exhibition; and (e) the authors consider that the publication of the Committee's Views on the website of the Ministry of Foreign Affairs is not sufficient and cannot replace a public apology which was never given.

In their submission dated 4 May 2020, the authors reiterated the various elements set out in their submission of 10 July 2019. They added that, in its report of 19 March 2018, the

[3] The submission was acknowledged to the authors and transmitted to the State party for information on 5 March 2020.

[4] The submission was acknowledged to the authors and transmitted to the State party for information on 29 June 2020.

State party referred to the existence of a working group, to which the authors have never been invited. Therefore, they are not aware of its objectives, composition, duration or activities. In addition, the outcome of the working group was never published or transmitted to the authors. The authors regret the fact that the information provided to the Committee in that regard is incomplete, and that the State party has not explained why the working group is only composed of government entities, with no representatives from the judiciary. The authors are therefore of the view that the working group cannot be considered as part of an effective remedy.

The authors added that the State party's mere publication of the Views could not in itself be considered a public acknowledgement of the violation of their rights. The authors consider that the State party did not meet its obligations, as provided for in the Views, to publish the Views and disseminate them widely, and to make a public acknowledgement of the violation of their rights.

Regarding the restitution of the four canvases, the authors point out that this took place before the adoption of the Views. Therefore, the State party cannot claim it as a measure of reparation. In addition, the State party has not provided any information about what happened to the rest of the canvases.

On the basis of the above, the authors reiterate their request for the following measures of reparation: (a) the full restitution of the work entitled *Bridges of Memory*; (b) the reinstatement of the work by the Carabineros of Chile; and (c) public apologies by the Carabineros of Chile, acknowledging their error and committing to the defence and respect of human rights.

The authors also reiterate that there has been no measure adopted by the State aimed at the restitution of the work, nor have there been any concrete actions involving a public acknowledgment of responsibility, or any measures of satisfaction for the victims.

The authors also wish to notify the Committee that their freedom of expression is still under pressure, as a banner outside their office was ripped off by an extreme-right group which uploaded the video onto YouTube.[5]

Committee's assessment:

(a) Location and return of missing banners: B;

(b) Public acknowledgement: B;

(c) Appropriate measures of satisfaction: B;

(d) Non-repetition: B.

Committee's decision: Follow-up dialogue ongoing.

2. Côte d'Ivoire

Communication No. 1759/2008, *Traoré et al.*

Views adopted:	31 October 2011
Violation:	Articles 2 (3), 7, 9 and 10 (3) for the author and articles 2 (3), 6 (1), 7, 9 and 10 (1) for his cousins
Remedy:	Effective remedy, including (a) ensuring a thorough and diligent investigation into the torture and ill-treatment suffered by the author and his cousins and into the enforced disappearance of the author's cousins, as well as the prosecution and punishment of those responsible; (b) providing the author with detailed information on the results of its

[5] The authors provide a link to the video: https://youtu.be/QKFVdBTBrbU.

	investigation; (c) immediately releasing Chalio and Bakary Traoré if they are still being detained; (d) if Chalio and Bakary Traoré have died, returning their remains to their relatives; (e) providing the author and either Chalio and Bakary Traoré or their immediate families with reparation, including in the form of adequate compensation; and (f) taking all steps necessary to prevent similar violations in the future.
Subject matter:	The arbitrary arrest and detention, torture and holding in inhuman conditions of one person and the enforced disappearance of his cousins, who were accused of political dissent
Previous follow-up information:	CCPR/C/125/3
Submission by the State party:	None

Despite three reminders being sent to the State party,[6] including one requesting the State party to comment on the submission by the author's counsel of 29 March 2018, already included in the report examined by the Committee at its 125th session and summarized below, no submission by the State party has been received to date.

Submission from counsel: 29 March 2018[7]

In its submission, counsel pointed out that since the adoption of the Committee's Views, the author has not received any compensation for the torture he suffered. This was in spite of the counsel's attempts to contact the permanent mission of Côte d'Ivoire in Geneva. In addition, counsel also sent the author's file to the Commission nationale pour la réconciliation et l'indemnisation des victimes and to the Programme national de cohésion sociale, in order for him to be identified as a victim and receive reparation, to no avail.

Counsel reminded the Committee that the author was still physically and psychologically suffering from the torture inflicted more than 16 years ago; thus, compensation was essential for his reintegration and rehabilitation. Counsel therefore requested that the Committee follow up with Ivorian authorities on behalf of the author to ensure the implementation of the decision, as well as reparation for the author.

Committee's assessment:

(a) Investigation and punishment of those responsible: D;

(b) Providing the author with detailed information about the investigation: D;

(c) Release, or return of the remains, of the victims: D;

(d) Reparation and adequate compensation: D;

(e) Non-repetition: D.

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.

3. Mexico

Communication No. 2750/2016, *Padilla García et al.*

Views adopted:	15 July 2019
Violation:	Articles 6 (1), 7, 9 and 16 of the Covenant, and also article 2 (3) read in conjunction with articles 6, 7, 9 and 16 in respect of Christian Téllez

[6] The reminders were sent on 15 May 2014, 25 March 2019 and 5 May 2020. A full summary can be found in CCPR/C/125/3.

[8] The submission was acknowledged to the State party and transmitted to the authors for comments on 17 April 2020.

	Padilla, and article 7 of the Covenant, and article 2 (3) read in conjunction with article 7, in respect of the authors of the communication
Remedy:	Effective remedy, including (a) carrying out a thorough, rigorous, impartial, independent and effective investigation into the circumstances of Mr. Téllez Padilla's disappearance, ensuring that the officials in charge of the search for Mr. Téllez Padilla and the investigation of his disappearance have the professionalism and autonomy needed to carry out their tasks, without ruling out the involvement of the intermunicipal police, bearing in mind the eyewitness statement and taking into account the context identified in the present case of a link between State authorities and organized crime groups; (b) immediately releasing Mr. Téllez Padilla if he is still being held incommunicado; (c) if Mr. Téllez Padilla has died, handing over his remains to his family; (d) investigating and sanctioning any type of action that might have hindered the effectiveness of the search and tracking process; (e) providing the authors with detailed information on the outcome of the investigation; (f) prosecuting and punishing the persons found responsible for the violations committed, and making the results of those proceedings public; (g) ensuring that adequate psychological rehabilitation and medical treatment are available to the authors, as needed; (h) granting the authors, as well as Mr. Téllez Padilla if he is still alive, full reparation, including adequate compensation for the violations suffered; and (i) taking all steps necessary to prevent similar violations in the future.
Subject matter:	Enforced disappearance
Previous follow-up information:	None
Submission by the State party:	5 February 2020[8]

In its submission, the State party regrets that in spite of its efforts, it has not yet been possible to clarify the facts that prompted the communication. In line with its commitment to the defence and protection of human rights, the State party reiterates that it will continue to take the necessary steps to ensure that the investigations provide concrete results. The State party submits that even if it describes the actions taken by the competent authorities to implement the Committee's Views, that does not imply that it recognizes all the claims made by the Committee in its Views.

On 13 September 2019, the Ministry of the Interior held a first meeting with the representatives of the victims (Litigio Estratégico en Derechos Humanos (i(dh)eas)) and the Executive Committee for Assistance to Victims. As a result, an inter-institutional meeting was held on 7 October 2019, in which officials from the Ministry of Foreign Affairs, the Office of the Attorney General of the Republic, the Executive Committee for Assistance to Victims, the National Search Commission and the Veracruz State Attorney General's Office, and the representatives of the authors, as well as Mr. Téllez Padilla's mother, were present. At this second meeting, a working group was created, aimed at exchanging information

[8] The submission was acknowledged to the State party and transmitted to the authors for comments on 17 April 2020.

between the different public ministries in charge of the investigation and coordinated by the Office of the Attorney General of the Republic. The Ministry of the Interior held a third working meeting on 9 December 2019, with the same participants, which established a scheme to draw up an investigation plan. The Office of the Attorney General of the Republic then convened several working meetings with the aim of consolidating the investigation, search and tracking process. The investigation plan[9] includes a timetable that is aimed at identifying the whereabouts of Mr. Téllez Padilla. Other objectives include investigating the intermunicipal police officers identified by the eyewitness, a context analysis, field investigations, investigations into mass graves found in the State of Veracruz, and an analysis of Mr. Téllez Padilla's movements by means of his telephone.

With the aim of designing a strategy to provide medical and psychological care to the authors, the Executive Committee for Assistance to Victims convened a working meeting in which staff from the Mexican Social Security Institute and Mr. Téllez Padilla's mother and his representative took part. The Mexican Social Security Institute proposed a special medical care scheme, which consists of access to the optional insurance of the Institute, and covers pre-existing illnesses, with comprehensive care. The State party is currently awaiting the author's response as regards acceptance of this proposal. A second medical care scheme was identified, which necessitates a socioeconomic analysis of the situation of the authors. María Eugenia Padilla García was informed that because of the tumour that she had had removed, a medical appointment had been arranged for her at the National Cancer Institute.

The State party submits that it has prepared an executive summary of the Committee's Views, which is currently being reviewed by the authors' counsel before its publication. The State party also reiterates its commitment to comply with the Committee's Views and its firm commitment to human rights.

Submission from the authors: 17 August 2020[10]

The authors regret that, at the date of their submission, the Committee's Views have not been implemented. No exhaustive, rigorous, impartial, independent and effective investigation into the circumstances of Mr. Téllez Padilla's disappearance has yet been conducted.

The authors indicate that other meetings were held in addition to those mentioned by the State party, on 30 October 2019, 14 November 2019, 4 December 2019 and 24 January 2020. In those meetings, the State party's entities accepted commitments related to the investigation, several of which have not been fulfilled. During the meeting on 14 November 2019, the Veracruz Search Commission and the Veracruz State Attorney General's Office made specific commitments, which, among others, were: (a) to provide the National Search Commission with information on the investigations carried out at Rancho La Gallera, including identification of the remains of bones; (b) to determine other search locations; (c) to locate places where the police were present at the time of the disappearance; (d) to investigate and report on mass graves recently discovered in Veracruz; (e) to present a workplan regarding the remains located since 20 October 2010; and (f) to present a context analysis. On 24 January 2020, the Veracruz Search Commission committed once more to providing a context analysis. At the same meeting, the Veracruz State Attorney General's Office committed, among other things, to investigating the responsibility of public officials who allegedly acted negligently, omitted to carry out necessary actions, or concealed information, which hindered the investigation. At the author's request, the Veracruz State Attorney General's Office committed to advancing on the proceedings relating to Javier Amado Mercado Guerrero, who has been detained since 2011 and was the commander of the intermunicipal police at the date of the disappearance of Mr. Téllez Padilla and the alleged leader of the Los Zetas criminal group in the State of Veracruz.

On 20 April 2020, the authors and their representatives expressed their concern to the State party about the lack of progress in implementing the Committee's Views. No other meetings have been held since then. The authors regret that the main measure adopted so far

[9] The State party provides a copy of the investigation plan.

[10] The submission was acknowledged to the authors and transmitted to the State party for information on 11 September 2020.

by the State party is the investigation plan prepared by the Office of the Attorney General of the Republic, of which the authors and their representatives only became aware on 13 March 2020, at their request. On 20 May 2020, the authors, in a letter to the Office of the Attorney General of the Republic, expressed their concern that the investigation plan deviated from the Committee's Views, as it did not contemplate the participation of elements of the intermunicipal police, and rather focused on the hypothesis of the participation of individuals. Likewise, the authors have not been informed of any investigation into the responsibility of the public officials who acted negligently, omitted to carry out necessary actions, or concealed information, which hindered the investigation. Finally, no search and tracing plan for Mr. Téllez Padilla has been drawn up and implemented, and there is no information on his whereabouts or whether he is still alive.

Regarding psychological rehabilitation and medical treatment, the authors submit that, in spite of the meeting on 24 October 2019 with the Executive Committee for Assistance to Victims, two reminders, and multiple requests by the authors for additional meetings, no concrete measures have been taken so far. Due to the non-compliance of the Executive Committee for Assistance to Victims, the authors filed an appeal (*amparo*) against that Committee. As for the special medical care scheme referred to by the State party in its submission, the authors indicate that only María Eugenia Zaldívar Padilla has been included as a beneficiary, and that she only started receiving medical care in April 2020.

The authors also indicate that there has been no mention so far by the State party of any action regarding guarantees of non-repetition. Finally, with regard to the publication of the Committee's Views, the authors submit that the executive summary prepared by the State party does not accurately reflect the content of the Views. The authors request the full publication of the Committee's Views. In light of the above, the authors request the Committee to consider the State party's response as unsatisfactory.

Committee's assessment:

(a) Investigation into the circumstances of Mr. Téllez Padilla's disappearance: C;

(b) Release, or return of the remains, of the victim: C (the fate of the victim remains unknown);

(c) Investigation and sanctioning of any type of action that might have hindered the effectiveness of the searching and tracing process: C;

(d) Providing the authors with detailed information about the investigation: B;

(e) Prosecution and punishment of those responsible: C;

(f) Psychological rehabilitation and medical treatment for the authors: B;

(g) Reparation: C;

(h) Non-repetition: C.

Committee's decision: Follow-up dialogue ongoing.

4. Paraguay

Communication No. 2751/2016, *Portillo Cáceres et al.*

Views adopted:	25 July 2019
Violation:	Articles 2 (3), 6 and 17 of the Covenant
Remedy:	Effective remedy, including (a) undertaking an effective, thorough investigation into the events in question; (b) imposing criminal and administrative penalties on all the parties responsible for the events in the present case; (c) making full reparation, including adequate compensation, to the authors for the harm they have suffered; and (d) taking all steps necessary to prevent similar violations in the future.

Subject matter:	Crop fumigation with agrochemicals and its impact on people's lives
Previous follow-up information:	None
Submission by the State party:	6 April 2020[11]

The State party reports that after receiving the Views, it initiated a process in collaboration with the authors' counsel, the Paraguayan Human Rights Coordinating Committee, to agree on appropriate actions to implement the recommendations of the Human Rights Committee as contained in its Views.

On 18 February 2020, the Inter-Institutional Commission for Compliance with International Judgments held its first meeting at the Ministry of Foreign Affairs to work on the agenda for the current year, which included the Committee's Views as one of the priority issues. This meeting was aimed at determining and organizing the lines of action to be taken by the State party to make rapid progress in complying with the Committee's recommendations. Representatives of the Vice-Presidency of the Republic and the Ministry of Foreign Affairs were present, as well as representatives of the Office of the Attorney General of the Republic, the Supreme Court of Justice, the Ministry of Justice, the Ministry of the Interior, the Ministry of Public Health and Social Welfare, the Ministry of Environment and Sustainable Development and the National Service for Plant and Seed Quality.

On 3 March 2020, executive coordinators of the Inter-Institutional Commission for Compliance with International Judgments held a meeting with representatives of the Paraguayan Human Rights Coordinating Committee, at which representatives of the Honourable Chamber of Senators of the National Congress and the Ministry of Public Health and Social Welfare also took part. It was agreed that the Paraguayan Human Rights Coordinating Committee would submit as soon as possible, and for consideration by the Inter-Institutional Commission for Compliance with International Judgments and the competent institutions represented therein, an initial proposal on reparation measures for the victims, including actions to comply with the Committee's Views and to address the concerns of the inhabitants of Colonia Yerutí. At the time of writing of the present report, the Inter-Institutional Commission for Compliance with International Judgments is still awaiting the above-mentioned proposal.

An on-site visit by the Inter-Institutional Commission for Compliance with International Judgments to Colonia Yerutí was initially planned for 23 and 24 April 2020, but according to the information available at the time of writing, its feasibility depends on developments in the health situation in relation to the coronavirus disease (COVID-19) pandemic.

In compliance with its obligations under the Covenant, the State party reiterates its readiness to implement the Committee's Views.

Submission from the authors: 21 August 2020[12]

In their submission, the authors regret that the State party expects the authors to develop and propose a reparation plan, rather than initiating an internal reflection on the basis of which it would then identify reparation measures. A proposal emanating from the State party would be a sign that it was ready and committed to make amends for its action and to improve its protection of the human rights of the victims and of other populations in a similar situation.

The authors also regret that the State party's submission only contains a generic account of a meeting, and stress that, on 12 May 2020, the authors submitted to the State party a list of proposed remedies. The State party acknowledged receipt of that proposal but requested it to be sent to another address.

[11] The submission was acknowledged to the State party and transmitted to the authors for comments on 24 April 2020.

[12] The submission was acknowledged to the authors and transmitted to the State party for information on 11 September 2020.

On 23 June 2020, a meeting was held between the parties, during which the State party indicated that the review of the authors' proposal had not yet been completed. It was agreed that when the health situation in relation to COVID-19 improved, the State party would visit the settlement of Colonia Yerutí.

In July 2020, the authors requested the State party to respond to their proposal and to provide the timeline for implementation of the Committee's Views. The authors also reported to the State party that on 15 May 2020, the members of Colonia Yerutí filed a complaint with the Ministry of Environment and Sustainable Development, due to illegal logging of trees where the authors of the case live. In their complaint, the authors requested the intervention of the Inter-Institutional Commission for Compliance with International Judgments, as they were potentially facing violations of their fundamental rights that were directly related to the present case. On 15 July 2020, the State party indicated that the complaint had been brought to the attention of the Presidency of the Inter-Institutional Commission for Compliance with International Judgments. In its response, the State party did not make any reference to its position, which is still awaited, on the proposed agreement on reparation.

On 16 July 2020, the authors drew the attention of the State party to the lack of response to their proposal. No response has been received to date.

The authors urge the Committee to assist them in receiving a response from the State party and to ensure a speedy process for an agreement on reparations. The authors also wish the Committee to remind the State party of the importance of comprehensive reparation being provided to victims of human rights violations.

Committee's assessment:

(a) Effective and thorough investigation into the events: C;

(b) Imposition of criminal and administrative penalties on the parties responsible: C;

(c) Reparation, including adequate compensation: C;

(d) Non-repetition: C.

Committee's decision: Follow-up dialogue ongoing.

5. Uzbekistan

Communications Nos. 1914, 1915 and 1916/2009, *Musaev*

Views adopted:	21 March 2012
Violation:	Articles 7, 9 and 14 (3) (b) and (g) and (5)
Remedy:	Effective remedy, including (a) carrying out an impartial, effective and thorough investigation and initiating criminal proceedings against those responsible; (b) ensuring the victim's retrial in conformity with all guarantees enshrined in the Covenant, or his release; (c) providing Erkin Musaev with full reparation, including appropriate compensation; and (d) taking all steps necessary to prevent similar violations in the future.
Subject matter:	Failure to promptly bring a person detained on a criminal charge before a judge and to adequately address torture allegations; proceedings in violation of fair trial guarantees
Previous follow-up information:	A/68/40, CCPR/C/113/3, CCPR/C/115/3, CCPR/C/116/3, CCPR/C/117/3 and CCPR/C/118/3

Submissions by Mr. Musaev: 28 December 2017,[13] 12 September 2018 and 5 May 2019[14]

Mr. Musaev submits that the State party did not fully comply with the Committee's Views. He informs the Committee that, on 9 August 2017, the Judicial Panel of the Supreme Court reduced his sentence and that on 10 August 2017, he was released from prison. At the same time, Mr. Musaev states that his health dramatically deteriorated while in detention and that he is unable to support himself financially, because of his unquashed conviction and the Supreme Court's refusal to acquit and rehabilitate him.

Mr. Musaev recalls that, on 25 September 2017, he filed a complaint with the Supreme Court with a request to consider his allegations of torture, ill-treatment and other unlawful methods of investigation. On 16 October 2017, he submitted parallel complaints to the Supreme Court and the Office of the Prosecutor General with requests to consider his partial rehabilitation, including the payment of compensation for torture, ill-treatment, and other violations of his rights. He submits that his complaints were disregarded.

Mr. Musaev also submits that he sent numerous complaints pertaining to the restoration of his rights – including a retrial in conformity with the procedural guarantees put in place by the State party, to the Supreme Court and to the Military Court, as well as to the Office of the President of the Republic of Uzbekistan. He adds that not only did the Supreme Court disregard his complaints, but it also refused to provide him with the copies of the procedural documents that were necessary for him to prepare his request for a retrial. According to the explanation provided by the Military Court, Mr. Musaev was not entitled to receive the documents in question, because his case was classified. However, Mr. Musaev argues that the Military Court failed to give him any explanation as to the legal basis for refusing to give him the documents concerned. He also submits that the refusal of the Military Court to provide him with the requested procedural documents was contrary to the explanations received from the Constitutional Court and the Military Prosecutor's Office of Uzbekistan, according to which the right of a convict to obtain copies of judicial documents was well provided by law and did not require any further interpretation. Mr. Musaev concludes that the Military Court's actions amount to a violation of his right to defend himself at court.

In view of the above, Mr. Musaev maintains that the State party has not yet complied with its obligations to implement the Committee's Views and to provide him with an effective remedy as per the Committee's detailed guidance.

Submission by the State party: 4 June 2018[15]

The State party submits that Mr. Musaev's allegations about the refusal of the State party's courts to reconsider his criminal case, to examine his complaints about torture, to punish those responsible and to provide him with copies of court decisions, could not be confirmed after the examination of Mr. Musaev's case file materials.

The State party recalls the chronology of the court decisions that were adopted in relation to Mr. Musaev's cases prior to the adoption of the Views. It adds that, on 9 August 2017, Mr. Musaev's criminal cases were examined by the Judicial Panel of the Supreme Court under the supervisory review procedure, based on the motion submitted by the Deputy Chair of the Supreme Court. In light of the extenuating circumstances (namely, sincere remorse and acknowledgement of guilt, family situation, the dependent status of his parents and the positive reference from the administration of the detention facility where Mr. Musaev was serving his sentence), Mr. Musaev's punishment under the sentence handed down by the Military Court on 13 June 2006 (first trial) was reduced to 10 years and 6 months' imprisonment. On the same day, the Judicial Panel of the Supreme Court reduced his punishment under the sentence of the Military Court handed down on 21 September 2007

[13] The submission was acknowledged to Mr. Musaev and transmitted to the State party for observations on 2 March 2018.

[14] Both submissions were acknowledged to Mr. Musaev and transmitted to the State party for observations on 9 May 2019.

[15] The submission was acknowledged to the State party and transmitted to Mr. Musaev for comments on 9 May 2019.

(third trial) to 11 years' imprisonment. Pursuant to article 59 (8) of the Criminal Code, Mr. Musaev's combined punishment under the sentences of the Military Court handed down on 13 June 2006 (first trial) and of Tashkent City Court handed down on 13 July 2006 (second trial), respectively, was set at 11 years, 8 months and 8 days of imprisonment. Mr. Musaev was released from prison, because he had served his combined reduced punishment in full.

The State party submits that, pursuant to article 19 of the Criminal Procedure Code, Mr. Musaev's criminal cases were heard in closed court sessions, because the case materials contained classified information, such as State secrets. The State party refers in this regard to the requirements imposed on the military courts by articles 16 and 29 of the Constitution of Uzbekistan and the Law on the Protection of State Secrets. The State party notes, however, that pursuant to article 30 of the Constitution of Uzbekistan and article 6 of the Law on the Protection of State Secrets, Mr. Musaev has a right to familiarize himself, on the premises of the Military Court, with the court decisions that have been handed down in relation to him. Pursuant to article 376 of the Criminal Procedure Code, he can make excerpts from his case file materials, except for information containing State secrets. The State party recalls that Mr. Musaev familiarized himself with the indictment and the court sentence and that, on 12 October 2017, the Military Court provided him with an excerpt of the sentence that did not contain any classified information.

According to the information provided by the Ministry of Internal Affairs, Mr. Musaev underwent a full medical examination upon arrival in prison, as well as annual medical check-ups in detention. Mr. Musaev was diagnosed with chronic pyelonephritis, chronic bronchitis and chronic gastritis and he received outpatient and hospital treatment in the medical unit of the detention facility and in the specialized hospital for convicted persons. Mr. Musaev was not tested for viral hepatitis B, C or D and he did not request to be examined for liver-related pathologies.

The State party submits that Mr. Musaev was not subjected to unlawful actions by the prison administration, which acted in compliance with its official duties and the legal norms and generally accepted rules for the treatment of convicted persons.

Submission by Mr. Musaev: 9 May 2019[16]

Mr. Musaev submits that in its latest follow-up observations the State party failed to comment about his claims of being subjected to torture during the pretrial investigation. He recalls that he and other accused persons/suspects were subjected to physical and psychological abuse, which was corroborated by his lawyer's affidavit, the other suspects' cassation appeals, and the conclusions of a forensic medical examination of another accused person. He notes that he repeatedly complained about physical and psychological abuse but his complaints were disregarded by the first-instance court and the appeal court.

Mr. Musaev also reiterates his claims about the inappropriateness of the Military Court's refusal to provide him with copies of the decisions taken in relation to his criminal cases. He describes in great detail numerous procedural irregularities that took place during the hearing of his criminal cases by the first-instance court and the appeal court, which he is unable to challenge under the supervisory review procedure, unless he attaches to his request to initiate a supervisory review procedure certified copies of the earlier court decisions.

Mr. Musaev submits that the State party's latest follow-up observations contain some false and unreliable information. In particular, he maintains that he has never acknowledged guilt, since he did not commit the offences imputed to him, and that, therefore, his request for a supervisory review procedure to be initiated, which resulted in the decision of the Judicial Panel of the Supreme Court of 9 August 2017, did not contain any indication of remorse or acknowledgement of guilt.

Mr. Musaev challenges the State party's arguments concerning the refusal to provide him with copies of procedural documents. He submits that, pursuant to article 19 (4) of the Criminal Procedure Code, all hearings in closed court sessions should be held in full

[16] The submission was acknowledged to Mr. Musaev and transmitted to the State party for observations on 15 May 2019.

compliance with procedural rules. He believes that this requirement implies, inter alia, the court's obligation to provide him with copies of the key judicial decisions.

Mr. Musaev also submits that contrary to the State party's assertion, he was not given the opportunity to familiarize himself with the court decisions taken in relation to his criminal cases, and neither did he certify that he had familiarized himself with the documents concerned. Instead, Mr. Musaev recalls that he has filed numerous requests for copies of the procedural documents, which were dismissed by the domestic courts, thus amounting to a violation of his right to defence.

As to the State party's assertion that Mr. Musaev received a positive reference from the administration of the detention facility where he was serving his sentence, Mr. Musaev recalls that he was subjected to more than 15 disciplinary punishments during the time of his imprisonment and that he was last punished in May 2017, that is, just three months before his release from prison.

Submission by the State party: 12 August 2019[17]

With regard to investigating Mr. Musaev's allegations of torture and to the initiation of criminal proceedings against those responsible, the State party submits that, on 1 March 2006, Mr. Musaev submitted a guilty plea and showed genuine remorse and repentance at the pretrial investigation stage. On 28 April 2016, Mr. Musaev confirmed his self-incriminating testimony, during his interrogation as an accused person, in the presence of his lawyer. Therefore, there was no evidence to suggest that Mr. Musaev had been forced to give the aforementioned self-incriminating testimony, and neither did he or his lawyers submit any complaints or procedural motions at the pretrial stage or during the court proceedings about the testimony being of an involuntary nature.

The State party's authorities have examined Mr. Musaev's claim that he was subjected to physical pressure on 7 March 2007 during the interrogation. They established that, as an act of provocation, Mr. Musaev started to bang his head against the wall and caused a self-inflicted injury to his head, in the presence of the investigator and other law enforcement officers. His actions were immediately documented by personnel of the detention facility and by first aid personnel who were called to the scene. Assistance was then provided to Mr. Musaev in the inpatient medical facility. Mr. Musaev's provocative actions were witnessed by numerous officers of the investigation department. Neither Mr. Musaev nor his lawyer made any complaints about unlawful methods of investigation, torture, or physical or psychological pressure. These claims were not supported by facts and were based on the provocative actions of Mr. Musaev himself.

Mr. Musaev's right to defence was ensured from the moment of his arrest, and at the pretrial investigation stage he was represented by lawyers U.A., G.A. and F.K., who could meet with him without any restrictions. Despite Mr. Musaev's allegations that he was interrogated in the absence of his lawyer on 31 January 2006, the case file materials prove that, in fact, he was always interrogated in the presence of his lawyers, as confirmed by their respective signatures on all the reports on investigative actions. Furthermore, neither Mr. Musaev nor his lawyers have ever complained about their inability to meet with each other.

Mr. Musaev was given the opportunity to familiarize himself with all materials in his case file and he did so in the presence of his lawyers, G.A. and F.K., as confirmed in the respective reports. On 22 June 2006, Mr. Musaev was provided with a copy of the decision of the Military Court of 13 June 2006, as confirmed by his acknowledgment of receipt. Mr. Musaev also had the necessary conditions for the preparation of his appeal and was able to meet with his lawyer, U.A., for that purpose. Mr. Musaev's lawyer, F.K., was acquainted with the trial transcript from the hearing concerning the decision of the Military Court of 21 September 2007 and he subsequently assisted Mr. Musaev in preparing an appeal against that decision.

The State party submits that, on an unspecified date, Mr. Musaev refused to familiarize himself with the decision of the Military Court of 21 September 2007, as attested

[17] The submission was acknowledged to the State party and transmitted to Mr. Musaev for comments on 28 January 2020.

to in the report drawn up by personnel of the Military Court and signed by eyewitnesses. Mr. Musaev's subsequent requests to be provided with a copy of that decision were made after his release from prison in September 2017 and were unrelated to his right to appeal against that decision. Since the decision of 21 September 2007 contained classified information protected under article 89 of the Criminal Procedure Code, Mr. Musaev was provided with an excerpt from that decision on 12 October 2017. Mr. Musaev and his lawyer were provided with the necessary conditions to familiarize themselves with the criminal case and court decisions and to submit an appeal against them.

As to the Committee's conclusion that Mr. Musaev's rights under article 9 (3) of the Covenant have been violated, the State party submits that the procedure for his placement in custody was in compliance with the domestic law in force at that time.

In light of the above considerations, the State party submits that there are no grounds to comply with the Committee's Views with regard to the initiation of criminal proceedings against those responsible for having allegedly subjected Mr. Musaev to torture and ill-treatment.

The State party recalls that, on 9 August 2017, Mr. Musaev's criminal cases were examined by the Judicial Panel of the Supreme Court under the supervisory review procedure, which reduced his combined punishment to 11 years, 8 month and 8 days of imprisonment, and that Mr. Musaev was released from prison after having served his combined reduced punishment in full. Mr. Musaev was also informed about his right to request the Chair or the Deputy Chair of the Supreme Court to initiate a supervisory review of the earlier decisions, pursuant to article 515 (2) of the Code of Criminal Procedure.

The State party recalls that Mr. Musaev was released from prison pursuant to the decision of the Judicial Panel of the Supreme Court of 9 August 2017, because he had served his combined reduced punishment in full. Since he has not been rehabilitated pursuant to article 301 of the Code of Criminal Procedure, there are no grounds for justifying the payment of compensation to Mr. Musaev on the basis of the procedure established in article 304 of the same Code.

As regards measures taken by the State party to prevent similar violations in the future, the State party submits that it is implementing a systematic policy of compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Specifically, by means of legislation adopted on 4 April 2018, the definition of torture in article 235 of the Criminal Code was brought into compliance with article 1 of the said Convention. On 30 November 2017, the President of Uzbekistan adopted a decree aimed, inter alia, at combating torture and unlawful methods of conducting investigations. Pursuant to article 8 of the Internal Affairs Act, internal affairs officers are prohibited from using torture, coercion and other cruel or inhuman treatment. The State party submits that 1,881 criminal cases were closed in 2018 because of insufficient evidence and 867 persons were acquitted; 263 persons were acquitted in 2017 and only 28 persons in 2016; 3,290 persons were released from custody directly from the courtroom.

With the aim of preventing the use of force, torture and unlawful behaviour against persons deprived of liberty, 1,920 video surveillance cameras have been installed in prisons and 880 in remand centres. Uzbekistan has established a national preventive mechanism to combat torture, based on the "Ombudsman plus" model, and has strengthened the role of the Ombudsman, the National Human Rights Centre, the Business Ombudsman and non-governmental organizations working on the prevention of torture and other ill-treatment. A new version of the Penal Enforcement Code is also being developed at present.

Submission by Mr. Musaev: 29 January 2020[18]

Mr. Musaev acknowledges receipt of the State party's follow-up observations of 12 August 2019 and expresses his strong disagreement with the arguments and explanations put forward by the State party.

[18] The submission was acknowledged to the author and transmitted to the State party for information on 25 February 2020.

In particular, with regard to the obligation to investigate his complaints about having been subjected to physical and psychological abuse, Mr. Musaev submits that no independent and impartial inquiry was ever carried out by the State party's authorities. He adds that the investigation was carried out either by the same department as the one where he was subjected to torture or by a subdepartment directly subordinate to the department in question. Furthermore, in the framework of that investigation he was never given the opportunity to provide his testimony.

As to the State party's argument that he pleaded guilty voluntarily, Mr. Musaev submits that he filed two complaints with the Head of the National Security Service about being coerced to submit a guilty plea. These complaints addressed the issue of coercion to sign a confession, and can be requested from the State party and examined by the Committee. Mr. Musaev also states that, following his refusal to sign a confession, officers of the detention unit subjected him to physical abuse and threatened to arrest his family members, thus forcing him to confess guilt.

Mr. Musaev challenges the State party's argument that there was no evidence to corroborate his claims. He explains that he was misled by officers of the National Security Service, who promised him a more lenient punishment if he remained silent about physical and psychological abuse when his criminal cases were examined by the first-instance court. He adds that he did complain about being subjected to abuse, including torture, inhuman treatment and unlawful methods of investigation, in the second-instance court. Furthermore, Mr. Musaev and his parents lodged more than 100 complaints on this specific issue with the Office of the Prosecutor General, as well the Supreme Court, which refutes the State party's assertion that Mr. Musaev and his counsel did not file any complaints or motions about Mr. Musaev being coerced into making a confession.

As for the physical abuse resulting in Mr. Musaev's traumatic brain injury, which, according to the State party, was inflicted by Mr. Musaev himself, he explains that on 7 March 2007 he was in fact attacked by officers of the National Security Service after repeatedly being threatened by them with the use of force. Mr. Musaev submits that the internal investigation, which was carried out after he had lodged a complaint with the head of the detention unit, was limited to mere questioning of officers of the National Security Service. He points to the results of a forensic examination of another victim of torture, Mr. B., which was conducted with the support of the Embassy of the United States of America to the Republic of Uzbekistan, and was backed up personally by the Ambassador of the United States of America. That examination confirmed that Mr. B. had indeed been subjected to physical abuse by officers of the National Security Service. Mr. Musaev states that such physical abuse by officers of the National Security Service happened on a systematic basis. Mr. Musaev explains that, unlike Mr. B., he did not have support from any international organization or foreign embassy, and therefore he could not have his injuries examined and attested to. He submits, therefore, that the State party's assertion that his brain injury was self-inflicted is untrue.

Mr. Musaev further submits that, contrary to what was claimed by the State party, he was denied the right to defend himself before the courts and to communicate with counsel of his own choosing. In particular, he was unable to receive legal assistance during the preliminary investigation stage, as it lasted for less than three days (from 12 April to 14 April 2006), and his counsel was only permitted to act on his behalf as of 14 April 2006. Mr. Musaev also states that, over a significant period of time in 2007, he was prevented from having contacts with his counsel, despite their numerous complaints and motions.

Mr. Musaev submits that he was given only 5 minutes to familiarize himself with his indictment and that he was not given the possibility of submitting an appellate complaint. Under the Code of Criminal Procedure, a person can only submit an appellate complaint within 10 days of receiving a sentence. Mr. Musaev filed several motions with the Military Court as well as the Supreme Court requesting restoration of procedural deadlines but these motions were dismissed. He submits that only his counsel was allowed to familiarize himself with the sentence of the Military Court of 21 September 2007. Mr. Musaev himself was given only 10 minutes to look at it and was not allowed to take any notes. His complaints about this issue submitted to the Office of the Prosecutor General and the Supreme Court went unanswered.

Mr. Musaev also submits that the supervisory review proceedings resulting in his release from prison were initiated exclusively because of the meeting between the United Nations High Commissioner for Human Rights and the President of Uzbekistan, as a gesture of political goodwill from the latter.

Mr. Musaev further submits that, under the new procedure, it is obligatory for a court examining a request to initiate a supervisory review in order to provide a motivated response to all the arguments presented in the request. This requirement, however, is not being complied with in his case. According to the explanation received from the Supreme Court in its letter of 23 January 2019, a request to initiate a supervisory review must include copies of all previous court decisions; otherwise, such a request will be returned without being considered. Since all the materials relating to Mr. Musaev's criminal case are classified, he will not have his request to initiate a supervisory review considered by the Supreme Court unless his case file materials are declassified. He therefore requests the State party to consider declassifying his case file materials, since more than 14 years have passed since his sentence was handed down.

Mr. Musaev also reiterates his rehabilitation needs, asking the Committee to assist him in this matter.

Committee's assessment:

(a) Investigation: E;

(b) Retrial or release: C;

(c) Reparation, including appropriate compensation: E;

(d) Non-repetition: B.

Committee's decision: Follow-up dialogue ongoing.

6. Uzbekistan

Communication No. 2555/2015, *Allaberdiev*

Views adopted:	21 March 2017
Violation:	Articles 7, 9 (1), and 14 (3) (b), (e) and (g)
Remedy:	Effective remedy, including by (a) quashing Sirozhiddin Allaberdiev's conviction and its attendant consequences, including terminating without delay his incarceration on that basis, and, if necessary, conducting a new trial, in accordance with the principles of fair hearings, presumption of innocence and other procedural safeguards; (b) conducting a full and effective investigation into Mr. Allaberdiev's allegations of torture, prosecuting the perpetrators and punishing them with appropriate sanctions, and providing adequate compensation and appropriate measures of satisfaction; and (c) taking all steps necessary to prevent similar violations in the future.
Subject matter:	Torture; arbitrary detention
Previous follow-up information:	None
Submission by the State party:	3 October 2017[19]

The State party recalls the factual circumstances of the author's arrest and detention, and submits that the Committee failed to ensure comprehensive and objective verification of

[19] The submission was acknowledged to the State party and transmitted to counsel for comments on 27 February 2020.

the information given by counsel and the author's relatives, and did not have any reliable evidence of the violations of the author's rights.

With regard to paragraph 7.4 of the Views, the State party recalls that the Committee took note of the author's assertion that he had exhausted all effective domestic remedies available to him, and therefore considered that the requirements of article 5 (2) (b) of the Optional Protocol had been met. While the State party does not challenge this assessment, it underlines that the author was found guilty by a competent, independent and impartial tribunal established by law. The State party points out that, in the course of the cassation and supervisory review proceedings, initiated following the counsel's complaints, the respective courts did not establish any grounds that would warrant modification or annulment of the author's sentence.

As to paragraphs 8.2 and 8.3 of the Views, the State party submits that, while being detained in the temporary detention facility, the author did not complain to the investigator or to the court of being tortured, and nor did either counsel claim torture and ill-treatment of the defendant. The State party explains that during the investigative activities carried out between 8 August 2012 and 6 January 2013, neither the author nor his counsel complained about any bodily injuries, torture, or any other violations, while in fact the bodily injures indicated in the Views (the broken ribs and so on) would have required medical intervention and would have therefore excluded any investigative activities. The State party concludes that neither the author's counsel nor any other persons presented any documents or facts corroborating the allegations of torture, and notes that the preliminary investigation authorities lacked any information that would have required the conducting of a medical examination and the subsequent investigation of those allegations.

As regards paragraph 8.4, the State party recalls that the Committee granted the author's claim of unlawful deprivation of liberty from 3 to 8 August 2012, and observes that he was arrested only on 8 August 2012. The State party argues that the criminal case file and other materials do not contain any information about the author's detention from 3 to 8 August 2012. The State party concludes that the Committee's conclusion is based exclusively on the testimonies of the author's relatives, who are interested in a positive outcome to the author's proceedings, and is refuted in its entirety by the preliminary investigation and other materials.

As regards paragraph 8.5, the State party submits that while pretrial detention as a preventive measure can be generally imposed on persons suspected of having committed crimes punishable by no less than three years' imprisonment, the Criminal Procedure Code provides for a number of exceptions to the general rule, inter alia whenever the accused person or defendant has fled from the investigation and justice. In the author's case, the maximum penalty laid down by the corresponding article of the Criminal Code did not exceed three years of imprisonment; however, as is well documented by the witnesses' testimonies, the author fled the crime scene and was evading investigation until his arrest, and also attempted to influence the witness to make a false statement. The State party argues that in view of the circumstances, as well as the nature of the author's charges, the imposition of pretrial detention as a preventive measure was in compliance with the Criminal Procedure Code, as confirmed by Tashkent Regional Court in its decision of 15 August 2012.

With regard to paragraph 8.6, the State party refutes in great detail the counsel's allegations concerning the author's access to legal services. In particular, the State party notes that neither the author nor his counsel submitted any complaints at the domestic level about the circumstances in which their meetings have been conducted. The author also did not raise any objections to being represented by another lawyer.

The State party further submits that, in line with the amnesty acts of 2012, 2013 and 2014, the author's imprisonment was replaced with correctional labour, resulting in the author's release from prison. Under the 12 October 2016 amnesty act, the author's penalty was also reduced by one quarter, and, on 20 January 2017, the author was exempted from serving the rest of his sentence.

Submission from counsel: 28 April 2020[20]

Counsel continues to challenge the legality of the proceedings against the author by addressing the State party's assertions with regard to certain paragraphs of the Committee's Views.

As regards paragraph 7.4, counsel submits that the pretrial investigation in the author's case was carried out improperly. In particular, there was no testimony verification at the crime scene and no confrontation of the witnesses. Counsel adds that the appellate proceedings lasted for only 40 minutes; the appellate court rejected his motions and immediately proceeded to the deliberations. Following the proposal by the prosecution to "leave the sentence unchanged", the appellate court upheld the first-instance decision in only 10 minutes.

With regard to paragraphs 8.2 and 8.3, counsel argues that, starting from 4 August 2012, he and the author's relatives repeatedly submitted complaints about ill-treatment of the author, but all of them remained unanswered. The author's counsel submits that the traces left by beatings and torture on the author's body are easily detectable by a medical practitioner, and that the author suffers from a twitch resulting from multiple blows to his head. The author is ready to undergo a medical examination to verify his claims, and he could provide a list of cellmates who could corroborate his allegations.

As to paragraph 8.4, counsel argues that the case file materials show that the author was indeed arrested on 3 August 2012, contrary to the State party's allegations. He adds that a number of witnesses could testify that five individuals, including the author, were held in detention from 3 to 8 August without any legal grounds.

With regard to the State party's explanations concerning paragraph 8.5, counsel refers to the general practice of investigative authorities, which never involves imposition of pretrial detention as a preventive measure in cases similar to the author's, as well as to the author's positive personality. Counsel argues, therefore, that the author's pretrial detention was imposed in violation of the State party's Criminal Procedure Code, and that the investigation was unduly delayed, resulting in the author's detention for 11 months.

As to paragraph 8.6, counsel recalls the circumstances of the author's detention, and submits that he became aware of the arrest on 3 August 2012, that is, several days before the arrest and detention were formalized. Prior to 8 August 2012, counsel had unsuccessfully tried to contact the competent authorities to clarify the author's situation. In particular, the National Security Service responded that it had no information concerning the detainees' whereabouts. On 8 August 2012, counsel was allowed to meet with the author in private, which in fact was the only occasion on which counsel was able to communicate with the author confidentially until the author's transfer to the Ministry of Internal Affairs detention facility once the investigation had been terminated.

As regards paragraphs 8.7, 8.8 and 8.9, counsel submits that none of the officers who participated in the "provocation" against the author was interrogated with a view to clarifying the contradictions in the circumstances of the case. Furthermore, the investigator did not request a forensic medical examination of the author and the other detainees, although it should have been obvious to him that they had been beaten and tortured. Counsel adds that neither the first-instance court nor the higher courts summoned any of the officers who had participated in the author's arrest, and they completely disregarded repeated complaints about the torture and ill-treatment of the author.

Committee's assessment:

(a) Quashing of the conviction, release or retrial: B;

(b) Conducting an investigation, prosecuting those responsible and providing compensation and measures of satisfaction: E;

[20] The submission was acknowledged to counsel and transmitted to the State party for information on 1 May 2020.

(c) Non-repetition: C.

Committee's decision: Follow-up dialogue ongoing.