



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### Follow-up progress report on individual communications\*

#### A. Introduction

1. At its thirty-ninth session (9–27 July 1990), the Human Rights Committee established a procedure and designated a special rapporteur to monitor follow-up on its Views adopted under article 5 (4) of the Optional Protocol to the Covenant. The Special Rapporteur for follow-up on Views prepared the present report in accordance with rule 106 (3) of the Committee's rules of procedure. In the light of the high number of Views on which follow-up is required and the limited resources that the secretariat can devote to follow-up on Views, it has not been possible to ensure systematic, timely and comprehensive follow-up on all cases, particularly given the applicable word limitations of the present report. The present report is based on the information available on the cases presented below, reflecting at least one round of exchanges with the State party and the author(s) and/or counsel.
2. At the end of the 138th session, in July 2023, the Committee concluded that there had been a violation of the Covenant in 1,419 (85 per cent) of the 1,669 Views that it had adopted since 1979.
3. At its 109th session (14 October–1 November 2013), the Committee decided to include in its reports on follow-up to Views an assessment of the replies received from and action taken by States parties. The assessment is based on criteria similar to those applied by the Committee in the procedure for follow-up to its concluding observations on State party reports.
4. At its 118th session (17 October–4 November 2016), the Committee decided to revise its assessment criteria.

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

##### Assessment of replies:

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

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\* Adopted by the Committee at its 139th session (9 October–3 November 2023).



**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.

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

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

**1. Colombia**

**Communication No. 2134/2012, *Serna et al.***

**Views adopted:** 9 July 2015

**Violation:** Articles 6, 7, 9 and 16 and article 2 (3), read in conjunction with articles 6, 7, 9 and 16, in respect of Mr. Anzola and Mr. Molina, and article 7 and

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

<sup>2</sup> CCPR/C/SR.4074.

article 2 (3), read in conjunction with article 7, in respect of the authors

**Remedy:** Effective remedy, including: (a) performing an independent, thorough and effective investigation of the disappearance of Mr. Anzola and Mr. Molina and prosecuting and punishing those responsible; (b) releasing Mr. Anzola and Mr. Molina, should they still be alive; (c) if they are dead, handing over their remains to their family; (d) providing effective reparation, including adequate compensation, medical and psychological rehabilitation and appropriate measures of satisfaction for the authors for the violations suffered; and (e) preventing similar violations from occurring in the future and ensuring that any enforced disappearances give rise to a prompt, impartial and effective investigation.

**Subject matter:** Enforced disappearance by paramilitary groups

**Previous follow-up information:** None

**Submission from the State party:** 14 March 2016<sup>3</sup>

The State party has worked for several years to strengthen the domestic institutional framework and mechanisms for locating and assisting victims of enforced disappearances and their families. To that end, the parliament of Colombia has established a framework aimed at recognizing, honouring and locating victims of enforced disappearances and assisting their families.

Part of the framework is Act No. 1408 of 2010, which includes assistance for families during the process of handing over the remains of their disappeared relatives. It provides for the establishment of the Disappeared Persons Genetic Profile Bank, supervised by the Office of the Attorney General, based on biological samples recovered from the remains of disappeared persons and their closest biological relatives. It also stipulates that the families of identified victims receive government assistance to cover funeral expenses and travel, accommodation and food costs during the entire process of the handing over of the remains. Pursuant to the Act, the Ministry of Social Protection is responsible for ensuring that the family members of identified victims also receive public or private psychosocial care during that process.

In order to facilitate the location of victims of enforced disappearance, the Office of the Attorney General, with the support of departmental authorities, the Public Legal Service and the Agustín Codazzi Geographical Institute, must draw up maps following the methods and resources specified in the National Search Plan, indicating the presumed whereabouts of the bodies or remains of the disappeared persons. The police, based on the information provided by the Office of the Attorney General, are obliged to protect the mapped areas.

In addition, the Act provides for the building of shrines of remembrance in places where the bodies of disappeared persons are presumed to lay, in honour of the victims. As part of the Week of the Detained – Disappeared, during the last week of May, the historical memory of the disappeared victims of the Colombian conflict will be commemorated.

The State party also notes the approval of other domestic regulations, such as Act No. 971 of 2005, on the establishment of the Urgent Search Mechanism for the prevention of the crime of enforced disappearance, Act No. 1448 of 2011, which sets forth measures to provide comprehensive care, assistance and reparation for victims of the internal armed conflict; and the National Search Plan (2000), the main objective of which is to find disappeared persons alive or deliver their remains to their families.

<sup>3</sup> The submission was acknowledged to the State party and transmitted to the authors' counsel for comments on 3 August 2016.

Pursuant to Act No. 589 of 2000, the Disappeared Persons Investigative Commission was created as a national standing body to support and promote the investigation of enforced disappearances. That same law also provided for the criminalization of enforced disappearance, now enshrined in article 165 of Act No. 599 of 2000 (Criminal Code), amended by article 14 of Act No. 890 of 2004. The Commission is regulated pursuant to Decree No. 929 of 2007, which stipulates that one of its primary objectives is to support the development, evaluation and implementation of plans to locate disappeared persons. This strong institutional structure also includes the joint action, for more than a decade, of the National Unit for Justice and Peace of the Attorney General's Office and the Virtual Identification Centre to investigate and ascertain the fate and whereabouts of disappeared persons.

The State party also refers to the agreement reached between the national Government and the Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo (FARC-EP) (Revolutionary Armed Forces of Colombia – People's Army) on 17 October 2015, in Havana, on establishing measures and mechanisms for the search, location and restitution of individuals who disappeared due to the conflict.

Given this institutional framework, the Office of the Attorney General and the Disappeared Persons Investigative Commission maintain that there is insufficient substantive evidence to suggest that Mr. Anzola and Mr. Molina were involved in enforced disappearances.

The State party reiterates that it is continuing to search for Mr. Anzola and Mr. Molina and to conduct the investigation, under the guidance of the 74th Sectional Prosecutor's Office of Medellín, in collaboration with the Institute of Forensic Medicine and the Disappeared Persons Investigative Commission.

**Submissions from the authors' counsel:** 22 August 2016<sup>4</sup> and 8 November 2021<sup>5</sup>

In the submission of 22 August 2016, counsel refutes that the State party is implementing the remedies prescribed in the Committee's Views. Counsel submits that the State party does not provide any information regarding the specific measures adopted and implemented by the 74th Sectional Prosecutor's Office of Medellín to investigate the enforced disappearance of Mr. Anzola and Mr. Molina. With regard to reparations, counsel alleges that there has been complete silence regarding the specific measures of "effective reparation" for the authors. Thus, the State party has not implemented any specific measures to comply with the Committee's Views.

In relation to the measures agreed in Havana on 17 October 2015, counsel notes that the agreement provided for the creation of a special Unit for the Search for Persons deemed Missing in the context of and due to the armed conflict, owing to the inadequate results obtained by the Disappeared Persons Investigative Commission. Moreover, the validity of the agreement is subject to the signing of a final agreement, which is yet to be scheduled. Counsel concludes that, despite the legislative and institutional measures taken, as well as the recommendations made by the Committee, the State party continues to refuse to give the required priority to the prevention and investigation of enforced disappearance, which remains a persistent practice in the country.

In the submission of 8 November 2021, counsel stresses that the State party has not paid the compensation that was due in accordance with the Committee's Views and Act No. 288 of 1996. On 23 August 2016, counsel submitted a petition requesting the Ministry of Foreign Affairs to provide more information about the failure to pay compensation. On 1 September 2016, the Ministry responded that the payments provided for in the Committee's Views would not be made. On 12 June 2017, in the light of that response, counsel filed a petition for compliance against the Ministry of Foreign Affairs, the Ministry of the Interior,

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<sup>4</sup> The submission was acknowledged to the authors' counsel and transmitted to the State party for comments on 25 March 2022.

<sup>5</sup> The submission was acknowledged to the authors' counsel and transmitted to the State party for comments on 11 November 2021.

the Ministry of Defence and the Ministry of Justice and Law, requesting that they comply with the regulations.

On 10 July 2017, the petition was admitted by the Administrative Court of Cundinamarca as an application for legal protection – a constitutional protection mechanism provided for in article 86 of the 1991 Constitution. In that application, the request for information on compliance with the Committee’s Views was reiterated. On 10 August 2017, counsel filed another petition for of compliance against the same Ministries, requesting that they comply with the measures recommended by the Committee. On 24 August 2017, that petition was rejected by the administrative court on the ground that there was no evidence of non-compliance with the obligation or of reluctance on the part of the Ministry of the Interior to comply, since no explicit request for compliance with articles 1 and 2 of Act No. 288 of 1996 had ever been made.

On 6 April 2018, after the meeting of the Committee of Ministers and several requests for information from counsel, the Ministry of Foreign Affairs announced resolution No. 2646 of 2 April 2018, through which the Committee of Ministers adopted the final decision on the case. In the resolution, the Committee of Ministers abstained from giving an opinion on the Committee’s Views, since no consensus or majority decision could be reached. On 23 July 2018, counsel filed a petition of nullity before the Council of State of Colombia with the purpose of obtaining a declaration that resolution No. 2646 of 2 April 2018 was invalid.

On 29 January 2019, the lawsuit was permitted and there was a response from the Ministry of Justice and Law, the Ministry of Defense, the Ministry of Foreign Affairs and the Ministry of the Interior. The Council of State has delayed the continuation of the process, and the date for the initial hearing has been rescheduled five times.

On 22 June 2021, orders were issued declaring the lack of competence of the Council of State and ordering competence to be transferred to the Administrative Court of Antioquia. On 28 June 2021, counsel filed a request for review or, in the alternative, reconsideration, arguing that the Council of State is competent to hear the case since the amount of the compensation for the victims has not been defined in the process.

Between 9 July 2015, when the Committee’s Views were adopted, and the date of the submission, 8 November 2021, the State party has proved unable to effectively fulfil its international obligations regarding access to justice and judicial guarantees for the victims, who have also not received effective reparation for the violations of the rights of Mr. Anzola and Mr. Molina.

**Submission from the State party: 25 May 2022<sup>6</sup>**

The State party emphasizes that, due to lack of evidence, it is prevented from declaring the existence of an enforced disappearance in the present case. While the State party acknowledges the Committee’s Views, it contends that there is no concrete basis on which to declare with certainty that Mr. Molina and Mr. Anzola were forcibly disappeared.

Despite being unable to make that declaration, the State party draws the Committee’s attention to the tools and mechanisms it has developed to strengthen the search for missing persons. The State party highlights its peace agreement with FARC-EP, which bolstered the processes for the search, location, identification and return of missing persons.

The State party also emphasizes that it has made significant efforts to investigate the disappearance of Mr. Molina and Mr. Anzola. It has carried out more than 35 separate investigative activities, including taking statements from victims’ relatives and witnesses, seeking to identify the perpetrators, making requests for the location of the victims, assessing the possible removal of the victims’ bodies and investigating links with other known cases.

The State party has notified the Unit for the Search for Persons deemed Missing. The Unit has included the cases of Mr. Molina and Mr. Anzola in its search plan for the

<sup>6</sup> The submission was acknowledged to the State party and transmitted to the authors’ counsel for comments on 11 August 2022.

Magdalena Medio region, which covers the search area where the victims are thought to have been disappeared.

The State party acknowledges the authors' requests for progress updates and notes that the Unit for the Search for Persons deemed Missing provided the authors with an update on 13 April 2022. It offered to hold a round-table meeting with the authors to discuss mechanisms for dialogue, search actions and available information with them.

The State party points to its adoption of Act No. 288 of 1996, which provides for a mechanism for compensation for human rights violations as determined by international bodies. However, under that law, the State party may provide compensation only when "the factual and legal requirements ... are met". The State party refers to a meeting held on 31 October 2017 in which its Committee of Ministers decided that those requirements had not been met in the present case, given the lack of definitive elements indicating an enforced disappearance, and that compensation could therefore not be provided. The State party notes that the authors have filed an action to appeal that decision and that the relevant proceedings are ongoing.

As for non-repetition, the State party points to its legislative and executive action aimed at preventing and adjudicating enforced disappearances in the future. For example, the Unit for the Search for Persons deemed Missing has been given constitutional authority to direct, coordinate and implement action aimed at locating missing persons. The State party refers to its report on follow-up to the concluding observations on its second periodic report, provided to the Committee on Enforced Disappearances on 7 May 2022 for additional details on that action.<sup>7</sup> The State party also provided a list of actions taken to date in its communication to the Committee dated 14 March 2016.

**Submission from the authors' counsel:** 11 October 2022<sup>8</sup>

Counsel states that the purpose of enforced disappearances is to eliminate victims without a trace of evidence and to sow fear and anxiety in the population. Counsel contends that the actions carried out by the State party to date are insufficient, given the magnitude of the human rights violations.

Counsel notes the positive contributions of the Unit for the Search for Persons deemed Missing to many victims throughout the State party, but expresses frustration about the lack of progress made regarding the disappearance of Mr. Molina and Mr. Anzola. Counsel claims that to date, no proceedings have been initiated against the alleged perpetrators, participants or accomplices, no preliminary investigations have been launched, no information has been obtained on the possible participation of paramilitary groups in the disappearances and no new investigative actions have been ordered to clarify the circumstances of the case.

Counsel highlights the existence of many international and domestic instruments concerning enforced disappearance to further illustrate the State party's failure to take sufficient action, including Act No. 707 of 2001, Act No. 1448 of 2011, Act No. 589 of 2000 and Decree No. 929 of 2007.

Counsel states that the State party has failed to implement the Committee's Views on effective reparation for the authors.

**Committee's assessment:**

- (a) Performing an investigation, prosecuting and punishing those responsible: C;
- (b) Releasing Mr. Anzola and Mr. Molina, should they still be alive: Not applicable;
- (c) Handing over their remains, if they are dead: Not applicable;
- (d) Providing effective reparation: C;

<sup>7</sup> [CED/C/COL/FOAI/1](#).

<sup>8</sup> The submission was acknowledged to the authors' counsel and transmitted to the State party for information on 31 October 2022.

- (e) Non-repetition and ensuring that, in the future, any enforced disappearances give rise to a prompt, impartial and effective investigation: B.

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

## 2. Kazakhstan

### Communication No. 2146/2012, *Suleimenov*

**Views adopted:** 21 March 2017

**Violation:** Article 7, read alone and in conjunction with article 2 (3), and article 10 (1)

**Remedy:** Effective remedy, including by: (a) conducting a prompt and impartial investigation into the authors' allegations of torture and ill-treatment; (b) providing the author with adequate compensation; (c) providing the author with appropriate medical care and assistance considering his disability and medical condition, including permitting access to private doctors and nurses to examine and assist the author; and (d) taking all steps necessary to prevent similar violations from occurring in the future.

**Subject matter:** Torture and ill-treatment of the author in detention

**Previous follow-up information:** None

**Submission from the State party:** 21 June 2022<sup>9</sup>

The State party submits that on 1 February 2022, the Prosecutor General, the Minister of Justice and the Deputy Minister of Foreign Affairs adopted a joint order aimed at regulating the main approaches to considering requests and Views of the human rights treaty bodies by government agencies, based on established practice. In accordance with the order, the Prosecutor General's Office will conduct a legal analysis of issues raised in a communication. The results of the analysis will be reviewed by a working group consisting of concerned government agencies, the Commissioner for Human Rights, the author of the communication and representatives of the United Nations, if required. The State party believes that this mechanism will contribute to a high-quality, objective and transparent resolution of the issues raised in communications, as well as to the possible implementation of recommendations contained in the decisions of the treaty bodies.

On 27 April 2022, the Committees' Views were considered by the working group at its first meeting.<sup>10</sup>

As for conducting a prompt and impartial investigation into the authors' allegations of torture and ill-treatment, the State party submits that the decision to terminate the criminal case, opened following the author's allegations of torture perpetrated by the officers of the Investigation Department of the National Security Committee, was cancelled on 13 May 2022. To ensure an objective and impartial investigation, the Prosecutor issued written instructions and the case was transferred to another authority, the Nur-Sultan Anti-corruption service, for further investigation. Thereafter, an additional forensic psychological and psychiatric examination was scheduled and three witnesses were questioned, but they did not confirm that torture had occurred. It transpired that the report of the forensic medical examination of the author that had been conducted when he was placed in a pretrial detention centre had been destroyed due to the expiry of the storage period (five years). Measures are being taken to locate another three witnesses. The author was invited to testify before the

<sup>9</sup> The submission was acknowledged to the State party and transmitted to the author's counsel for comments on 21 November 2022.

<sup>10</sup> The working group included representatives of the Supreme Court, the Prosecutor General's Office, the National Security Committee, the Ministries of Internal Affairs, Foreign Affairs, Labour and Social Protection of the Population, Healthcare, Finance, Information and Social Development, as well as the Commissioner for Human Rights.

investigator from the Anti-corruption service, but refused to do so, explaining that he was prepared to testify only before special prosecutors of the Prosecutor General's Office. The investigation is ongoing.

As for providing the author with adequate compensation, the State party submits that only the courts have competency to resolve the issue under the law of Kazakhstan. The author filed a claim against the Ministry of Finance requesting compensation for moral damages of 5 million tenge. On 11 October 2018, the Yesilsky District Court of Astana rejected the claim, since the author did not provide reliable evidence of torture. On 5 March 2019, the Judicial Collegium for Civil Cases of the Astana City Court upheld that decision. Currently, the Prosecutor's Office cannot verify the legality of judicial acts on the merits due to the expiration of the deadline for reviewing judicial acts provided for in article 436 of the Civil Procedure Code. Nevertheless, the author has the right to independently petition the Chairman of the Supreme Court to submit a motion to review the contested judicial acts, indicating the exceptional grounds provided for in article 438 (6) of the Civil Procedure Code.<sup>11</sup>

As for providing the author with appropriate medical care and assistance, the State party submits that the author enjoyed the appropriate medical care and assistance during the period of detention, including regular medical examinations by a neurologist, a neurosurgeon, a traumatologist, a cardiologist and a surgeon, as well as examinations using magnetic resonance and computed tomography, and received the necessary treatment. That was confirmed during the visit of representatives of the Prosecutor's Office and the national preventive mechanism to the author on 11 May 2014. Representatives of non-governmental organizations (NGOs) also visited the author on 16 May 2013 and did not receive any complaints from him. Sometimes the author refused medical examination and treatment. The author has been receiving a disability allowance from the State ever since his disability was diagnosed. He has also been provided with equipment (wheelchairs, handrails, absorbent sheets and diapers), sanatorium-resort treatment and personal assistance services. Since 19 June 2019, the author has been provided with medical care in Nur-Sultan, including the services of a therapist, a traumatologist, a surgeon and a dentist.

The conditions of detention of persons with disabilities are improving with the installation of special equipment in institutions of the penitentiary system. The cases of persons with disabilities are subject to examination by a special medical commission to consider their early release. Currently, in order to ensure adequate healthcare for convicted persons with disabilities, the issue of paying benefits to individual detainees who care for other detainees with disabilities is being considered.

As for preventing similar violations from occurring in the future, the State party describes the existing system for monitoring the conditions of detention by various bodies and the special conditions of detention for persons with disabilities (improved living conditions, increased food standards, the right to receive parcels with medicines and medical products without restrictions, specially equipped facilities, provision of medical equipment, etc.). The State party also lists amendments to domestic law that are proposed to improve detention conditions. Amendments to the Criminal Code are being considered to strengthen accountability for torture, including when committed by State officials.

**Submissions from the author's counsel:** 22 January and 3 February 2023<sup>12</sup>

Counsel states that the author was neither informed by the State party about the creation of a working group to consider the Committee's Views on his case nor invited to participate in it. Counsel also submits that none of the remedies listed in the Views have been implemented. For more than eight months during the investigation, no action was taken except for the issuance of two summonses to the author to testify and the scheduling of the forensic examination. No measures were taken to enable the author, who has a disability, to

<sup>11</sup> Such grounds include serious irreversible consequences for the life and health of people, violation of the rights and legitimate interests of an indefinite number of persons, and violation of uniformity in the interpretation and application of the law by the courts.

<sup>12</sup> The submissions were acknowledged to the author's counsel and transmitted to the State party for information on 15 February 2022.

access the premises of the government authorities to testify. On 30 December 2022, the criminal investigation was terminated. The author learned of the termination only on 1 February 2023, and was never given an opportunity to familiarize himself with the case files. Thus, the investigation yielded no results and the perpetrators were not punished.

Counsel submits that the courts rejected the author's claims for compensation, arguing that his allegations of torture were not confirmed by evidence. The State party did not indicate the reasons why the Prosecutor General's Office did not challenge the courts' decisions within the time period established by law, which demonstrates that it had neither the political will nor a formal obligation to ensure the implementation of the Committee's Views. The State party claims that the author should apply to the Chairman of the Supreme Court for compensation, despite the fact that this remedy is completely ineffective.<sup>13</sup>

Regarding the provision of appropriate medical care and assistance for the author, counsel submits that in 2022, the State party twice refused to provide him with an electric wheelchair and refused to pay an allowance to which he was entitled in connection with the coronavirus disease (COVID-19) pandemic. Given his criminal conviction for terrorism, the author is prohibited from opening bank accounts and using notary services to issue powers of attorney, which deprives him of the right to work and earn money to sustain himself and cover his medical expenses. On 26 May 2020, the author filed a complaint to the Ministry of Finance asking it to facilitate the receipt of financial aid (50,000 tenge) which he was awarded by an NGO as a person with a disability in connection with an emergency. However, the author's complaint was rejected due to his inclusion on the list of persons associated with financing terrorism and extremism based on the letter of the Prosecutor General's Office dated 27 July 2017. In addition, on 2 July 2019, the police prohibited the author from travelling to Kyrgyzstan for the Soros Foundation Summer School on the right to adequate housing, despite the fact that the author has the right to leave his place of residence after notifying the probation authorities.

Counsel submits that, while the number of criminal convictions for torture in Kazakhstan is decreasing (25 convictions in 2020, 5 in 2021 and 2 in 2022), the number of complaints is not decreasing. The system in place for convicted persons to send electronic complaints of torture is not effective, as the electronic terminals in detention facilities do not work. The proposed amendments to the Criminal Code aimed at strengthening responsibility for torture have not been submitted to the parliament yet, despite having been discussed since 2020.

In addition, counsel claims that the author, a person with a disability who became a human rights activist and founded the "For equal access" movement, has been facing multiple threats, assaults and bullying in Kazakhstan since 2017 and continues to do so. Some of the threats were allegedly made by police officers and other officials of the State party in connection with the author's engagement in human rights activism and participation in political meetings.<sup>14</sup> The police refused to open criminal investigations into those incidents.

**Committee's assessment:**

- (a) Conducting a prompt and impartial investigation into the authors' allegations of torture and ill-treatment: C;
- (b) Providing the author with adequate compensation: C;
- (c) Providing the author with appropriate medical care and assistance considering his disability and medical condition: B;
- (d) Non-repetition: C.

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

<sup>13</sup> Counsel emphasizes that the State party systematically refers to the lack of power of the courts to award compensation in accordance with Views of the human rights treaty bodies and that only amendments to domestic legislation (the Civil Procedure Code, the Criminal Procedure Code and the Code on Administrative Offences) would solve that problem.

<sup>14</sup> According to the submission and evidence provided by counsel, at least 14 cases of threats, assault and bullying occurred.

### 3. Kyrgyzstan

#### Communication No. 2405/2014, *Yuldashev*

<b>Views adopted:</b>	29 October 2020
<b>Violation:</b>	Article 7, read alone and in conjunction with article 2 (3), and article 9 (1)
<b>Remedy:</b>	Effective remedy, including by: (a) conducting a prompt and impartial investigation into the author's allegations of torture and, if confirmed, having those responsible prosecuted and adequately punished; (b) providing the author with adequate compensation; and (c) taking all steps necessary to prevent similar violations from occurring in the future.
<b>Subject matter:</b>	Torture; arbitrary detention
<b>Previous follow-up information:</b>	None
<b>Submission from the State party:</b>	31 May 2022 <sup>15</sup>

The State party emphasizes that the remedies are applicable only if the author's allegations of torture are confirmed. Furthermore, the Committee's Views are recommendations that need to be considered in accordance with domestic legislation. In accordance with domestic regulations on consideration of the human rights treaty bodies' Views, the amount of compensation is determined by the courts.

The State party notes that the Osh city prosecutor's office conducted an unscheduled inspection of the Osh city temporary detention centre. No complaints of torture had been received from the accused at the time, as indicated in the centre's register. The State party concludes that the author, who was sentenced for committing violent crimes, submitted his complaint to higher instances in order to avoid criminal liability for the crimes he had committed.

#### **Submission from the author's counsel:** 3 February 2023<sup>16</sup>

Counsel submits that the State party is not complying with its obligations under the Covenant. Under article 13 (2) (8) of the Constitutional law on the Cabinet of Ministers of Kyrgyzstan, the Cabinet of Ministers ensures the implementation of international treaties to which the State is a party. Therefore, it is the Cabinet of Ministers that should initiate the implementation of the Views. Counsel emphasizes that the State party's submission does not contain information about the authority that considered the Views, or the date or format of the consideration process. The State party also failed to indicate whether an investigation into the author's allegations had been conducted, what the findings of any such investigation were or how the Views were published and disseminated in the official language of the State party. Counsel notes that the State party only listed the norms of domestic law concerning compensation for damages, but provided no explanation as to why the author was not awarded compensation.

Counsel explains that the author was convicted and has served his sentence. The State party has not provided any substantive arguments regarding the author's case. The author's right to seek a remedy before international human rights bodies is provided for in the Constitution of Kyrgyzstan and the international treaties ratified by the State.

Counsel made several attempts to enforce the Views at the national level. On 17 December 2021, he sent a letter requesting the Head of the Council of Ministers to ensure the implementation of the Views. On 10 January 2022, the Deputy Minister of Justice replied indicating that letters had been sent to the office of the Prosecutor General, the Supreme Court, the Ministry of Internal Affairs and the Ministry of Finance asking them to provide

<sup>15</sup> The submission was acknowledged to the State party and transmitted to the author's counsel for comments on 13 January 2023.

<sup>16</sup> The submission was acknowledged to the author's counsel and transmitted to the State party for information on 31 March 2023.

information about the measures taken by 1 March 2022. On 18 October 2022, counsel sent another letter to the Head of the Council of Ministers. On 4 November 2022, he received a reply from the Deputy Minister of Foreign Affairs recommending that the author apply to the domestic courts.

Counsel states that the author was convicted in connection with inter-ethnic clashes which took place in June 2010 in southern Kyrgyzstan. Counsel recalls that the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment visited Kyrgyzstan from 5 to 13 December 2011 and, in his visit report, noted a “serious lack of sufficiently speedy, thorough and impartial investigations into allegations of torture and ill-treatment, as well as a lack of prosecution of alleged law enforcement officials”.<sup>17</sup> The State party has not taken the Special Rapporteur’s recommendations into account. Counsel also highlights the failure of the State party to implement Views adopted in other cases connected with the inter-ethnic clashes of June 2010.<sup>18</sup>

Counsel reiterates that international law, including international treaties, constitute a part of the State party’s legal system and should apply as established by domestic law. The Cabinet of Ministers is responsible for ensuring the implementation of international treaties. Court decisions that have entered into force can be overturned and cases can be reconsidered as a result of new and newly discovered circumstances. The persons entitled to request such re-examination include the person who has been convicted, his or her counsel and the prosecutor. The prosecutor’s office is overseeing the investigation under national legislation.

Counsel concludes that, since the Committee’s Views in the present case established that grave violations of norms of substantive and procedural law had been committed during the investigation and the trial, the prosecutor’s office is not interested in making them public and the Cabinet of Ministers has not initiated the implementation of the Committee’s Views.

**Committee’s assessment:**

- (a) Conducting a prompt and impartial investigation into the author’s allegations of torture and, if confirmed, having those responsible prosecuted and adequately punished: E;
- (b) Providing the author with adequate compensation: C;
- (c) Non-repetition: C.

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

#### 4. Lithuania

**Communication No. 2155/2012, Paksas**

**Views adopted:** 25 March 2014

**Violation:** Article 25 (b) and (c)

**Remedy:** Effective remedy, including by: (a) reviewing the lifelong prohibition of the author’s right to be a candidate in presidential elections or to be prime minister or minister; and (b) taking steps to avoid similar violations in the future.

**Subject matter:** Restrictions to the right to participate in public life

**Previous follow-up information:** [CCPR/C/113/3](#) and [CCPR/C/125/3](#)

**Submission from the State party:** 24 May 2019<sup>19</sup>

<sup>17</sup> [A/HRC/19/61/Add.2](#), para. 55.

<sup>18</sup> *Askarov v. Kyrgyzstan* ([CCPR/C/116/D/2231/2012](#)), *Ashirov v. Kyrgyzstan*

([CCPR/C/120/D/2435/2014](#)) and *Saidarov et al. v. Kyrgyzstan* ([CCPR/C/119/D/2359/2014](#)).

<sup>19</sup> The submission was acknowledged to the State party and transmitted to the author’s counsel for comments on 4 February 2021.

The State party submits that, in March 2012, the Parliament (Seimas) of Lithuania tried to amend the Seimas Elections Act, which would have lifted the lifelong prohibition on the author's participation in parliamentary elections, thus implementing the judgment of the European Court of Human Rights.<sup>20</sup> However, in September 2012, the Constitutional Court rejected the amendment due to its unconstitutional nature. In May 2014, Parliament set up a special ad hoc investigation commission to identify the reasons for the failure to implement the Committee's Views, which adopted its conclusions in September 2014. On 22 December 2016, the Constitutional Court issued a ruling reaffirming the need to amend the Constitution to restore the author's civil and political rights. Thus, in the absence of such constitutional amendments, any other laws or legal acts that were amended would be contrary to the Constitution.

On 20 June 2018, the Seimas Committee on Legal Affairs approved a draft law of 16 March 2018, which would amend article 74 of the Constitution, aimed at restoring the rights of a person removed from office through impeachment proceedings to stand for elections to the Seimas, for the Presidency of the Republic, for ministerial appointments and for the positions of judge or Auditor General. Nevertheless, the draft was rejected due to the failure to reach two thirds of votes in its favour. Another draft law, according to which a person who had been removed from office for breaching the constitutional oath could afterwards still be elected as a member of the Seimas and would not be subject to any ban in this respect, was returned to the initiators on 20 September 2018 for further improvements and for its registration in case the draft law of 16 March was not adopted.

The State party refers to interim resolution CM/ResDH(2018)469 adopted by the Committee of Ministers of the Council of Europe on 6 December 2018, in which it indicated that no tangible progress had been achieved and exhorted all concerned to redouble their efforts to ensure that the necessary constitutional amendments were adopted.

The State party submits that due effect has been given to the Committee's Views, as since 2012, the Government has repeatedly sought to ensure the adoption of the necessary constitutional amendments. It stresses the importance of the Constitutional Court ruling of 22 December 2016, the conclusions of which, if implemented in practice, might change the status quo. Following the request of the Minister of Justice, Mr. E. Jankevicius, of 19 April 2019, it is possible that the conclusions might be adopted. The aim of the request was to clarify the scope of the State party's obligations to take into account the Committee's Views and to consider ways in which the Constitution could be aligned with the State's international obligations.

**Submission from the author's counsel:** 25 April 2021<sup>21</sup>

The author's counsel submits that several State party representatives, officials and other entities have denied the binding nature of the Committee's Views. The Supreme Court has issued statements that imply that the Committee's Views do not constitute a legal ground in Lithuanian criminal law and Judge Egidijus Kuris, who is from Lithuania and works at the European Court of Human Rights, supports that position. The State party representative to the European Court of Human Rights, Karolina Bubnytė-Širmenė, has also publicly declared that since the Views are not sanctions, they are not binding. Furthermore, Counsel submits that the State party has failed to execute two other Views of the Committee and the Views of the Committee on the Rights of Persons with Disabilities.<sup>22</sup> Counsel argues that this shows that the State party does not feel bound by the Committee's Views.

**Submission from the State party:** 18 June 2021<sup>23</sup>

<sup>20</sup> See European Court of Human Rights, *Paksas v. Lithuania*, Application No. 34932/04, *Judgment*, 6 January 2011.

<sup>21</sup> The submission was acknowledged to the author's counsel and transmitted to the State party for information on 20 September 2022.

<sup>22</sup> *Jagminas v. Lithuania* (CCPR/C/126/D/2670/2015 and CCPR/C/126/D/2670/2015/Corr.1); *Stasaitis v. Lithuania* (CCPR/C/127/D/2719/2016 and CCPR/C/127/D/2719/2016/Corr.1); and *Makarov v. Lithuania* (CRPD/C/18/D/30/2015).

<sup>23</sup> The submission was acknowledged to the State party and transmitted to the author's counsel for comments on 20 September 2022.

The State party submits that, on 19 September 2019, a group of 95 members of the Seimas registered draft law No. XIIP-3867, which would amend the Constitution to follow the Committee's Views by limiting the ban on running for office to 10 years rather than for the lifetime of an individual who had been impeached. On 24 September 2019, the Seimas voted in favour of amending the State party's Constitution. The supplementary parliamentary bodies appointed for consideration of the draft law held hearings on 19 February 2020 with the intention of passing the amendment by the October 2020 elections. On 21 April 2020, the Seimas began its spring session and was set to vote on the draft law. On 21 December 2020, the Seimas rejected a proposal to create a working group to examine the constitutional issues associated with the implementation of the Views to expedite the process and delegated the task of making further changes to the draft law to the Committee for the Future, which is comprised of all political parties.

On 25 January 2021, a former member of the Seimas who had been impeached appealed to the European Court of Human Rights when she could not register as a candidate in the October 2020 elections.

On 5 March 2021, the Committee for the Future approved a plan to move forward on further consideration of draft law No. XIIP-3867. The goal was to pass the constitutional amendment by 30 June 2021. On 5 May 2021, the committee concluded its work on the draft amendment and presented two versions to the Seimas: one applied to only impeached parliamentarians and the other applied to all impeached officers of any kind. The two drafts were finalized by the political groups in the Seimas on 28 May 2021. The wider draft law, labelled draft law No. XIVP-619, was adopted as a draft law by a simple majority on 10 June 2021. That draft law expressly includes the Views adopted by this Committee.

The State party submits that this new draft law will likely be voted on with all expediency.

**Submission from the author's counsel:** 22 September 2022<sup>24</sup>

Counsel reiterates his arguments submitted on 25 April 2021.

**Submission from the State party:** 7 October 2022<sup>25</sup>

The State party submits that, on 9 November 2021, the Seimas approved an amendment to the Constitution (draft No. XIVP-619 (2)) to address the issue of impeachment. On 18 January 2022, the first vote on the approved amendments took place in the Seimas. A total of 131 of the 141 members of the Seimas voted in favour of the amendments to the Constitution. On 21 April 2022, at the second vote, 135 of the 141 members voted in favour, thus completing the adoption procedure.<sup>26</sup> Pursuant to article 149 of the Constitution, the law on the amendment of the Constitution enters into force not earlier than one month after its adoption. Accordingly, on 22 May 2022, the amendments to the Constitution entered into force.<sup>27</sup>

On 8 April 2022, the European Court of Human Rights had delivered its advisory opinion under article 3 of Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), on the proportionality of a general prohibition on standing for election after removal from office in impeachment proceedings.

The State party submits that the Constitutional Law on the Approval, Entry into Force and Implementation of the Electoral Code, reflecting the amended provision of the Constitution, was adopted on 23 June 2022. Pursuant to article 11 (3) of the Electoral Code, a person who has been removed from office in accordance with the procedure for

<sup>24</sup> The submission was acknowledged to the author's counsel and transmitted to the State party for information on 24 February 2023.

<sup>25</sup> The submission was acknowledged to the State party and transmitted to the author's counsel for information on 24 February 2023.

<sup>26</sup> See <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/bd1c7e80c16d11ec9f0095b4d96fd400?jfwid=mj1ayjtbm>.

<sup>27</sup> See <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/079fcad0cf8711ecb69ea7b9ba9d787b?jfwid=-sdbw771dy>.

impeachment or who has lost their seat as a member of the Seimas may be elected a member of the Seimas or the President of the Republic when at least 10 years have elapsed since the decision of the Seimas on the removal from the office or revocation of membership of the Seimas was taken. According to the provisions of the Constitutional Law, the Electoral Code would enter into force on 1 September 2022.

The State party notes that no further impediments exist for the author to take any of the offices enumerated in the Committee's Views, and no further measures of implementation of the Views are required. It also notes that on 22 September 2022, the Committee of Ministers of the Council of Europe adopted resolution CM/ResDH(2022)253 in the Paksas case, stating that the necessary individual and general measures had been taken to implement the Council's judgment.<sup>28</sup> The State party invites the Committee to close the follow-up procedure with regard to the case.

**Committee's assessment:**

(a) Revision of the lifelong prohibition of the author's right to be a candidate in presidential elections or to be prime minister or minister: A;

(b) Non-repetition: A.

**Committee's decision:** Close the follow-up dialogue with the State party, with a note of satisfactory implementation of the Committee's Views.

## 5. Paraguay

**Communication No. 2552/2015, *Oliveira Pereira et al.***

**Views adopted:** 14 July 2021

**Violation:** Articles 17 and 27, read alone and in conjunction with article 2 (3)

**Remedy:** Effective remedy, including by: (a) conducting an effective and exhaustive investigation of the facts, keeping the authors appropriately informed; (b) initiating criminal and administrative proceedings against the alleged perpetrators and, if they are found guilty, imposing appropriate penalties; (c) making full reparation to the authors and other members of the community for the harm caused, including appropriate compensation and reimbursement of legal costs; and (d) taking all necessary measures, in close consultation with the community, to repair the environmental damage.

**Subject matter:** Crop fumigation with agrochemicals and its effects on an Indigenous community

**Previous follow-up information:** None

**Submission from the State party:** 2 August 2022<sup>29</sup>

The State party submits that in 2019, even before the Committee had adopted its Views, inspections were conducted and interventions carried out in the agricultural and livestock project of the Estancia JN, S.A., Issos, S.A., Issos Greenfield, S.A., and Somax, S.A., as well as a visit to and a meeting with the Aqua'ẽ Indigenous community of the Ava Guarani people. The inspections revealed that the project has no protective hedge and that the community school was located about 30 meters from the crop, which had been recently harvested.

<sup>28</sup> See [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=0900001680a83525](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680a83525).

<sup>29</sup> The submission was acknowledged to the State party and transmitted to the author's counsel for comments on 12 August 2022.

In view of the lack of compliance with the obligation to create protective hedges, the Human Rights Directorate of the Public Prosecution Service referred the details so that a new criminal case could be opened. Consequently, the specialized unit for environmental crimes of the Curuguaty prosecutor's office is in charge of the new criminal procedure. In addition, an administrative procedure was initiated against Estancia JN S.A. on the grounds of violations of the Environmental Impact Assessment Act (No. 294/93) and the Wildlife Act (No. 96/92) and as a result, the company has been sanctioned. Furthermore, some steps have been taken to remedy the environmental degradation and to provide compensation for the activities of Estancia JN S.A. In addition, compliance with the provisions of Act No. 3742 on the need for environmental buffer zones near crop plantations has been requested and meetings have taken place with the Indigenous community.

The State party submits that some steps were taken in 2022 to protect the right to health of the members of the community, such as medical consultations, vaccination campaigns and prenatal check-ups. The Ministry of Finance is in the process of reaching an agreement with the victims on reparation measures, which will establish the amounts required for adequate compensation and reimbursement of legal costs.

In order to prevent similar violations from occurring in the future, the State party submits that the Ministry of Justice has signed an agreement with the National Forestry Institute. Furthermore, in December 2021, the third plan of action of the Human Rights Network of the Executive Branch was approved. Under the plan, the State intends to conduct awareness-raising workshops with inter-institutional actors related to civil and political rights, as well as other measures to raise awareness among State officials and the public to prevent similar violations from being committed in the future. In addition, the State party has already taken several steps to publish the Committee's Views and to make them accessible to the general public.

**Submission from the authors' counsel:** 12 October 2022<sup>30</sup>

Counsel submits that, since the adoption of the Committee's Views, the situation of the Campo Agua'ẽ community has become even worse than before and no relevant progress has been made on the adoption of basic reparation measures. The measures listed by the State party, such as opening a new criminal procedure and adopting economic sanctions, have not stopped violations of the environmental legislation and the illegal use of agrochemicals. In particular, the criminal procedure did not prove effective or even manage to identify or punish the alleged perpetrators. Moreover, the State party has provided no information on compliance with administrative sanctions or corrective and compensatory measures. In addition, the measures the State party has mentioned were taken before the Committee adopted its Views; no information has been provided on measures taken after the adoption of the Views.

Counsel affirms that the national institutions have not been in contact with members of the community, and that the community has not been given the opportunity to participate in the new criminal and administrative procedures. Furthermore, the victims have not been informed of the actions taken by the State party. Regarding the adoption of other measures to guarantee full reparation, counsel submits that no relevant action has been taken to comply, even partially, with the Committee's Views.

**Committee's assessment:**

- (a) Conducting an effective and exhaustive investigation of the facts, keeping the authors appropriately informed: B;
- (b) Initiating criminal and administrative proceedings against the alleged perpetrators and, if they are found guilty, imposing appropriate penalties: B;
- (c) Making full reparation to the authors and other members of the community for the harm caused, including appropriate compensation and reimbursement of legal costs: C;

<sup>30</sup> The submission was acknowledged to the author's counsel and transmitted to the State party for information on 22 March 2023.

- (d) Taking all necessary measures, in close consultation with the community, to repair the environmental damage: C (no consultation with members of the community).

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

## 6. Tajikistan

**Communication No. 2707/2015, Kulieva**

**Views adopted:** 10 March 2020

**Violation:** Articles 6 (1) and 7, read alone and in conjunction with article 2 (3) (a), with regard to the victim, Khurshed Bobokalonov; and article 7, read alone and in conjunction with article 2 (3) (a), with regard to the author, Saodat Kulieva

**Remedy:** Effective remedy, including by: (a) conducting a prompt, effective, thorough, independent, impartial and transparent investigation into the torture and death of the author's son, and prosecuting and punishing those responsible; (b) keeping the author informed at all times about the progress of the investigation; (c) providing the author with adequate compensation for the violations of her son's rights and her rights, and with adequate rehabilitation measures; (d) taking all steps necessary to prevent similar violations from occurring in the future.

**Subject matter:** Torture and death of the author's son in police custody

**Previous follow-up information:** None

**Submission from the State party:** 23 June 2020<sup>31</sup>

In its follow-up submission, the State party largely recalls the information contained in the Committee's Views, in particular the details of the victim's apprehension by police officers and his transfer to the Department of Internal Affairs of Ismoil Somoni district in Dushanbe, where he died shortly afterwards. It recalls that, on 6 July 2009, the Prosecutor's Office of Ismoil Somoni district instituted criminal proceedings and that in November 2011, a forensic medical examination was carried out. According to the conclusions of the forensic medical examination commission, dated 30 April 2012, the victim died of heart failure owing to a pre-existing heart condition from which he had suffered all his life. It was not possible to establish what exactly triggered his death. On 25 July 2012, the criminal proceedings relating to the victim's death were discontinued for lack of corpus delicti. According to the results of the investigation, he was not subjected to torture or any form of ill-treatment by police officers and he died a non-violent death. A comprehensive, complete and objective investigation into the circumstances of his death was carried out and the decision to discontinue the criminal proceedings relating to his death was legally sound and fully justified.

**Submission from the author's counsel:** 16 December 2021<sup>32</sup>

In its follow-up submission, counsel submits that, on 7 July 2020, it submitted a request to the Executive Office of the President of Tajikistan and the Prosecutor General's Office of Tajikistan for information on the process of reopening an investigation into the victim's death. On 6 August 2020, the Deputy Prosecutor General of Tajikistan responded that a decision had been taken to discontinue the criminal proceedings for lack of corpus delicti. Counsel subsequently requested a copy of that decision from the Prosecutor's Office. On 24 January 2021, the Prosecutor's Office of Dushanbe sent a notification confirming that

<sup>31</sup> The submission was acknowledged to the State party and transmitted to the author's counsel for comments on 10 December 2021.

<sup>32</sup> The submission was acknowledged to the author's counsel and transmitted to the State party for information on 20 December 2021.

a copy of the requested decision had been issued and on 25 January 2021, it was sent to the author.

On 27 February 2021, Counsel requested the Office of the Public Prosecutor of Tajikistan to annul the decision to discontinue the criminal proceedings and to reopen an investigation into his torture. On 1 June 2021, Counsel filed a complaint with the Prosecutor General's Office of Tajikistan, requesting a written response to its request of 27 February 2021. On 16 July 2021, in the absence of a response from the Office of the Prosecutor General of Tajikistan, counsel filed a complaint with the Sino District Court in Dushanbe under article 124 of the Criminal Procedure Code, with a request to annul the decision to discontinue the criminal proceedings relating to the victim's death. On 30 July 2021, the complaint was rejected by the Sino District Court.<sup>33</sup> On 6 August 2021, counsel lodged a cassation appeal against the decision of the Sino District Court to the Cassation Chamber on Criminal Cases of the Dushanbe City Court. On 25 August 2021, the Dushanbe City Court upheld the Sino District Court decision of 30 July 2021. Consequently, at the time of the submission, the State party authorities had not taken any measures to implement the Committee's Views.

**Submission from the State party:** 14 April 2022<sup>34</sup>

The State party recalls that, on 2 June 2021, counsel requested the Office of the Prosecutor General of Tajikistan to reopen the investigation into the victim's death. On 15 July 2021, following the comprehensive examination of the criminal case materials and counsel's arguments, counsel was informed in writing that there were no grounds for the annulment of the decision to discontinue the criminal proceedings. On 16 July 2021, counsel filed a complaint with the Sino District Court of Dushanbe, requesting annulment of the decision to discontinue the criminal proceedings. On 30 July 2021, the Sino District Court of Dushanbe rejected that complaint, as unfounded. On 25 August 2021, the Cassation Chamber on Criminal Cases of the Dushanbe City Court upheld the decision of the Sino District Court of 30 July 2021.

**Submissions from the author's counsel:** 18 August 2022 and 7 October 2022<sup>35</sup>

On 22 February 2022, counsel filed a lawsuit with the Ismoil Somoni District Court of Dushanbe against the Ministry of Internal Affairs of Tajikistan (as a defendant) and the Office of the Prosecutor General of Tajikistan (as a co-defendant). Counsel requested the Court to recognize the author's right to claim compensation for moral damages and accordingly to recover from the co-defendants, in favour of the author, the moral damages resulting from the ineffective investigation into the victim's death and the failure to comply with the Committee's Views.

On 5 April 2022, the Ismoil Somoni District Court commenced the proceedings pursuant to the author's claim. Although the representatives of the Ministry of Internal Affairs expressed condolences to the author in connection with the passing of her son, on 8 June 2022, the Ismoil Somoni District Court decided to reject the author's claim for lack of substantiation. On 5 July 2022, counsel filed a cassation appeal with the Cassation Chamber for Civil Cases of the Dushanbe City Court. On 2 August 2022, the Judicial Collegium of the Dushanbe City Court upheld the decision of the Ismoil Somoni District of 8 June 2022. After the entry into force of the decision of the Ismoil Somoni District Court on 2 August 2022, the author refrained from submitting a further appeal under the supervisory review procedure due to her lack of faith in the judicial system.

On 28 September 2022, the author was killed by unknown perpetrators in her apartment in Dushanbe. After that, no further applications or appeals were submitted by counsel due to the lack of authority, as the power of attorney issued by the author had lost its

<sup>33</sup> A representative of the Office of the Prosecutor General and an investigator from the Criminal Investigations Office of the Office of the Prosecutor General took part in the court hearing.

<sup>34</sup> The submission was acknowledged to the State party and transmitted to the author's counsel for comments on 12 September 2022.

<sup>35</sup> The submissions were acknowledged to the author's counsel and transmitted to the State party for information on 12 September 2022 and 24 March 2023, respectively.

legal effect from the moment of her death. Therefore, counsel requests the Committee to close the follow-up dialogue with the State party.

**Committee's assessment:**

- (a) Conducting an investigation into the torture and death of the author's son, and prosecuting and punishing those responsible: C;
- (b) Keeping the author informed at all times about the progress of the investigation: C;
- (c) Providing the author with adequate compensation: C;
- (d) Non-repetition: C.

**Committee's decision:** Close the follow-up dialogue with the State party, owing to the author's death, with a note of unsatisfactory implementation of the Committee's Views.

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