



United Nations

Report of the Human Rights Committee

Volume I

**Ninety-seventh session
(12–30 October 2009)**

**Ninety-eighth session
(8–26 March 2010)**

**Ninety-ninth session
(12–30 July 2010)**

**General Assembly
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Note

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

Summary

The present annual report covers the period from 1 August 2009 to 31 July 2010 and the ninety-seventh, ninety-eighth and ninety-ninth sessions of the Human Rights Committee. Since the adoption of the last report, Pakistan and the Lao People's Democratic Republic have ratified the International Covenant on Civil and Political Rights. Brazil has become party to the Optional Protocol and to the Second Optional Protocol. In total, there are 165 States parties to the Covenant, 113 to the Optional Protocol and 72 to the Second Optional Protocol.

During the period under review, the Committee considered 13 States parties' reports submitted under article 40 and adopted concluding observations on them (ninety-seventh session: Switzerland, Republic of Moldova, Croatia, Russian Federation and Ecuador; ninety-eighth session: Mexico, Argentina, Uzbekistan and New Zealand; ninety-ninth session: Estonia, Israel, Colombia and Cameroon – see chapter IV for concluding observations).

Under the Optional Protocol procedure, the Committee adopted Views on 50 communications, and declared 8 communications admissible and 24 inadmissible. Consideration of 10 communications was discontinued (see chap. V for information on Optional Protocol decisions). So far, 1,960 communications have been registered since the entry into force of the Optional Protocol to the Covenant, and 72 since the writing of the last report.

The Committee's procedure for following up on concluding observations, initiated in 2001, continued to develop during the reporting period. The Special Rapporteur for follow-up on concluding observations, Mr. Abdelfattah Amor, presented progress reports during the Committee's ninety-seventh, ninety-eighth and ninety-ninth sessions. The Committee notes with satisfaction that the majority of States parties have continued to provide it with additional information pursuant to rule 70, paragraph 5, of its rules of procedure, and expresses its appreciation to those States parties that have provided timely follow-up information.

The Committee again deplores the fact that a large number of States parties do not comply with their reporting obligations under article 40 of the Covenant. In 2001, therefore, it adopted a procedure to deal with this situation. During the period under review, the Committee continued applying this procedure and sent reminders to several States parties that will be considered in the absence of a report in future sessions if they do not send their overdue reports by a set deadline.

The Committee's workload under article 40 of the Covenant and the Optional Protocol to the Covenant continues to grow, as demonstrated by the large number of State party reports received and cases registered during the reporting period. Eleven initial or periodic reports were received between 1 August 2009 and 31 July 2010, and by the end of the ninety-ninth session, 24 initial or periodic reports submitted by States parties had not yet been considered by the Committee. At the end of the ninety-ninth session, 398 communications were pending (see chap. V).

The Committee again notes that many States parties have failed to implement the Views adopted under the Optional Protocol. The Committee has continued to seek to ensure implementation of its Views through its Special Rapporteur for follow-up on Views, Ms. Ruth Wedgwood, who arranged meetings with representatives of States parties that had not responded to the Committee's requests for information about measures taken to give effect to its Views, or that had given unsatisfactory replies (see annex VII).

Throughout the reporting period, the Committee continued to discuss the improvement of its working methods. At its ninety-ninth session, held in July 2010, the Committee adopted its revised reporting guidelines. Furthermore, the Committee decided at its ninety-eighth session, held in October 2009, to adopt a new optional reporting procedure whereby it would send States parties a list of issues prior to reporting and consider their written replies in lieu of a periodic report (so-called focused report based on replies to a list of issues). At its ninety-ninth session, the Committee agreed on the practical modalities of implementation of this new optional reporting procedure.

The Chairperson, Mr. Yuji Iwasawa, represented the Committee at the twenty-second meeting of chairpersons of the human rights treaty bodies (1 and 2 July 2010), Mr. Abdelfattah Amor and Sir Nigel Rodley participated in the tenth inter-committee meeting (30 November–2 December 2009) and Ms. Helen Keller and Mr. Iwasawa participated in the eleventh inter-committee meeting (28 to 30 June 2010).

Finally, the Committee reaffirms its concern over the lack of sufficient staff resources and translation services which hampers its activities, and once again stresses the importance of providing the Secretariat with the necessary resources to support its work effectively.

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- VII. Follow-up activities under the Optional Protocol

I. Jurisdiction and activities

A. States parties to the International Covenant on Civil and Political Rights and to the First and Second Optional Protocols

1. By the end of the ninety-ninth session of the Human Rights Committee, there were 165 States parties to the International Covenant on Civil and Political Rights¹ and 113 States parties to the Optional Protocol to the Covenant. Both instruments have been in force since 23 March 1976.
2. Since the last report, the Lao People's Democratic Republic and Pakistan have ratified the Covenant and Brazil became a party to the Optional Protocol.
3. As at 31 July 2010, 48 States had made the declaration provided for under article 41, paragraph 1, of the Covenant. In this connection, the Committee appeals to States parties to make the declaration under article 41 of the Covenant and to consider using this mechanism with a view to making implementation of the provisions of the Covenant more effective.
4. The Second Optional Protocol to the Covenant, aimed at abolishing the death penalty, entered into force on 11 July 1991. As at 31 July 2010, there were 72 States parties to the Protocol, an increase of 1 (Brazil) since the Committee's last report.
5. A list of States parties to the Covenant and to the two Optional Protocols, indicating those States that have made the declaration under article 41, paragraph 1, of the Covenant, is contained in annex I to the present report.
6. Reservations and other declarations made by a number of States parties in respect of the Covenant or the Optional Protocols are set out in the notifications deposited with the Secretary-General. The Committee once again urges States parties to consider withdrawing their reservations.

B. Sessions of the Committee

7. The Human Rights Committee held three sessions since the adoption of its previous annual report. The ninety-seventh session was held from 12 to 30 October 2009, the ninety-eighth session from 8 to 26 March 2010 and the ninety-ninth session from 12 to 30 July 2010. The ninety-seventh and ninety-ninth sessions were held at the United Nations Office at Geneva, and the ninety-eighth session at United Nations Headquarters in New York.

C. Election of officers

8. On 16 March 2009, the Committee elected the following officers for a term of two years, in accordance with article 39, paragraph 1, of the Covenant:

Chairperson: Mr. Yuji Iwasawa

¹ The number of States parties will become 166 by 25 September 2010 following the entry into force of the Covenant for Pakistan, which deposited its instrument of ratification on 25 June 2010. (According to article 49, paragraph 2, of the Covenant: "For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession").

Vice-Chairpersons: Ms. Zonke Zanele Majodina
Sir Nigel Rodley
Mr. José Luis Pérez Sanchez-Cerro

Rapporteur: Ms. Iulia Antoanella Motoc

9. During its ninety-seventh, ninety-eighth and ninety-ninth sessions, the Bureau of the Committee held nine meetings (three per session). Pursuant to the decision taken at the seventy-first session, the Bureau records its decisions in formal minutes, which are kept as a record of all decisions taken.

D. Special Rapporteurs

10. The Special Rapporteur on new communications and interim measures, Ms. Christine Chanet, registered 72 communications during the reporting period and transmitted them to the States parties concerned, and issued 16 decisions calling for interim measures of protection pursuant to rule 92 of the Committee's rules of procedure.

11. The Special Rapporteur for follow-up on Views, Ms. Ruth Wedgwood, and the Special Rapporteur for follow-up on concluding observations, Mr. Abdelfattah Amor, continued to carry out their functions during the reporting period. Interim reports were submitted to the Committee by Mr. Amor and Ms. Wedgwood during the ninety-seventh, ninety-eighth and ninety-ninth sessions. The reports on follow-up on Views can be found in chapter VI. Details on follow-up on Views under the Optional Protocol and on concluding observations appear in annex VII (vol. II) and chapter VII, respectively.

E. Working group and country report task forces

12. In accordance with rules 62 and 95 of its rules of procedure, the Committee established a working group which met before each of its three sessions. The working group was entrusted with the task of making recommendations on the communications received under the Optional Protocol. The former working group on article 40, entrusted with the preparation of lists of issues concerning the initial or periodic reports scheduled for consideration by the Committee, has been replaced since the seventy-fifth session (July 2002) by country report task forces.² Country report task forces met during the ninety-seventh, ninety-eighth and ninety-ninth sessions to consider and adopt lists of issues on the reports of Cameroon, Colombia, El Salvador, Estonia, Israel, Jordan, Hungary, Serbia, Poland, Belgium, Ethiopia, Mongolia, Kazakhstan, Slovakia and Togo. The Committee also adopted lists of issues on the situation in two non-reporting States: Seychelles (ninety-eighth session) and Dominica (ninety-ninth session).

13. The Committee benefits increasingly from information made available to it by the Office of the United Nations High Commissioner for Human Rights (OHCHR). United Nations bodies (the Office of the United Nations High Commissioner for Refugees (UNHCR)) and specialized agencies (the International Labour Organization (ILO)) and the World Health Organization (WHO)) provided advance information on several of the countries whose reports were to be considered by the Committee. To that end, country report task forces also considered material submitted by representatives of a number of international and national human rights non-governmental organizations. The Committee

² *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 40*, vol. I (A/57/40 (vol. I)), para. 56, and annex III, sect. B.

welcomed the interest shown by and the participation of those agencies and organizations and thanked them for the information provided.

14. At the ninety-seventh session, the Working Group on Communications was composed of Ms. Helen Keller, Ms. Majodina, Ms. Motoc, Mr. Michael O'Flaherty, Mr. Rafael Rivas Posada, Mr. Fabián Omar Salvioli and Mr. Krister Thelin. Mr. Salvioli was designated Chairperson-Rapporteur. The Working Group met from 5 to 9 October 2009.

15. At the ninety-eighth session, the Working Group on Communications was composed of Mr. Amor, Mr. Iwasawa, Ms. Keller, Ms. Motoc, Mr. O'Flaherty, Mr. Rivas Posada, Sir Nigel Rodley, Mr. Salvioli, Mr. Thelin and Ms. Wedgwood. Mr. Krister Thelin was designated Chairperson-Rapporteur. The Working Group met from 1 to 5 March 2010.

16. At the ninety-ninth session, the Working Group on Communications was composed of Mr. Prafullachandra Natwarlal Bhagwati, Mr. El Haiba, Mr. Iwasawa, Ms. Motoc, Mr. O'Flaherty, Mr. Rivas Posada and Mr. Salvioli. Mr. O'Flaherty was designated Chairperson-Rapporteur. The Working Group met from 5 to 9 July 2010.

F. Related United Nations human rights activities

17. At each session, the Committee was informed about the activities of United Nations bodies dealing with human rights issues. Recent developments in the General Assembly and relating to the Human Rights Council were also discussed.

18. At its ninetieth session, the Committee decided to request Ms. Chanet to submit recommendations on its relations with the Human Rights Council for discussion during the ninety-third session. At the same time, the Committee also requested Ms. Wedgwood to draft recommendations on strengthening cooperation with the special procedures of the Human Rights Council, in particular to have a clearer idea of the Committee's contribution to the universal periodic review mechanism. At its ninety-second session, the Committee requested Ms. Chanet and Ms. Wedgwood to attend, as observers, a session of the Working Group on the Universal Periodic Review. At its ninety-fourth session, the Committee discussed these issues in plenary on the basis of the report presented by Ms. Chanet and Ms. Wedgwood (see CCPR/C/SR.2588).

19. Pursuant to a recommendation of the fourth inter-committee meeting and the seventeenth meeting of persons chairing the human rights treaty bodies, an inter-committee working group was set up to study the secretariat report on the practice of treaty bodies with regard to reservations to international human rights treaties. This working group met on 8 and 9 June 2006 and on 14 and 15 December 2006 and was chaired by Sir Nigel Rodley, who also represented the Committee. The reports of these two meetings (HRI/MC/2006/5 and Rev.1 and HRI/MC/2007/5) were transmitted to the sixth inter-committee meeting, held from 18 to 20 June 2007, and the nineteenth meeting of persons chairing the treaty bodies, held on 21 and 22 June 2007. On 15 and 16 May 2007, Sir Nigel Rodley also attended, on behalf of the Committee, a meeting of bodies set up pursuant to the international human rights treaties with the International Law Commission (ILC), on the topic of reservations. Sir Nigel Rodley reported to the Committee, at its eighty-ninth and ninetieth sessions, on the outcome of the work of the working group and the discussions with the International Law Commission. The Committee continues to follow this matter closely and discussed the work of the ILC on reservations to treaties at its ninety-eighth and ninety-ninth sessions, held respectively in March and July 2010. At its ninety-ninth session, the Chairperson of the Committee sent a letter to the ILC, conveying the Committee's views on the guidelines on reservations to treaties adopted by the Commission in 2009,

including guideline 3.2.2,³ as well as on draft guideline 4.5.3 included in the fifteenth report (A/CN.4/624/Add.1) of the Special Rapporteur of the ILC, Mr. Alain Pellet, which are of great relevance to treaty bodies, in particular to the Human Rights Committee.

G. Derogations pursuant to article 4 of the Covenant

20. Article 4, paragraph 1, of the Covenant stipulates that, in time of public emergency, States parties may take measures derogating from certain of their obligations under the Covenant. Pursuant to paragraph 2, no derogation is allowed from articles 6, 7, 8 (paras. 1 and 2), 11, 15, 16 and 18. Pursuant to paragraph 3, any derogation must be immediately notified to the other States parties through the intermediary of the Secretary-General. A further notification is required upon the termination of the derogation.⁴ All such notifications are available on the website of the United Nations Office of Legal Affairs.

21. On 23 November 2009, and 6 January, 9 April and 6 and 21 May 2010, the Government of Peru notified the other States parties, through the intermediary of the Secretary-General, that it had extended or declared the state of emergency in different provinces and parts of the country. In these notifications, the Government specified that, during the state of emergency, the rights covered by articles 9, 12, 17 and 21 of the Covenant would be suspended.

22. During the period under review, the Government of Guatemala notified the other States parties, through the intermediary of the Secretary-General, on 8 February and 30 March 2010, that it had extended or declared the state of emergency in different parts of the country. In these notifications, the Government specified that, during the state of emergency, the rights covered by articles 9, 12, 17 and 21 of the Covenant would be suspended.

23. During the period under review, the Government of Paraguay notified the other States parties, through the intermediary of the Secretary-General, on 27 April 2010, that it had declared a state of emergency in different parts of the country.

24. During the period under review, the Government of Chile notified the other States parties, through the intermediary of the Secretary-General, on 23 March 2010, that it had declared a state of emergency in different parts of the country affected by the earthquake.

25. During the period under review, the Government of Thailand notified the other States parties, through the intermediary of the Secretary-General, on 14 April 2010, that it had declared a state of emergency in different parts of the country. In this notification, the Government specified that, during the state of emergency, the rights covered by articles 12, 17 and 21 of the Covenant would be suspended.

26. During the period under review, the Government of Jamaica notified the other States parties, through the intermediary of the Secretary-General, on 1 June 2010, that it had declared a state of emergency on the island. In this notification, the Government specified that, during the state of emergency, the rights covered by articles 12, 17 and 21 of the Covenant would be suspended. On 30 June 2010, the Government of Jamaica notified the other States parties of the prolongation of the state of emergency for 28 days as of 23 June 2010.

27. On 23 June 2010, the Government of Sri Lanka notified the other States parties, through the intermediary of the Secretary-General, of the termination of derogations under

³ *Ibid.*, *Sixty-fourth Session, Supplement No. 10* (A/64/10), chap. V, sect. C.

⁴ *Ibid.*, *Sixtieth Session, Supplement No. 40*, vol. I (A/60/40 (vol. I)), chap. I, paras. 28–35.

articles 9, paragraph 2, 12, 14, paragraph 3, 17, paragraph 1, 19, paragraph 2, 21 and 22, paragraph 1, of the Covenant following the repeal of a number of emergency regulations promulgated in August 2005.

H. General comments under article 40, paragraph 4, of the Covenant

28. At its ninety-fourth session, the Committee decided to revise its general comment No. 10 (1983) on article 19 of the Covenant (freedom of expression). The Committee began its consideration of the draft document submitted by the Rapporteur, Mr. O'Flaherty, in a first reading at its ninety-seventh session. The Committee continued to consider the draft in a first reading during the ninety-eighth and ninety-ninth sessions.

I. Staff resources and translation of official documents

29. The Committee reaffirms its concern regarding the shortage of staff resources and stresses once again the importance of allocating adequate staff resources to service its sessions in Geneva and New York and to promote greater awareness, understanding and implementation of its recommendations at the national level. Furthermore, the Committee expresses concern that general rules concerning staff mobility in the Secretariat may hamper the work of the Committee, in particular for staff working in the Petitions Unit that need to remain in their position for a sufficiently long period so as to acquire experience and knowledge regarding the jurisprudence of the Committee.

30. The Committee also reaffirms its deep concern at the lack of availability of its official documents in the three working languages of the Committee. At its ninety-eighth session, held in March 2010, the Committee met in a public plenary session with Mr. Franz Baumann, Assistant Secretary-General for General Assembly Affairs and Conference Management, and Ms. Linda Wong, Chief, Service II, Programme Planning and Budget Division, in order to discuss ways in which the Committee could assist in overcoming difficulties with regard to the processing and translation in its three working languages of official Committee documents, in particular States parties' written replies to lists of issues.

J. Publicity for the work of the Committee

31. At its ninetieth session, the Committee discussed the need to develop a media strategy. It continued the discussion during the ninety-first, ninety-second and ninety-third sessions on the basis of a working paper prepared by Mr. Ivan Shearer, which was adopted by the Committee and made public at its ninety-fourth session (see CCPR/C/94/3) and includes the following main recommendations:

(a) The Human Rights Section of the United Nations website, and especially the OHCHR website to which it is linked, should be constantly reviewed, updated, and improved for layout, content, topicality and ease of use. The OHCHR website should also contain references and links to other relevant websites;

(b) At its annual meetings with NGOs, the Committee should enlist their aid in establishing strategies for, and secure their cooperation in, the dissemination of information about the Covenant and the Committee. International NGOs may also be able to assist in identifying appropriate national NGOs that are able to work at the grass-roots level. National NGOs should be given encouragement by the Committee to remain in contact, through registration with OHCHR after identification by United Nations field offices. Further programmes should be developed by OHCHR to assist national NGOs in conducting educational programmes in their countries, suited to local conditions. OHCHR

should disseminate the work of the Committee directly to national parliaments and universities;

(c) The consideration of selected State party reports at the Geneva sessions should be held in the Palais des Nations in order to allow a greater number of the public to attend and for the convenience of the press corps present there, where the anticipated public interest in the report under consideration is likely to exceed the capacity of the Palais Wilson;

(d) Webcasting, podcasting and streaming of proceedings should be permitted of open meetings of the Committee. A report should be requested from the OHCHR information officer on the feasibility and logistics of the implementation of this recommendation. Cassette tapes of the public proceedings of the Committee should be made available on request to those who wish to receive them, at a reasonable cost. The Department of Public Information should be requested to promote the video coverage of public proceedings;

(e) The media should be encouraged to cover by radio or film the public proceedings of the Committee, subject to any guidelines that may be adopted for the decorum and dignified conduct of proceedings, and provided that the Committee's work is not disrupted;

(f) Members of the Committee should be encouraged to make public comments on the work of the Committee, except in relation to confidential matters, in their individual capacity, making clear that they do not speak on behalf of the Committee as a whole;

(g) Individual members, in particular country rapporteurs and country report task force members, should be encouraged to speak at press conferences during or at the conclusion of the Committee's sessions. They should also be able to participate in the follow-up activities of the Committee on cases of which they have particular knowledge;

(h) The traditional final press conference should be retained, unless in the circumstances of a particular session it would seem unlikely to attract sufficient interest. It should be held not later than on the day preceding the final day of the session. Participation in the final press conference should not be restricted to members of the Bureau. The press and other media should have access to the Committee's concluding observations in relation to the countries examined at that session at least 24 hours prior to the final press conference or prior to any special press conference in relation to that particular country. An executive summary of the concluding observations adopted by the Committee at the session should be made available, prepared by the Secretariat, to help inform the media;

(i) In consultation with the Media Unit and Public Affairs Office, arrangements for press briefings during the session should be made so that items of particular interest on the Committee's agenda for that session can be highlighted. An informal lunch or drinks party with members of the press should be arranged at the beginning of the session so that members of the press and members of the Committee can become individually acquainted. This should be accompanied by a formal pre-session media briefing;

(j) The opportunity should be taken to issue press releases during the course of a session of the Committee whenever it seems appropriate to do so. Press releases in each case should be approved by the Chairperson who, in case of doubt, may consult the Bureau. The OHCHR website should contain a dedicated section devoted to press releases regarding the Committee's work.

32. At its ninety-sixth session, the Committee requested the Secretariat to ensure that access of the public be facilitated, in particular for public meetings during sessions held at the United Nations Headquarters in New York. The Committee regrets that to date there has been no progress in this regard.

K. Publications relating to the work of the Committee

33. The Committee notes with appreciation that volumes 5, 6, 7, 8 and 9 of the Selected Decisions of the Human Rights Committee under the Optional Protocol have been published, bringing its jurisprudence up to date to the October 2007 session. Such publications will make the Committee's jurisprudence more accessible to the general public and to the legal profession in particular. However, these volumes of the Selected Decisions must still be made available in all official languages of the United Nations.

34. The Committee has learned with satisfaction that its decisions adopted under the Optional Protocol have been published in the databases of various institutions.⁵ It appreciates the growing interest shown in its work by universities and other institutions of higher learning in this respect. It also reiterates its previous recommendation that the treaty body database of the OHCHR website (<http://tb.ohchr.org/default.aspx>) should be equipped with adequate search functions.

L. Future meetings of the Committee

35. At its ninety-sixth session, the Committee confirmed the following schedule of meetings for 2010: 100th session from 11 to 29 October 2010. At its ninety-ninth session, it confirmed the following schedule of meetings for 2011: 101st session from 14 March to 1 April 2011, 102nd session from 11 to 29 July 2011.

M. Adoption of the report

36. At its 2741st meeting, on 29 July 2010, the Committee considered the draft of its thirty-fourth annual report, covering its activities at its ninety-seventh, ninety-eighth and ninety-ninth sessions, held in 2009 and 2010. The report, as amended in the course of the discussion, was adopted unanimously. By virtue of its decision 1985/105 of 8 February 1985, the Economic and Social Council authorized the Secretary-General to transmit the Committee's annual report directly to the General Assembly.

⁵ *Ibid.*, *Fifty-ninth Session, Supplement No. 40*, vol. I (A/59/40 (vol. I)), annex VII.

II. Methods of work of the Committee under article 40 of the Covenant and cooperation with other United Nations bodies

37. The present chapter summarizes and explains the modifications introduced by the Committee to its working methods under article 40 of the Covenant in recent years, as well as recent decisions adopted by the Committee on follow-up to its concluding observations on State party reports.

A. Recent developments and decisions on procedures

1. Revised reporting guidelines

38. At its ninetieth session, the Committee decided to revise its reporting guidelines and requested Mr. O'Flaherty to review the existing guidelines and to prepare a working paper identifying in particular any difficulties that might arise with the implementation of harmonized guidelines. The Committee began a discussion on the basis of Mr. O'Flaherty's document at its ninety-second and ninety-third sessions and decided to begin work on the preparation of new guidelines. At its ninety-fifth session, the Committee designated Ms. Keller as rapporteur for the preparation of new guidelines.

39. At its ninety-seventh session, held in October 2009, the Committee started discussing its draft revised reporting guidelines and continued this discussion at its ninety-eighth session. The revised reporting guidelines were adopted at the ninety-ninth session.

2. Focused reports based on lists of issues prior to reporting

40. In October 2009, the Committee also decided to adopt a new reporting procedure whereby it would send States parties a list of issues (a so-called list of issues prior to reporting (LOIPR)) and consider their written replies in lieu of a periodic report (a so-called focused report based on replies to a list of issues). Under the new procedure, the State party's answer would constitute the report for purposes of article 40 of the Covenant. The Committee designated Ms. Keller as rapporteur for the modalities of the new procedure. Following a discussion of two papers submitted by Ms. Keller at the ninety-eighth and ninety-ninth sessions, the modalities of implementation of the new optional procedure were decided upon by the Committee during its ninety-ninth session (see for further details CCPR/C/99/4).

B. Follow-up to concluding observations

41. Since its forty-fourth session in March 1992,⁶ the Committee has adopted concluding observations. It takes the concluding observations as a starting point in the preparation of the list of issues for the consideration of the subsequent State party report. In some cases, the Committee has received, in accordance with rule 71, paragraph 5, of its revised rules of procedure, comments on its concluding observations and replies to the concerns identified by it from the States parties concerned, which are issued in document form.

⁶ *Ibid.*, *Forty-seventh Session, Supplement No. 40 (A/47/40)*, chap. I, sect. E, para. 18.

42. At its seventy-fourth session, the Committee adopted decisions spelling out the modalities for following up on concluding observations.⁷ At its seventy-fifth session, the Committee appointed Mr. Maxwell Yalden as its Special Rapporteur for follow-up on concluding observations. At the eighty-third session, Mr. Rivas Posada succeeded Mr. Yalden. At the ninetieth session, Sir Nigel Rodley was appointed Special Rapporteur for follow-up on concluding observations. At the ninety-sixth session, Mr. Amor succeeded Sir Nigel Rodley.

43. At its ninety-fourth session, the Committee requested the Special Rapporteur for follow-up on concluding observations, Sir Nigel Rodley, to present proposals to the Committee on ways to strengthen its follow-up procedure. On the basis of a paper submitted by the Special Rapporteur for follow-up on concluding observations (CCPR/C/95/5), the Committee discussed and adopted several proposals to strengthen its follow-up procedure at its ninety-fifth session.⁸

44. During the period under review, such comments were received from 16 States parties (Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, Denmark, Georgia, Japan, Monaco, Spain, Sudan, Sweden, the former Yugoslav Republic of Macedonia, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland and Zambia), as well as from the United Nations Interim Administration Mission in Kosovo (UNMIK). This information has been published and can be consulted on the OHCHR website (<http://www2.ohchr.org/english/bodies/hrc/followup-procedure.htm>). Chapter VII of the present report summarizes activities relating to follow-up to concluding observations and States parties' replies.

C. Links to other human rights treaties and treaty bodies

45. The Committee views the annual meeting of chairpersons of the human rights treaty bodies as a forum for exchanging ideas and information on procedures and logistical problems, streamlining working methods, improving cooperation among treaty bodies, and stressing the need to obtain adequate secretariat services to enable all treaty bodies to fulfil their mandates effectively. In its opinion on the idea of creating a single human rights treaty body,⁹ the Committee proposed that the meeting of chairpersons of treaty bodies and the inter-committee meeting should be replaced by a single coordinating body composed of representatives of the various treaty bodies, which would be responsible for the effective oversight of all questions relating to the harmonization of working methods.

46. The twenty-second meeting of chairpersons of the human rights treaty bodies was held in Brussels on 1 and 2 July 2010; Mr. Iwasawa participated. The tenth and eleventh inter-committee meetings were held in Geneva from 30 November to 2 December 2009 and from 28 to 29 June 2010, respectively. Representatives from each of the human rights treaty bodies participated. Mr. Amor and Sir Nigel Rodley represented the Committee at the tenth inter-committee meeting, and Mr. Iwasawa and Ms. Keller represented the Committee at the eleventh inter-committee meeting.

⁷ *Ibid.*, *Fifty-seventh Session, Supplement No. 40 (A/57/40)*, vol. I, annex III, sect. A.

⁸ *Ibid.*, *Sixty-fourth Session, Supplement No. 40*, vol. I (A/64/40 (vol. I)), annex VI.

⁹ *Ibid.*, *Sixty-second Session, Supplement No. 40*, vol. I (A/62/40 (vol. I)), annex V.

D. Cooperation with other United Nations bodies

47. At its ninety-seventh session, Mr. Sanchez-Cerro took over from Mr. Mohammed Ayat as Rapporteur mandated to liaise with the Office of the Special Adviser to the Secretary-General for the Prevention of Genocide and Mass Atrocities.

III. Submission of reports by States parties under article 40 of the Covenant

48. Under article 2, paragraph 1, of the International Covenant on Civil and Political Rights, each State party undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant. In connection with this provision, article 40, paragraph 1, of the Covenant requires States parties to submit reports on the measures adopted and the progress achieved in the enjoyment of the various rights and on any factors and difficulties that may affect the implementation of the Covenant. States parties undertake to submit reports within one year of the entry into force of the Covenant for the State party concerned and, thereafter, whenever the Committee so requests. Under the Committee's current guidelines, adopted at its sixty-sixth session and amended at the seventieth session (CCPR/C/GUI/66/Rev.2), the five-year periodicity in reporting, which the Committee itself had established at its thirteenth session in July 1981 (CCPR/C/19/Rev.1), was replaced by a flexible system whereby the date for the subsequent periodic report by a State party is set on a case-by-case basis at the end of the Committee's concluding observations on any report, in accordance with article 40 of the Covenant and in the light of the guidelines for reporting and the working methods of the Committee.

A. Reports submitted to the Secretary-General from August 2009 to July 2010

49. During the period covered by the present report, 12 reports were submitted to the Secretary-General by the following States parties: Kuwait (second periodic report), Guatemala (third periodic report), Iran (Islamic Republic of) (third periodic report), Dominican Republic (fifth periodic report), Norway (sixth periodic report), Yemen (fifth periodic report), Turkmenistan (initial report), Maldives (initial report), Angola (initial report), Iceland (fifth periodic report), Armenia (second periodic report) and Philippines (fourth periodic report).

B. Overdue reports and non-compliance by States parties with their obligations under article 40

50. The Committee wishes to reiterate that States parties to the Covenant must submit the reports referred to in article 40 of the Covenant on time so that the Committee can duly perform its functions under that article. Those reports are the basis for the discussion between the Committee and States parties on the human rights situation in States parties. Regrettably, serious delays have been noted since the establishment of the Committee.

51. The Committee notes with concern that the failure of States parties to submit reports hinders the performance of its monitoring functions under article 40 of the Covenant. The list below identifies the States parties that have a report more than five years overdue, and those that have not submitted reports requested by a special decision of the Committee. The Committee reiterates that these States are in default of their obligations under article 40 of the Covenant.

States parties that have reports more than five years overdue (as at 31 July 2010) or that have not submitted a report requested by a special decision of the Committee

<i>State party</i>	<i>Type of report</i>	<i>Date due</i>	<i>Years overdue</i>
Gambia ^a	Second	21 June 1985	25
Equatorial Guinea ^b	Initial	24 December 1988	21
Somalia	Initial	23 April 1991	19
Saint Vincent and the Grenadines ^c	Second	31 October 1991	18
Grenada ^d	Initial	5 December 1992	18
Côte d'Ivoire	Initial	25 June 1993	17
Seychelles	Initial	4 August 1993	16
Niger	Second	31 March 1994	16
Afghanistan	Third	23 April 1994	16
Dominica	Initial	16 September 1994	15
Guinea	Third	30 September 1994	15
Mozambique	Initial	20 October 1994	15
Cape Verde	Initial	5 November 1994	15
Malawi	Initial	21 March 1995	15
Burundi	Second	8 August 1996	13
Haiti	Initial	30 December 1996	13
Malta	Second	12 December 1996	13
Belize	Initial	9 September 1997	12
Nepal	Second	13 August 1997	12
Sierra Leone	Initial	22 November 1997	12
Romania	Fifth	28 April 1999	12
Nigeria	Second	28 October 1999	10
Bolivia (Plurinational State of)	Third	31 December 1999	10
Lebanon	Third	31 December 1999	10
South Africa	Initial	9 March 2000	10
Burkina Faso	Initial	3 April 2000	10
Iraq	Fifth	4 April 2000	10
Senegal	Fifth	4 April 2000	10
Ghana	Initial	8 February 2001	9

<i>State party</i>	<i>Type of report</i>	<i>Date due</i>	<i>Years overdue</i>
Macao Special Administrative Region (China) ^e	Initial	31 October 2001	8
Belarus	Fifth	7 November 2001	8
Bangladesh	Initial	6 December 2001	8
India	Fourth	31 December 2001	8
Lesotho	Second	30 April 2002	8
Cyprus	Fourth	1 June 2002	8
Zimbabwe	Second	1 June 2002	8
Cambodia	Second	31 July 2002	8
Uruguay	Fifth	21 March 2003	7
Guyana	Third	31 March 2003	7
Congo	Third	21 March 2003	7
Eritrea	Initial	22 April 2003	7
Gabon	Third	31 October 2003	6
Trinidad and Tobago	Fifth	31 October 2003	6
Peru	Fifth	31 October 2003	6
Democratic People's Republic of Korea	Third	1 January 2004	6
Djibouti	Initial	5 February 2004	6
Kyrgyzstan	Second	31 July 2004	6
Viet Nam	Third	1 August 2004	5
Egypt	Fourth	1 November 2004	5
Turkey	Initial	16 December 2004	5
Timor-Leste	Initial	19 December 2004	5
Venezuela (Bolivarian Republic of)	Fourth	1 April 2005	5
Mali	Third	1 April 2005	5
Swaziland	Initial	27 June 2005	5

^a The Committee considered the situation of civil and political rights in the Gambia during its seventy-fifth session (July 2002) in the absence of a report and a delegation. Provisional concluding observations were sent to the State party. At the end of the eighty-first session (July 2004), the Committee decided to convert them into final and public observations. At its ninety-fourth session (October 2008), the Committee also decided to declare the State party in non-compliance with its obligations under article 40 of the Covenant (see chap. III, para. 56).

^b The Committee considered the situation of civil and political rights in Equatorial Guinea during its seventy-ninth session (October 2003) in the absence of a report and delegation. Provisional concluding observations were sent to the State party. At the end of the eighty-first session (July 2004), the Committee decided to convert them into final and public observations. At its ninety-fourth session (October 2008), the Committee also decided to declare the State party in non-compliance with its obligations under article 40 of the Covenant (see chap. III, para. 58).

^c The Committee considered the situation of civil and political rights in Saint Vincent and the Grenadines during its eighty-sixth session (March 2006) in the absence of a report but in the presence of a delegation. Provisional concluding observations were sent to the State party, with a request to submit its second periodic report by 1 April 2007. A reminder was sent on 12 April 2007. In a letter dated 5 July 2007, Saint Vincent and the Grenadines undertook to submit its report within one month. At the end of its ninety-second session (March 2008), the Committee decided to convert the provisional concluding observations into final and public observations (see chap. III, para. 61).

^d The Committee considered the situation of civil and political rights in Grenada at its ninetieth session (July 2007) in the absence of a report and a delegation but on the basis of written replies from the State party. Provisional concluding observations were sent to the State party, which was requested to submit its initial report by 31 December 2008. At the end of its ninety-sixth session (July 2009), the Committee decided to convert the provisional concluding observations into final and public observations (see chap. III, para. 64).

^e While China is not itself a State party to the Covenant, the Government of China has accepted the obligations under article 40 for the Hong Kong and Macao Special Administrative Regions, which were formerly under British and Portuguese administration respectively.

52. The Committee once again draws particular attention to the fact that 26 initial reports are overdue (including the 22 initial reports overdue by at least five years listed above). The result is frustration of a crucial objective of the Covenant, namely, to enable the Committee to monitor compliance by States parties with their obligations under the Covenant on the basis of periodic reports. The Committee addresses reminders at regular intervals to all those States parties whose reports are significantly overdue.

53. Owing to the concern of the Committee about the number of overdue reports and non-compliance by States parties with their obligations under article 40 of the Covenant,¹⁰ two working groups of the Committee proposed amendments to the rules of procedure in order to help States parties fulfil their reporting obligations and to simplify the procedure. These amendments were formally adopted during the seventy-first session, in March 2001, and the revised rules of procedure were issued (CCPR/C/3/Rev.6 and Corr.1).¹¹ All States parties were informed of the amendments to the rules of procedure, and the Committee has applied the revised rules since the end of the seventy-first session (April 2001). The Committee recalls that general comment No. 30, adopted at the seventy-fifth session, spells out the States parties' obligations under article 40 of the Covenant.¹²

54. The amendments introduce a procedure to be followed when a State party has failed to honour its reporting obligations for a long time, or requests a postponement of its scheduled appearance before the Committee at short notice. In both situations, the Committee may henceforth serve notice on the State concerned that it intends to consider, from material available to it, the measures adopted by that State party to give effect to the provisions of the Covenant, even in the absence of a report. The amended rules of procedure further introduce a follow-up procedure to the concluding observations of the

¹⁰ Ibid., chap. III, sect. B, and *ibid.*, *Fifty-seventh Session, Supplement No. 40 (A/57/40)*, chap. III, sect. B.

¹¹ *Ibid.*, *Fifty-sixth Session, Supplement No. 40*, vol. I (A/56/40 (vol. I)), annex III, sect. B.

¹² *Ibid.*, *Fifty-seventh Session, Supplement No. 40*, vol. I (A/57/40 (vol. I)), annex VI.

Committee: rather than setting in the last paragraph of the concluding observations a date by which the State party's next report should be submitted, the Committee will invite the State party to report back to it within a specified period regarding its follow-up to the Committee's recommendations, indicating what steps, if any, it has taken. The responses received will thereafter be examined by the Committee's Special Rapporteur for follow-up on concluding observations, and a definitive deadline will then be set for the submission of the next report. Since the seventy-sixth session, the Committee has, as a rule, examined the progress reports submitted by the Special Rapporteur on a sessional basis.¹³

55. The Committee first applied the new procedure to a non-reporting State at its seventy-fifth session. In July 2002, it considered the measures taken by the Gambia to give effect to the rights set out in the Covenant, in the absence of a report and a delegation from the State party. It adopted provisional concluding observations on the situation of civil and political rights in the Gambia, which were transmitted to the State party. At its seventy-eighth session, the Committee discussed the status of the provisional concluding observations on the Gambia and requested the State party to submit by 1 July 2004 a periodic report that should specifically address the concerns identified in the Committee's provisional concluding observations. If the State party failed to meet the deadline, the provisional concluding observations would become final and the Committee would make them public. On 8 August 2003, the Committee amended rule 69A of its rules of procedure¹⁴ to provide for the possibility of making provisional concluding observations final and public. At the end of its eighty-first session, the Committee decided to make the provisional concluding observations on the Gambia final and public, since the State party had failed to submit its second periodic report. At its ninety-fourth session (October 2008), the Committee also decided to declare the State party in non-compliance with its obligations under article 40 of the Covenant.

56. At its seventy-sixth session (October 2002), the Committee considered the situation of civil and political rights in Suriname, in the absence of a report but in the presence of a delegation. On 31 October 2002, it adopted provisional concluding observations, which were transmitted to the State party. In its provisional concluding observations, the Committee invited the State party to submit its second periodic report within six months. The State party submitted its report by the deadline. The Committee considered the report at its eightieth session (March 2004) and adopted concluding observations.

57. At its seventy-ninth and eighty-first sessions (October 2003 and July 2004), the Committee considered the situation of civil and political rights in Equatorial Guinea and the Central African Republic, respectively, in the absence both of a report and a delegation in the first case, and in the absence of a report but in the presence of a delegation in the second case. Provisional concluding observations were transmitted to the States parties concerned. At the end of the eighty-first session, the Committee decided to make the provisional concluding observations on the situation in Equatorial Guinea final and public, the State party having failed to submit its initial report. At its ninety-fourth session (October 2008), the Committee also decided to declare the State party in non-compliance with its obligations under article 40 of the Covenant. On 11 April 2005, in conformity with the assurances it had made to the Committee at the eighty-first session, the Central African Republic submitted its second periodic report. The Committee considered the report at its eighty-seventh session (July 2006) and adopted concluding observations.

¹³ Except for the eighty-third session, when a new Special Rapporteur was appointed.

¹⁴ Rule 70 of the rules of procedure.

58. At its eightieth session (March 2004), the Committee decided to consider the situation of civil and political rights in Kenya at its eighty-second session (October 2004), as Kenya had not submitted its second periodic report, due on 11 April 1986. On 27 September 2004, Kenya submitted its second periodic report. The Committee considered the second periodic report of Kenya at its eighty-third session (March 2005) and adopted concluding observations.

59. At its eighty-third session, the Committee considered the situation of civil and political rights in Barbados, in the absence of a report but in the presence of a delegation, which pledged to submit a full report. Provisional concluding observations were transmitted to the State party. On 18 July 2006, Barbados submitted its third periodic report. The Committee considered the report at its eighty-ninth session (March 2007) and adopted concluding observations. As Nicaragua had not submitted its third periodic report, due on 11 June 1997, the Committee decided, at its eighty-third session, to consider the situation of civil and political rights in Nicaragua at its eighty-fifth session (October 2005). On 9 June 2005, Nicaragua gave assurances that it would submit its report by 31 December 2005 at the latest. Then, on 17 October 2005, Nicaragua informed the Committee that it would submit its report by 30 September 2006. At its eighty-fifth session (October 2006), the Committee requested Nicaragua to submit its report by 30 June 2006. Following a reminder from the Committee, dated 31 January 2007, Nicaragua again undertook, on 7 March 2007, to submit its report by 9 June 2007. Nicaragua submitted its third periodic report on 20 June 2007.

60. At its eighty-sixth session (March 2006), the Committee considered the situation of civil and political rights in Saint Vincent and the Grenadines, in the absence of a report but in the presence of a delegation. Provisional concluding observations were transmitted to the State party. In accordance with the provisional concluding observations, the Committee invited the State party to submit its second periodic report by 1 April 2007 at the latest. On 12 April 2007, the Committee sent a reminder to the authorities of Saint Vincent and the Grenadines. In a letter dated 5 July 2007 Saint Vincent and the Grenadines pledged to submit its report within a month. The State party having failed to submit its second periodic report, the Committee decided to make the provisional concluding observations on the situation in Saint Vincent and the Grenadines final and public at the end its ninety-second session (March 2008).

61. As San Marino had not submitted its second periodic report, due on 17 January 1992, the Committee decided, at its eighty-sixth session, to consider the situation of civil and political rights in San Marino at its eighty-eighth session (October 2006). On 25 May 2006, San Marino gave assurances to the Committee that it would submit its report by 30 September 2006. San Marino submitted its second periodic report in conformity with that commitment, and the Committee considered it at its ninety-third session.

62. As Rwanda had not submitted its third periodic report or a special report, due respectively on 10 April 1992 and 31 January 1995, the Committee decided, at its eighty-seventh session, to consider the situation of civil and political rights in Rwanda at its eighty-ninth session (March 2007). On 23 February 2007, Rwanda undertook, in writing, to submit its third periodic report by the end of April 2007, thereby superseding the planned consideration of the situation of civil and political rights in the absence of a report. Rwanda submitted its periodic report on 23 July 2007 and the Committee considered it at its ninety-fifth session.

63. At its eighty-eighth session (October 2006), the Committee decided to consider the situation of civil and political rights in Grenada at its ninetieth session (July 2007), as the State party had not submitted its initial report, due on 5 December 1992. At its ninetieth session (July 2007), the Committee undertook this review in the absence of a report or a delegation but on the basis of written replies from Grenada. Provisional concluding

observations were sent to the State party, which was requested to submit its initial report by 31 December 2008. At the end of its ninety-sixth session (July 2009), the Committee decided to convert the provisional concluding observations into final and public observations.

IV. Consideration of reports submitted by States parties under article 40 of the Covenant

64. The text below, arranged on a country-by-country basis in the sequence followed by the Committee in its consideration of the reports, contains the concluding observations adopted by the Committee with respect to the States parties' reports considered at its ninety-seventh, ninety-eighth and ninety-ninth sessions. The Committee urges those States parties to adopt corrective measures, where indicated, consistent with their obligations under the Covenant and to implement these recommendations.

65. Switzerland

(1) The Committee considered the third periodic report submitted by Switzerland (CCPR/C/CHE/3) at its 2657th and 2658th meetings, held on 12 and 13 October 2009 (CCPR/C/SR.2657 and CCPR/C/SR.2658), and adopted the following concluding observations at its 2679th meeting (CCPR/C/SR.2679), held on 27 October 2009.

A. Introduction

(2) The Committee welcomes the timely submission of the third report of Switzerland which gives detailed information on measures adopted by the State party and on its forthcoming plans to further implement the Covenant. The Committee is also grateful to the State party for the written replies submitted in advance in response to the Committee's written questions (CCPR/C/CHE/Q/3/Add.1), as well as additional detailed information provided orally by the delegation during the consideration of the report, and the supplementary written information.

B. Positive aspects

(3) The Committee, which notes the sustained attention paid by the State party to the protection of human rights, generally welcomes the following legislative and other measures:

(a) The adoption in 2007 of the Federal Criminal Code of Procedure and the Swiss Code of Juvenile Criminal Procedure, both due to enter into force in 2011;

(b) The revision of the Federal Law on Compensation for Victims of Offences (LAVI) which entered into force in 2009;

(c) The revision of the Constitution in order to reinforce guarantees regarding access to justice and the independence of the judiciary;

(d) The adoption in 2002 of the Federal Law on the Elimination of Discrimination against Persons with Disabilities, which entered into force in January 2004;

(e) The Act on the Use of Force and Police Measures of 20 March 2008;

(f) The withdrawal of reservations to articles 10, paragraph 2 (b), 14, paragraphs 1, 3 (d) and (f) and 5 of the Covenant.

C. Principal matters of concern and recommendations

(4) The Committee is concerned that the State party maintains reservations to articles 12, paragraph 1, 20, paragraph 1, 25 (b) and 26. With regard to the reservation to article 26 of the Covenant, the Committee takes note of the State party's comment that it may review its position and consider withdrawing this reservation following ratification of Protocol 14 to the European Convention of Human Rights.

The State party should consider withdrawing its remaining reservations to the Covenant.

(5) The Committee is concerned about the information provided in the replies to the list of issues, and confirmed by the delegation, that because individuals under the jurisdiction of the State party may have recourse to the European Court of Human Rights, the State party does not need to accede to the Optional Protocol to the Covenant. The Committee notes, however, the comment by the delegation that there is no legal obstacle to the accession of the State party to the Optional Protocol (art. 2).

The State party should consider acceding to the Optional Protocol to the Covenant in order to enhance the protection of human rights for persons subject to its jurisdiction.

(6) The Committee reiterates its concern that the application of the State party's obligations under the Covenant in all parts of its territory may be hampered by the particular federal structure of the State party. It reminds the State party that under article 50 of the Covenant the provisions of the Covenant "shall extend to all parts of federal States without any limitations or exceptions" (art. 2).

The State party should take measures to ensure that the authorities in all cantons and municipalities are aware of the rights set out in the Covenant and of their duty to effectively ensure their implementation, including in cantonal courts.

(7) The Committee is concerned that the State party has not yet established a national institution, with broad competence in the area of human rights, in accordance with the Paris Principles (General Assembly resolution 48/134). The Committee notes the information provided by the State party on the decision, after broad consultation, to conduct a pilot project creating "a specialized centre on human rights" within universities for a five-year period, but reminds the State party that universities can only carry out a small part of the mandate of a national human rights institution (art. 2).

The State party should establish a national human rights institution with a broad human rights mandate, and provide it with adequate financial and human resources, in conformity with the Paris Principles.

(8) The Committee is concerned about the referendum initiative aimed at prohibiting the construction of minarets and about the discriminatory advertising campaign which accompanies it. It notes that the State party does not support this referendum initiative which, if adopted, would bring the State party into non-compliance with its obligations under the Covenant (arts. 2, 18 and 20).

The State party should strenuously ensure respect of freedom of religion and firmly combat incitement to discrimination, hostility and violence.

(9) The Committee is concerned about the sharp rise in apparent anti-Semitic incidents occurring in the State party, including stone throwing and verbal threats that disrupted a meeting at the Kempinski Hotel in Geneva on March 2, 2009 and the arson fire that destroyed the largest synagogue in Geneva in 2007. The Committee is also concerned at reports that the police in Geneva have not fully investigated the pattern of these incidents (arts. 2, 18, 20 and 26).

The State party should effectively investigate any and all threats of violence against minority religious communities, including the Jewish community.

(10) The Committee regrets that the Federal Commission against Racism does not have a mandate to initiate legal action on complaints of racial discrimination and incitement to racial hatred (arts. 2, 20 and 26).

The State party should consider, as previously recommended by the Committee, reinforcing the mandate of the Federal Commission against Racism to investigate all cases of racial discrimination and incitement to national, racial or religious hatred, or create an independent mechanism with competence to initiate legal action in such cases. Furthermore, the State party should strengthen its efforts to promote tolerance and cultural dialogue among the population.

(11) The Committee is concerned about the continuing incidence of violence against women, including domestic violence, as well as about the absence of comprehensive legislation on this matter. The Committee is particularly concerned that the requirements of article 50 of the new Federal Law on Foreign Nationals, in particular the proof of difficulty in reintegrating in the country of origin, create problems for foreign women who have been married for less than three years to a Swiss national or a foreigner with a residency permit and who are victims of domestic violence, in acquiring or renewing their residency permit. These requirements may also prevent victims from leaving abusive relationships and from seeking assistance (arts. 2, 3, 23 and 26).

The State party should intensify its efforts to address the issue of violence against women, including by enacting comprehensive legislation against domestic violence and sanctioning all forms of violence against women, as well as to ensure that victims have access to immediate means of redress and protection. It should prosecute and punish those responsible. It should also review its legislation on residence permits to avoid the application of the law having the effect, in practice, of forcing women to remain in abusive relationships.

(12) The Committee is concerned at the high incidence of firearms-related suicides in the State party. In this regard, it is concerned that those serving in the army normally store their service weapons at home. It welcomes the recent decision to store all service ammunition at military sites (art. 6).

The State party should review its legislation and practices in order to restrict the conditions of access to, and legitimate use of, firearms and should cease the storage of service firearms in the homes of those who serve in the armed forces. In addition, the State party should create a national registry of privately owned firearms.

(13) While noting that under article 115 of the Penal Code, “a person who, acting from a selfish motive, incites persons to commit suicide or provides such persons with assistance with a view to suicide shall be sentenced”, the Committee is concerned about the lack of independent or judicial oversight to determine that a person seeking assistance to commit suicide is operating with full free and informed consent (art. 6).

The State party should consider amending its legislation in order to ensure independent or judicial oversight to determine that a person who is seeking assistance for suicide is acting with full free and informed consent.

(14) The Committee is concerned about reports of police brutality against persons during arrest or detention, in particular against asylum-seekers and migrants. It remains concerned about the lack in most cantons of independent mechanisms to investigate complaints lodged against the police. In this regard, the Committee reiterates that the possibility of filing a complaint before a court should not preclude the creation of such mechanisms. The Committee is also concerned with the generally low rate of minorities in the police force, despite the high percentage of minorities in the population at large (art. 7).

The State party should ensure that all cantons create an independent mechanism with authority to receive and effectively investigate all complaints of excessive use of force, ill-treatment or other abuses by the police. All perpetrators should be prosecuted and punished, and victims compensated. The State party should create a national statistical database on complaints lodged against the police. The State party should also increase efforts to ensure that minorities are adequately represented in the police forces.

(15) The Committee notes with concern that the forcible removal of foreigners, which lies within the competence of cantons, does not take place in the presence of independent observers (arts. 7 and 13).

The State party should allow the presence of independent observers during the forcible removal of foreigners.

(16) The Committee notes that the Administrative Federal Tribunal has revised its jurisprudence to recognize that persecution by non-State actors may constitute a ground for granting asylum. The Committee is concerned, however, about reports of expulsions regardless of the stated inability of the expelled persons' countries of origin to grant them protection against non-State actors (arts. 7 and 13).

The State party should fully comply with the principle of non-refoulement for persons subjected to persecution by non-State actors and ensure the application of the jurisprudence of the Administrative Federal Tribunal in this regard.

(17) The Committee notes the efforts made by the State party to improve living conditions and overcome overcrowding in prisons, such as the planned construction of new prisons. The Committee is concerned about the persistent inadequate living conditions in some facilities and in particular the overcrowding in Champ-Dollon Prison (art. 10).

The State should reinforce its efforts to improve the living conditions in prisons in all cantons and to urgently resolve the issue of overcrowding, in particular in the Champ-Dollon Prison.

(18) The Committee takes note of the information that asylum-seekers are duly informed of their right to legal assistance and that free legal assistance is provided during the ordinary asylum procedure. It is concerned, however, that free legal assistance may be subject to restrictive conditions when asylum-seekers file an application in the framework of the extraordinary procedure (art. 13).

The State party should review its legislation in order to grant free legal assistance to asylum-seekers during all asylum procedures, whether ordinary or extraordinary.

(19) While noting that urgent assistance is granted to persons whose asylum application has been rejected, the Committee is concerned about reports according to which their living conditions are inadequate and they no longer benefit from health insurance (LAMAL Law), thereby restricting their access to health care (arts. 13 and 17).

The State party should protect the fundamental rights of persons whose asylum application has been rejected and provide them with an adequate standard of living and health care.

(20) The Committee is concerned at the reluctance of the State party to compensate or otherwise make reparation for forcible castrations and sterilizations conducted between 1960 and 1987 (arts. 2 and 7).

The State party should repair this past injustice through forms of reparation, including non-financial means, such as public apology.

(21) The Committee notes with concern the modification of the Civil Code of 12 June 2009, which prohibits marriage or partnership with a person with no regular residence status in Switzerland. This new provision goes beyond mere regulation of the right to marry and found a family consecrated in 23 of the Covenant (arts. 2, 17, 23 and 26).

The State party should urgently review its applicable legislation so as to make it consistent with the Covenant.

(22) The State party should widely disseminate in its official languages the text of its third report, the written answers it has provided to the list of issues drawn up by the Committee and these concluding observations.

(23) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, information on the current situation and on its implementation of the recommendations given in paragraphs 10, 14 and 18 above.

(24) The Committee requests the State party, in its next periodic report, due to be submitted 2015, to provide information on action taken to implement the remaining recommendations and on its compliance with the Covenant as a whole.

66. **Republic of Moldova**

(1) The Committee considered the second periodic report submitted by the Republic of Moldova (CCPR/C/MDA/2) at its 2659th and 2660th meetings, held on 13 and 14 October 2009, and adopted at its 2682nd meeting, held on 29 October, the following concluding observations.

A. Introduction

(2) The Committee welcomes the second periodic report of the Republic of Moldova, which includes useful information on measures adopted by the State party to further the implementation of the Covenant. It notes, however, that while the report contains information on legislative and other measures, it does not deal adequately with the implementation or impact of such measures. The Committee expresses its appreciation for the responses given orally by the delegation and for the written responses to the list of issues which, regrettably, were only submitted a few days before the examination of the State party's report. The Committee wishes to underscore the importance of the timely submission of the replies to the list of issues as they facilitate a more comprehensive discussion of the implementation of the Covenant.

B. Positive aspects

(3) The Committee welcomes the following legislative and other measures adopted since the examination of the State party's initial report:

(a) The removal from the Supreme Law, pursuant to Law No. 185-XVI of June 2006, of the provision allowing for the application of the death penalty "for acts committed upon war or threat of war";

(b) The amendment, in 2005, of the Criminal Code to include a provision criminalizing torture;

(c) The Law on Equal Chances for Women and Men adopted in February 2006;

(d) The 2004 National Strategy for the Prevention and Combatting of Corruption;

(e) The National Plan for the Promotion of Gender Equality in Society for the period 2006–2009; and

(f) The ratification of the Second Optional Protocol to the Covenant, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

C. Principal subjects of concern and recommendations

(4) The Committee expresses its concern at the lack of significant progress in the implementation of many of the Committee's previous recommendations, particularly those relating to conditions in detention facilities; trafficking in human beings; the duration of pretrial detention; the independence of the judiciary; the exercise of the right to religious freedom; the participation of women in senior decision-making positions in the public and private sectors; reliance on abortion as a method of contraception; and the discrimination faced by minorities such as the Roma.

The State party should strengthen its efforts to implement the Committee's recommendations in these areas.

(5) The Committee takes note of the State party's information that its inability to exercise effective control over the territory of Transdniestria continues to impede the implementation of the Covenant in that region. It notes, however, the State party's continuing obligation to ensure respect for the rights recognized in the Covenant in relation to the population of Transdniestria within the limits of its effective power.

The State party should renew its efforts to resolve the impediments to the implementation of the Covenant in Transdniestria and should provide, in its next report, information on the steps taken in this regard.

(6) The Committee notes that, under the State party's Constitution, human rights provisions are to be interpreted in compliance with the Universal Declaration of Human Rights and international agreements to which it is a party and that international human rights obligations take precedence over domestic law. It notes, however, that the provisions of the Covenant are not, in practice, invoked in the State party's courts of law (art. 2).

The State party should make serious efforts to disseminate knowledge of the provisions of the Covenant among judges to enable them to apply the Covenant in relevant cases and among lawyers and the public to enable them to invoke its provisions before the courts. The State party should include in its next periodic report detailed examples of the application of the Covenant by the domestic courts.

(7) The Committee notes with concern that the State party has not adopted comprehensive anti-discrimination legislation to prevent and combat discrimination in all areas (arts. 2 and 26).

The State party should adopt comprehensive non-discrimination legislation which expressly outlaws all the grounds of discrimination set out in the Covenant, as well as provisions on adequate sanctions and compensation.

(8) The Committee expresses its concern at credible reports of grave human rights violations committed against protesters following post-election demonstrations in April 2009. In this regard, the Committee takes note of the delegation's statement that law enforcement officers "acted outside of their powers". It is particularly concerned at reports of arbitrary arrests, violent crowd control tactics, including beatings, and the torture and ill-treatment of persons detained in connection with the post-election demonstrations (arts. 2, 6, 7, 9 and 21).

The State party should:

(a) **Thoroughly investigate allegations of abuse by law enforcement officials during the April 2009 demonstrations through an independent and impartial body, whose findings should be made public;**

(b) **Take measures to ensure that law enforcement officers found responsible for the torture and ill-treatment of protestors, including those with command responsibility, are held accountable through prosecution and appropriate disciplinary measures and that, during the conduct of the investigation, officers implicated are suspended from duty;**

(c) **Ensure that adequate compensation is paid to victims of torture and other forms of ill-treatment which occurred during the April 2009 demonstrations irrespective of the outcome of criminal prosecutions against the perpetrators, and that adequate medical and psychological rehabilitation measures are made available to victims; and**

(d) **Ensure respect for the right to freedom of assembly in accordance with article 21 of the Covenant, including through the enforcement of the 2008 Law on Assemblies and put in place safeguards, such as appropriate training, to ensure that such violations of human rights by its law enforcement officers do not occur again.**

(9) The Committee notes with serious concern the incidence of torture and ill-treatment in police stations and other detention facilities in the State party. Despite the delegation's information that the law requires prosecutors to conduct daily inspections of temporary holding facilities, during which time the State party has indicated that detainees may speak freely with the prosecutor, the Committee is concerned that the use of torture is widespread. The Committee expresses its concern that complaints of torture are often not properly recorded or investigated and that there is a tendency to reject complaints as being "manifestly unfounded". In addition, the Committee notes the inadequacy of existing avenues for redress, namely in that the Complaints Commission is not functional and the Parliamentary Advocate to whom complaints may also be made has very limited means of addressing complaints (arts. 2, 7 and 10).

The State party should:

(a) **Take urgent measures to put an end to torture in police custody and other places of detention, including through the provision of appropriate training to police and prison officials, the investigation of all complaints of torture and other forms of ill-treatment, the prosecution and punishment of those responsible and the enforcement of the law prohibiting the admission of evidence obtained through torture; and**

(b) **Ensure the availability of effective avenues of redress, with provision for compensation, as appropriate, for victims of torture and other forms of ill-treatment.**

(10) The Committee notes with concern that the National Preventative Mechanism on Torture (NPM) appears to be under-resourced and has yet to recruit a full complement of experts. The Committee further notes that several visits to detention facilities already undertaken have been notified in advance (arts. 2, 7 and 10).

The State party should strengthen the NPM and bolster its independence, in particular by:

(a) **Increasing the financial resources allocated to it;**

- (b) **Expediting the recruitment of qualified experts to the NPM;**
- (c) **Ensuring that all persons involved in the administration of places of detention are aware of the rights of the NPM to access, unaccompanied and without any form of prior notice, any detention facility; and**
- (d) **Publishing and disseminating the annual reports of the NPM.**

(11) The Committee is concerned that the Centre for Human Rights is inadequately funded and is dependent on the Executive for its funding. It also notes with concern that the majority of complaints addressed to the Centre for Human Rights are not formally investigated. The Committee notes the absence of information on the measures taken to publicize the existence and functions of the Centre for Human Rights and the National Preventative Mechanism (art. 2).

The State party should take the necessary measures to ensure that the Centre for Human Rights has adequate human and financial resources to exercise its mandate effectively. It should also take active measures to raise awareness of the existence of these mechanisms and of their mandate with a view to ensuring full compliance with article 2, paragraph 3, of the Covenant.

(12) The Committee is concerned that persons infected with HIV/AIDS face discrimination and stigmatization in the State party, including in the fields of education, employment, housing and health care, and that foreigners are arbitrarily subjected to HIV/AIDS tests as part of the immigration rules framework. In particular, the Committee is concerned that patient confidentiality is not always respected by health-care professionals. It is also concerned that legislation prohibits the adoption of children with HIV/AIDS, thereby depriving them of a family environment (arts. 2, 17 and 26).

The State party should take measures to address the stigmatization of HIV/AIDS sufferers through, inter alia, awareness-raising campaigns on HIV/AIDS, and should amend its legislation and regulatory framework in order to remove the prohibition on the adoption of children with HIV/AIDS, as well as any other discriminatory laws or rules pertaining to HIV/AIDS.

(13) The Committee notes with concern that, under a regulation promulgated in August 2009, persons with tuberculosis may be subjected to forcible detention in circumstances where he or she is deemed to have “avoided treatment”. In particular, the regulation is unclear as to what constitutes the avoidance of treatment and fails to provide, inter alia, for patient confidentiality or for the possibility for the judicial review of a decision to forcibly detain a patient (arts. 2, 9 and 26),

The State party should urgently review this measure to bring it into line with the Covenant, ensuring that any coercive measures arising from public health concerns are duly balanced against respect for patients’ rights, guaranteeing judicial review and patient confidentiality and otherwise ensuring that persons with tuberculosis are treated humanely.

(14) The Committee notes with concern reports that discrimination based on sexual orientation appears to be widespread at all levels of society (arts. 2 and 26).

The State party should take measures to combat discrimination based on sexual orientation, including training programmes for police officers and health-care professionals, as well as campaigns aimed at raising awareness, among potential victims, of their rights and of the existing mechanisms for redress.

(15) The Committee notes with concern that the participation of women in the employment market remains considerably lower than that of men and that a significant gender wage gap persists as a result, among other things, of a culture of gender segregation

in the workplace. While acknowledging measures such as the National Plan for the Promotion of Gender Equality in Society, which covers the period 2006–2009, and the Law on Equal Chances for Women and Men, it is also concerned that the representation of women in senior positions in both the public and private sectors, most notably in the judiciary, in elected bodies and in academic institutions, remains low (arts. 3 and 25).

The State party should strengthen the implementation of the existing legal and policy framework to ensure that women enjoy equal access to the labour market and receive equal pay for work of equal value. It should also strengthen efforts to achieve substantive equality between men and women in the exercise of the rights guaranteed by the Covenant and, in this respect, should take measures to encourage increased the participation of women in decision-making positions in the public and private sectors.

(16) The Committee welcomes the decision on 25 September 2009 by a court in Anenii Noi to issue a protection order in favour of the victim in a case involving domestic violence. Nevertheless, it expresses its concern at domestic violence in the State party, the rarity of intervention measures by the judiciary, the limited number and capacity of shelters for victims of domestic violence, and at reports that domestic violence is deemed to warrant the intervention of the police only in cases where it has resulted in serious injury (arts. 3, 7 and 26).

The State party should enforce the law on domestic violence and provide support for victims through the establishment of additional shelters, the provision of free counselling services and such other measures as may be necessary for the protection of victims. The Committee urges the State party to take appropriate preventive measures and to provide training on the handling of domestic violence to all professionals involved in such cases, including police officers, prosecutors, judges and social workers, with emphasis on the gender aspects of domestic violence. The State party should also provide information, in its next report, on the incidence of domestic violence, on the measures taken to address it, including the use of restraining orders, and on the impact, if any, of such measures.

(17) The Committee is concerned that, despite the National Strategy for Health (2005–2015), the use of abortion as a contraceptive measure is widespread. It notes, in this respect, that the law on compulsory medical insurance, which provides for the inclusion of contraceptives in the Basic Benefits Package, has not been implemented. Furthermore, the Committee is concerned that, although abortion is not prohibited by law, there have been instances where women have been prosecuted for murder or infanticide after having had an abortion and that no after-abortion healthcare is provided to them in prison (arts. 3, 9 and 10).

The State party should:

(a) Take steps to eliminate the use of abortion as a method of contraception by, inter alia, ensuring the provision of affordable contraception and introducing reproductive and sexual health education in school curricula and for the broader public;

(b) Consistently apply the law so that women who undergo abortions are not prosecuted for murder or infanticide;

(c) Release any women currently serving sentences on such charges; and

(d) Provide appropriate health care in prison facilities to women who have undergone abortions.

(18) The Committee welcomes the adoption of the 2005 Law on Preventing and Combating Trafficking in Persons and the establishment of the Rehabilitation Centre for Victims of Trafficking in Human Beings. However, it remains concerned that the State party continues to be a country of origin and transit for trafficking in human beings, particularly women and children, despite the adoption of legislation and policy in this area (arts. 3, 7, 8 and 26).

The State party should strengthen the implementation of its trafficking laws and policies, including through more concerted efforts to prosecute offenders and to protect victims. The State party should also broaden the implementation of measures to assist the social reintegration of victims and to provide genuine access to health care and counselling in all areas of the country.

(19) The Committee notes with concern that the legally prescribed maximum duration of police custody subsequent to arrest is 72 hours and that, moreover, this period is frequently exceeded. Moreover, the Committee is concerned that pretrial detention is determined by reference to the penalty stipulated for the offence of which the detainee has been accused. The Committee is also concerned that, according to information provided by the State party, this period may be extended by 6 to 12 months depending on the charge, is subject to judicial review only at quarterly intervals and may be prolonged at the discretion of the General Prosecutor (arts. 9 and 14).

The State party should limit the duration of police custody following arrest and of pretrial detention in line with article 14, paragraph 3 (c) of the Covenant and should ensure that the provisions of article 9 are fully respected. In this regard, the State party should take due account of general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial and general comment No. 8 (1982) on the right to liberty and security of persons.

(20) The Committee welcomes the measures taken by the State party to employ methods other than detention to address children in conflict with the law, such as probation and mediation, but remains concerned at the frequent use of detention (arts. 9, 10, 14 and 24).

The State party should:

(a) Continue to broaden its approach to juvenile crime, by addressing underlying social factors and by resorting to imprisonment as a measure of last resort;

(b) Ensure that all professionals involved in the juvenile justice system are trained in relevant international standards, including the United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20); and

(c) Implement policies aimed at reducing recidivism.

(21) While noting the significant reduction in the total number of detainees in the State party's prisons, the Committee is concerned at overcrowding in individual facilities and that conditions remain harsh, with insufficient ventilation and lighting, poor sanitation and hygiene facilities and inadequate access to health care. The Committee notes the State party's information that all persons taken into custody are entitled to a medical examination upon request but remains concerned at reports that, when carried out, these are frequently perfunctory (art. 10).

The State party should ensure as a matter of urgency that conditions in places of detention are improved to meet the standard set out in article 10, paragraph 1, of the Covenant.

(22) The Committee expresses its concern that the fair trial guarantees provided for under the Covenant are, in practice, frequently violated. In particular, the Committee is concerned that the right to legal counsel and the right to a public hearing are not accorded as a matter of course in legal proceedings. It notes, in this regard, the State party's information that the majority of complaints addressed to the Centre for Human Rights relate to alleged violations of fair trial guarantees (art. 14).

The State party should ensure that legal proceedings are conducted in full accordance with article 14 of the Covenant.

(23) The Committee expresses its concern at the challenges facing the administration of justice in the State party, including the non-execution of court decisions, inefficiency and limited professionalism in the administration of the courts, the lack of adequate courtrooms, the shortage of interpreters and the high levels of corruption (art. 14).

The State party should apply the legislation already in place to address inadequacies in the administration of justice, allocate adequate resources for the support of the justice system and ensure that court officials receive appropriate education and training. The State party should also take steps to investigate and prosecute corruption.

(24) The Committee wishes to underscore the crucial role of an independent judiciary to the rule of law and notes that security of tenure is a major component of this independence. In this regard, the Committee notes with concern that judges are initially appointed for five years and that, only after this period, their appointment may become permanent (art. 14).

The State party reiterates its previous recommendation that the State party should revise its law to ensure that judges' tenure is sufficiently long to ensure their independence, in compliance with the requirements of article 14, paragraph 1, of the Covenant.

(25) The Committee is concerned at the restrictions placed by the State party on the exercise of the right to freedom of religion. In this respect, it notes with concern that, pursuant to the law requiring that religious organizations be registered, administrative sanctions have been applied to individuals belonging to unregistered religious organizations. The Committee is also concerned at reports that many religious organizations have been refused registration (art. 18).

The State party should take urgent measures to align its law and practice with article 18 of the Covenant.

(26) The Committee is concerned at reports of the use, by politically influential interest groups and individuals, of civil defamation laws against independent journalists. It also notes with concern reports of the prosecution of independent television broadcasters (arts. 19 and 26).

The State party should take urgent steps to protect the exercise, by journalists and the media, of the right to freedom of expression in accordance with article 19 of the Covenant.

(27) The Committee notes the State party's information that the extreme poverty prevalent in the Roma community is due to a lack of education and skills. It notes with concern, however, that the Roma remain socially and economically marginalized, with restricted access to social services such as health care, employment, education and housing. It is also concerned about discriminatory attitudes towards the Roma in wider society as evidenced, inter alia, by their de facto exclusion from participation in public life (arts. 2, 25 and 26).

The State party should strengthen all the necessary measures to ensure the practical enjoyment by the Roma of their rights under the Covenant on an equal basis with all other social groups, including those aimed at their inclusion and integration into broader society, at the effective enforcement of the ban on racial discrimination, and at raising public awareness of the rights recognized by the Covenant.

(28) The Committee notes the State party's acknowledgment that civil society organizations were not invited to consult during the preparation of its report and reiterates its view that civil society organizations can be an important support for the realization of human rights, including the rights set out in the Covenant.

The State party should facilitate the participation, through an appropriate consultative process, of civil society organizations in the preparation of future reports under the Covenant.

(29) The Committee requests the State party to publish the second periodic report and these concluding observations, making them widely available to the general public and to the judicial, legislative and administrative authorities. Printed copies should be distributed to universities, public libraries, the Library of Parliament and other relevant places in the State party. The Committee also requests the State party to make the second periodic report and these concluding observations available to civil society and to the non-governmental organizations operating in the State party.

(30) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, information on the current situation and on its implementation of the Committee's recommendations given in paragraphs 8, 9, 16 and 18 above.

(31) The Committee requests the State party, in its next periodic report due to be submitted by 31 October 2013, to provide information on action taken to implement the remaining recommendations and on its compliance with the Covenant as a whole. In this regard, the Committee also requests the State party to submit a report in respect of all parts of the Republic of Moldova.

67. Croatia

(1) The Human Rights Committee considered the second periodic report of Croatia (CCPR/C/HRV/2) at its 2661st and 2662nd meetings (CCPR/C/SR.2661 and 2662), held on 14 and 15 October 2009, and adopted at its 2681st meeting (CCPR/C/SR.2681), held on 28 October 2009, the following concluding observations.

A. Introduction

(2) The Committee welcomes the submission of the State party's second periodic report which gives detailed information on measures adopted by the State party to further the implementation of the Covenant. Furthermore, it welcomes the written replies (CCPR/C/HRV/Q/2/Add.1) provided in advance by the State party as well as the answers provided to the Committee during the consideration of the report, and the additional information provided after the consideration of the report.

B. Positive aspects

(3) The Committee welcomes the various constitutional amendments, as well as legislative, administrative and practical measures taken to improve the promotion and protection of human rights in the State party since the examination of the initial report, in particular:

- (a) The fact that the Covenant provisions have the rank of constitutional law, and that they have begun to be applied by the State party's courts;
- (b) The adoption of the Anti-Discrimination Act in 2008;
- (c) The progress made with regard to gender equality, including:
 - (i) The adoption of relevant laws, such as the Gender Equality Act in 2008;
 - (ii) The establishment of a national machinery for the advancement of women, including the county committees for gender equality; and
- (d) The steps taken to combat and prevent trafficking, including the National Action Plan for Suppression of Trafficking of Human Beings for the period 2009–20011, and the cooperation agreement between Ministries and NGOs as well as cooperation agreements with neighbouring countries.

C. Principal subjects of concern and recommendations

- (4) The Committee, while noting the State party's intention to undertake a review of its Constitution, remains concerned that some provisions limit certain rights to "citizens," including equality before the courts (art. 26). (art. 2 of the Covenant.)

The State party should bring all its provisions in line with article 2, paragraph 1, and 26 of the Covenant, taking into consideration the Committee's general comment No. 15 (1986) on the position of aliens under the Covenant.

- (5) While noting the extensive measures adopted to prevent and combat discrimination against minorities as well as hate crimes, the Committee remains concerned about de facto discrimination and intolerance faced by members of ethnic minority groups, including reports of physical and verbal attacks as well as slow investigative and prosecutorial action. It is also concerned that regions of special State concern, into which the majority of returnees of Serb origin move, continue to lag behind in terms of economic and social development (arts. 2 and 26).

The State party should strengthen its measures to combat discrimination and to combat physical and verbal attacks against members of ethnic minorities, in particular members of the Serb minority. The State party should also intensify its efforts to ensure the prevention as well as prompt investigation and prosecution of such attacks, and to provide victims with access to effective remedies. It should carry out intensified public information campaigns to overcome prejudices against ethnic minorities. The State party should continue its efforts to accelerate economic development in regions mainly inhabited by returnees of Serb origin.

- (6) While welcoming the adoption of various measures to enable all displaced persons to return to the State party, the Committee continues to be concerned about the obstacles faced by returnees, in particular members of the Serb minority, who encounter difficulties regarding the repossession of their property or their tenancy rights, access to reconstruction assistance, as well as reintegration into Croatian society. It is also concerned about reports that many refugees choose not to return permanently to the State party. The Committee regrets the paucity of data provided regarding access to housing by former tenancy rights holders, disaggregated by ethnic origin and gender (arts. 2, 12 and 26)

The State party should strengthen its efforts to facilitate the return and reintegration of all displaced persons, with a view to ensuring the possibility for them to reside permanently in the State party. It should also seek to verify the number of displaced persons not willing or not able to return, and further explore the reasons for not returning. The State party should also expedite the

provision of adequate housing to former tenancy rights holders as well as property owners who wish to return to the State party. The State party should ensure that the remaining requests and appeals regarding funds for reconstruction due to war time and post-war damage are processed promptly and in a non-discriminatory manner.

(7) The Committee is concerned that, despite the progress achieved in respect of the advancement of women, in particular their participation in political life as well as in the public service, inequalities between women and men persist in many areas. It reiterates its concern about the high unemployment rate among women and the underrepresentation of women in legislative and executive bodies. It is also concerned about persisting stereotypes regarding the role of women in society (arts. 3, 25 and 26).

The State party should reinforce its measures to ensure equality between women and men in all spheres, including by more effective implementation of the relevant legislation, and increased funding for the institutions established to promote and protect gender equality. It should also take positive and coordinated measures to further increase the participation of women in public and political life, as well as the private sector, and provide, in its next periodic report, information on concrete results achieved, in particular regarding employment in the private sector. The State party should intensify its efforts to eliminate gender stereotyping with a view to changing the perception of women's roles in society, including through public education campaigns at the national and local levels, and the training of school teachers on gender equality.

(8) The Committee, while noting the considerable efforts made by the State party, is concerned about incidents of domestic violence and impunity due to a low conviction rate. It regrets the paucity of statistics concerning complaints, prosecutions, sentences, and compensation in matters of violence against women, as well as with regard to information on shelters available for victims (arts. 3, 7, 23 and 26).

The State party should intensify its efforts towards the elimination of domestic violence, through, inter alia:

(a) **Effective implementation of the Law on Protection from Family Violence and other relevant legislation;**

(b) **Preparation of adequate statistics, including on sex, age and family relationships of victims and perpetrators, the types of sanctions imposed, as well as the compensation provided to victims;**

(c) **Availability of adequate and sufficient provision of services to victims, including an adequate number of shelters and rehabilitation programmes.**

(9) Notwithstanding the explanation offered by the delegation, the Committee reiterates its concern that article 17 of the State party's Constitution is not entirely consistent with article 4 of the Covenant, in that constitutional grounds justifying a derogation are broader than the requirements of article 4, that measures of derogation are not limited to those required by the exigencies of the situation, and that certain non-derogable rights under the Covenant are not included in article 17 (art. 4).

The State party should ensure that its constitutional provisions governing states of emergency are fully compatible with article 4 of the Covenant. In this regard, the Committee draws the attention of the State party to its general comment No. 29 (2001) on derogations during a state of emergency.

(10) Notwithstanding the State party's public commitment to proceed with all outstanding war crime cases, the Committee remains concerned about reports that many potential cases of war crimes remain unresolved, and that the selection of cases has been disproportionately directed at ethnic Serbs. It regrets the lack of statistical information provided by the State party on the ethnicity of the perpetrators and victims in national war crimes proceedings. It notes the low number of cases prosecuted before special war crimes chambers. The Committee also regrets the lack of detailed information on cases in which the Amnesty Law has been applied. Finally, the Committee notes with concern that the State party still has not located and turned over to the International Criminal Tribunal for the former Yugoslavia (ICTY) the necessary records concerning military shelling by Croatian forces during the 1995 Operation Storm, to allow the Tribunal's investigation to proceed (arts. 2, 6, 7 and 14).

The State party should:

(a) **Promptly identify the total number and range of war crimes committed, irrespective of the ethnicity of the persons involved, with a view to prosecuting the remaining cases expeditiously;**

(b) **Take effective measures in order to ensure that all cases of war crimes are prosecuted in a non-discriminatory manner, independently of the perpetrator's ethnicity, and collect statistical data on victims and defendants of past and current war crimes trials;**

(c) **Increase its efforts to ensure that the possibility to refer cases to the special war crimes chambers is utilized to the fullest extent;**

(d) **Ensure that the Amnesty Law is not applied in cases of serious human rights violations or violations that amount to crimes against humanity or war crimes;**

(e) **Expedite the recovery and delivery of the records of Croatian military operations required by the ICTY in the completion of its investigative work;**

(f) **Ensure the suspension of the operation of the statute of limitation for the period of the conflict to allow the prosecution of serious cases of torture and killings.**

(11) The Committee is concerned about those war crimes trials held in absentia, while noting the State Attorney Office's opposition to such trials (art. 14).

The State party should ensure that persons convicted in absentia have access to effective remedies with the possibility to reopen a case, and that all such trials are held in conformity with article 14 of the Covenant in the light of general comment No. 32 (2007), on article 14 on the right to equality before courts and tribunals and to a fair trial (paras. 31 and 36).

(12) While noting the State party's statement concerning its commitment to abolish the use of enclosed restraint beds (cages/net beds) as a means to restrain mental health patients, including children, in institutions, the Committee is concerned about the current use of such beds. The Committee recalls that this practice constitutes inhuman and degrading treatment. (arts. 7, 9 and 10).

The State party should take immediate measures to abolish the use of enclosed restraint beds in psychiatric and related institutions. The State party should also establish an inspection system, taking into account the United Nations Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care.

(13) The Committee takes note of the legislation adopted by the State party to improve detention conditions, including the 2008 Action Plan of the Judicial Reform Strategy and the 2009 Action Plan for Improving the Prison System, but is concerned about continuing poor conditions in the State party's detention facilities, including overcrowding and inadequate access to medical care (arts. 7 and 10).

The State party should step up its efforts to improve conditions for all persons deprived of their liberty, in order to comply with all the requirements of the Standard Minimum Rules for the Treatment of Prisoners. It should tackle overcrowding as a matter of priority, inter alia, through increasing resort to alternative forms of punishment and reduced use of pretrial detention. The State party should supply the Committee with statistical data and other information illustrating the progress made in this regard in its next periodic report.

(14) The Committee, while noting the low number of internally displaced persons (IDPs) and the efforts undertaken by the State party to provide a solution to their plight, is concerned that many of these persons remain in collective shelters (art. 12).

The State party should find, without further delay, durable solutions for all IDPs in consultation with the remaining displaced persons and in accordance with the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2).

(15) While noting the progress made by the State party to increase the efficiency of the judicial system, inter alia, through the adoption of the 2005 Strategy for the Reform of the Judicial System, the Committee is concerned about the continuing substantial backlog of court cases and delays in court proceedings (art. 14).

The State party should continue to implement and reinforce its measures aimed at reducing the backlog of court cases and decreasing delays in proceedings.

(16) While acknowledging the efforts made by the State party to ensure equal access to citizenship, the Committee expresses its concern at reports that some minority groups, such as Roma and Serbs, continue to face difficulties in obtaining citizenship (arts. 16, 26 and 27).

The State party should continue to strengthen its efforts aimed at facilitating equal access to citizenship, in particular, for members of minority groups, and to ensure that the administrative procedures and legislative provisions on citizenship do not disadvantage persons of non-ethnic Croat origin.

(17) The Committee expresses concern about reports that acts of intimidation of, and attacks on journalists have not been properly investigated by the State party and that the perception that journalists are at particular risk of attacks has a chilling effect on the exercise of freedom of the press (arts. 14 and 19).

The State party should strengthen its measures to prevent intimidation of journalists, and to promptly investigate, bring to trial and punish perpetrators of attacks on, or threats against, journalists and to compensate the victims. It should also publicly condemn such instances of intimidation and attacks and generally take vigorous action to ensure freedom of the press.

(18) The Committee welcomes the progress made with regard to participation of members of ethnic minorities in public life, but is concerned about the low representation of minorities at the levels of local and regional government (arts. 25, 26 and 27).

The State party should strengthen its efforts to ensure adequate political representation and participation of minorities at all levels of government, in particular members of the Roma and of the Serb minority.

(19) While commending the State party on the steps taken to improve the situation of Roma, including the National Programme for the Roma and the Action Plan for the Decade of Roma Inclusion 2005–2015, the Committee is concerned at de facto segregation of Roma pupils in some schools (arts. 26 and 27).

The State party should intensify its efforts to implement its legislative provisions with a view to effectively ending de facto segregation of some Roma children in schools.

(20) The State party should widely disseminate the text of the second periodic report, the written responses it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations among the general public as well as the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country. Hard copies of those documents should be distributed to universities, public libraries, the Parliamentary library, and all other relevant places. The Committee also suggests that the report and the concluding observations be translated into the official languages in the State party.

(21) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 5, 10, and 17.

(22) The Committee requests the State party to provide in its third periodic report, due to be submitted by 30 October 2013, specific, up-to-date information on all its recommendations and on the Covenant as a whole. The Committee also requests the State party, when preparing the third periodic report, to consult civil society and non-governmental organizations operating in the country.

68. **Russian Federation**

(1) The Committee considered the sixth periodic report of the Russian Federation (CCPR/C/RUS/6) at its 2663rd, 2664th and 2665th meetings (CCPR/C/SR.2663-2665), held on 15 and 16 October 2009, and adopted the following concluding observations at its 2681st meeting (CCPR/C/SR.2681), held on 28 October 2009.

A. Introduction

(2) The Committee welcomes the sixth periodic report of the Russian Federation, and the inclusion in the report of information on a number of measures taken to address the concerns expressed in the Committee's previous concluding observations (CCPR/CO/79/RUS). It also welcomes the dialogue with the delegation, the detailed written replies (CCPR/C/RUS/Q/6/Add.1) submitted in response to the Committee's list of issues, and the additional information and clarifications provided orally.

B. Positive aspects

(3) The Committee welcomes the various constitutional amendments, as well as legislative, administrative and practical measures taken to improve the promotion and protection of human rights in the State party since the examination of the fifth periodic report, in particular:

(a) The judicial reform in the context of the 2007–2011 Federal Special-Purpose Programme for the Development of the Judicial System in the Russian Federation, the establishment of the National Working Group on Judicial Reform and the adoption in 2009 of the Law "On the securing of access to information on the activities of the courts of the Russian Federation";

(b) The adoption in 2008 of the National Plan on Countering Corruption and the enactment of the Federal Law on Counteraction of Corruption;

(c) The upgrade of the accreditation status of the Federal Commissioner for Human Rights (“Ombudsman”) following its review by the International Coordinating Committee of National Institutions (ICC) in January 2009;

(d) The establishment of the Office of the Ombudsman for Children, in September 2009 and the ratification, in 2008, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;

(e) The adoption and entry into force of two administrative regulations relating to the granting of political asylum and refugee status in the Russian Federation.

C. Principal subjects of concern and recommendations

(4) The Committee notes with concern that many of its recommendations adopted following the consideration of the State party’s fifth periodic report (CCPR/CO/79/RUS) have not yet been implemented, and regrets that most subjects of concern remain (art. 2).

The State party should re-examine, and take all necessary measures to give full effect to the recommendations adopted by the Committee in its previous concluding observations.

(5) While acknowledging the information provided by the State party, the Committee expresses once again its concern at the State party’s restrictive interpretation of, and continuing failure to implement the Views adopted by the Committee under the Optional Protocol to the Covenant. The Committee further recalls that, by acceding to the Optional Protocol, the State party has recognized its competence to receive and examine complaints from individuals under the its jurisdiction, and that failure to give effect to its Views would call into question the State party’s commitment to the Optional Protocol (art. 2).

The Committee urges the State party once again to review its position in relation to Views adopted by the Committee under the Optional Protocol to the Covenant and to implement all of those Views.

(6) The Committee regrets the lack of information on instances where the Federal Commissioner for Human Rights and the regional ombudsmen initiated the drafting of legislation, or referred individual cases to courts. The Committee is also concerned that recommendations made by the Federal Commissioner for Human Rights are not always duly implemented (art. 2).

The State party should strengthen the legislative mandate of the Federal Commissioner for Human Rights and the regional ombudsmen and provide them with additional resources, so that they may be in a position to fulfil their mandate efficiently. The State party should provide the Committee with detailed information on the number and the outcome of complaints received and determined by the Federal Commissioner for Human Rights and the regional ombudsmen, as well as on the recommendations and the concrete action taken by the authorities in each case. Such detailed information should be made publicly available through accessible means, such as the annual report of the Federal Commissioner for Human Rights.

(7) While taking note of the State party’s assurance that counter-terrorism measures are in compliance with the Covenant, the Committee is nevertheless concerned about several aspects of the 2006 Federal Law “on counteracting terrorism”, which imposes a wide range of restrictions on Covenant rights that, in the Committee’s view, are comparable to those permitted only under a state of emergency under the State party’s Constitution and the State of Emergency law, and in particular: (a) the lack of precision in the particularly broad definitions of terrorism and terrorist activity; (b) the counter-terrorism regime established by the 2006 Law is not subject to any requirement of justification on grounds of necessity

or proportionality, or to procedural safeguards or judicial or parliamentary oversight; and (c) that the Law does not place limits on the derogations that may be made from the provisions of the Covenant and does not take into account the obligations imposed by article 4 of the Covenant. The Committee also regrets that the Law lacks a provision explicitly outlining the obligation of the authorities to respect and protect human rights in the context of a counter-terrorist operation (art. 2).

The State party should review the relevant provisions of the 2006 Federal Law “On counteracting terrorism” to bring it into line with the requirements of article 4 of the Covenant, taking into account pertinent considerations set out in the Committee’s general comment No. 29 (2001) on derogations during a state of emergency and general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant. In particular, the State party should:

(a) **Adopt a narrower definition of crimes of terrorism limited to offences that can justifiably be equated with terrorism and its serious consequences, and ensure that the procedural guarantees established in the Covenant are fulfilled;**

(b) **Consider establishing an independent mechanism to review and report on laws related to terrorism;**

(c) **Provide information on measures taken in this regard, including information on which Covenant rights can be suspended during a counter-terrorist operation and under what conditions.**

(8) The Committee expresses concern about the large number of convictions for terrorism-related charges, which may have been handed down by courts in Chechnya on the basis of confessions obtained through unlawful detention and torture (arts. 6, 7, and 14).

The State party should consider carrying out a systematic review of all terrorism-related sentences pronounced by courts in Chechnya to determine whether the trials concerned were conducted in full respect for the standards set forth in article 14 of the Covenant and ensure that no statement or confession made under torture has been used as evidence.

(9) The Committee is concerned about the large number of stateless and undocumented persons in the State party, in particular former Soviet citizens who were unable to acquire citizenship or nationality subsequent to the break-up of the USSR, and to regularize their status in the Russian Federation or in any other State with which they have a significant connection, and consequently remain stateless or with undetermined nationality. The Committee also notes that members of certain ethnic groups from varying regions, in particular individuals from Central Asia and the Caucasus, face problems acquiring citizenship due to complex legislation governing naturalization and obstacles posed by strict residence registration requirements (arts. 2, 3, 20 and 26).

The State party should take all necessary measures to regularize the status of stateless persons on its territory by granting them a right to permanent residence and the possibility of acquiring Russian citizenship. Furthermore, the State party should consider acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness and undertake the legislative and administrative reform necessary to bring its laws and procedures in line with these standards.

(10) While noting the information provided by the State party on preventive measures taken to address violence against women, in particular domestic violence, the Committee remains concerned about the continued prevalence of domestic violence in the State party

and the lack of shelters available to women. The Committee regrets that it did not receive sufficient information relating to the prosecution of authors of domestic violence, and also notes that the State party has not adopted any special legislation with regard to domestic violence within the legal system. The Committee is also concerned about allegations of honour killings in Chechnya of eight women whose bodies were discovered in November 2008 (arts. 3, 6, 7 and 26).

The Committee urges the State party to strengthen its efforts to combat violence against women, including by adopting specific criminal legislation in this regard. The State party should promptly investigate complaints related to domestic violence and other acts of violence against women, including honour killings, and ensure that those responsible are prosecuted and adequately punished. Sufficient funding should be allocated for victim assistance programmes, including those run by non-governmental organizations, and additional shelters should be made available across the country. The State party should also ensure mandatory training for the police to sensitize them with regard to all forms of violence against women.

(11) The Committee expresses its concern at reports of an increasing number of hate crimes and racially motivated attacks against ethnic and religious minorities, as well as persistent manifestations of racism and xenophobia in the State party, including reports of racial profiling and harassment by law enforcement personnel targeting foreigners and members of minority groups. The Committee is also concerned about the failure on the part of the police and judicial authorities to investigate prosecute and punish hate crimes and racially motivated attacks against ethnic and religious minorities, often qualified merely as “hooliganism”, with charges and sentences that are not commensurate with the gravity of the acts (arts. 6, 7, 20 and 26).

The State party should make a sustained effort to improve the application of laws punishing racially motivated crimes and ensure adequate investigation and prosecution of all cases of racial violence and incitement to racially motivated violence. Adequate reparation, including compensation, should be provided to the victims of hate crimes. The State party is also encouraged to pursue public education campaigns to sensitize the population to the criminal nature of such acts, and to promote a culture of tolerance. Furthermore, the State party should intensify its sensitization efforts among law enforcement officials, and ensure that mechanisms to receive complaints of racially motivated police misconduct are readily available and accessible.

(12) The Committee notes with concern that the death penalty has yet to be abolished *de jure* in the State party despite the welcome moratorium on the execution of death sentences in force since 1996, which the State party describes as solid. The Committee is also concerned that the current moratorium will expire in January 2010 (art. 6).

The State party should take the necessary measures to abolish the death penalty *de jure* at the earliest possible moment, and consider acceding to the Second Optional Protocol to the Covenant.

(13) Notwithstanding the position of the State party that no crimes were committed by Russian military forces or other military groups against the civilian population on the territory of South Ossetia (para. 264, CCPR/C/RUS/Q/6/Add.1), and that the State party does not take responsibility for possible crimes by armed groups (para. 266), the Committee remains concerned about allegations of large-scale, indiscriminate abuses and killings of civilians in South Ossetia during the military operations by Russian forces in August 2008. The Committee recalls that the territory of South Ossetia was under the *de facto* control of an organized military operation of the State party, which therefore bears responsibility for

the actions of such armed groups. The Committee notes with concern that, to date, the Russian authorities have not carried out any independent and exhaustive appraisal of serious violations of human rights by members of Russian forces and armed groups in South Ossetia and that the victims have received no reparations (arts. 6, 7, 9, 13 and 14).

The State party should conduct a thorough and independent investigation into all allegations of involvement of members of Russian forces and other armed groups under their control in violations of human rights in South Ossetia. The State party should ensure that victims of serious violations of human rights and international humanitarian law are provided with an effective remedy, including the right to compensation and reparations.

(14) The Committee is concerned about ongoing reports of torture and ill-treatment, enforced disappearance, arbitrary arrest, extrajudicial killing and secret detention in Chechnya and other parts of the North Caucasus committed by the military, security services and other State agents, and that the authors of such violations appear to enjoy widespread impunity due to a systematic lack of effective investigation and prosecution. The Committee is particularly concerned that the number of disappearances and abduction cases in Chechnya has increased in the period 2008–2009, and about allegations of mass graves in Chechnya. While noting the establishment of a special unit aimed at ensuring implementation of the judgments of the European Court of Human Rights and payment of compensation to victims, the Committee regrets that the State party has yet to bring to justice the perpetrators of the human rights violations in the cases concerned, even though the identity of these individuals is often known. The Committee also notes with concern the reports of collective punishment for relatives of terrorist suspects, such as the burning of family homes, and harassment, threats and reprisals against judges and victims and their families and regrets the failure on the part of the State party to provide effective protection to the persons concerned (arts. 6, 7, 9 and 10).

The State party is urged to implement fully the right to life and physical integrity of all persons on its territory and should:

(a) **Take stringent measures to put an end to enforced disappearances, extrajudicial killings, torture, and other forms of ill-treatment and abuse committed or instigated by law enforcement officials in Chechnya and other parts of the North Caucasus;**

(b) **Ensure prompt and impartial investigation by an independent body of all human rights violations allegedly committed or instigated by State agents and suspend or reassign the agents concerned during the process of investigation;**

(c) **Prosecute perpetrators and ensure that they are punished in a manner proportionate to the gravity of the crimes committed, and grant effective remedies, including redress, to the victims;**

(d) **Take effective measures, in law and in practice, to protect victims and their families, as well as their lawyers and judges, whose lives are under threat due to their professional activities;**

(e) **Provide information on investigations launched, convictions and penalties including those by military courts in relation to human rights violations committed by State agents against the civilian population in Chechnya and other parts of the North Caucasus, disaggregated by type of crime.**

(15) The Committee is concerned about the continuing substantiated reports of acts of torture and other cruel, inhuman or degrading treatment or punishment committed by law

enforcement personnel and other State agents, including of persons who are in police custody, pretrial detention and prison. The Committee is concerned about the extremely low rate of conviction of the State agents concerned, initiated under section 117 (cruel treatment) of the Criminal Code, and that most prosecutions for cases of torture are under section 286 (abuse of power) and section 302 (extorting confessions) of the Criminal Code. While noting the establishment of investigative committees pursuant to the decree of 2 August 2007, the Committee notes that these committees are attached to the Prosecutor's Office and thus may lack the necessary independence when examining allegations of torture by public officials. The Committee also expresses concern about reports that investigations and prosecutions of alleged perpetrators of acts of torture and ill-treatment are frequently marked by undue delays and/or suspensions, and that in practice, the burden of proof rests on the victims. Furthermore, while welcoming the adoption of the 2008 Federal Law on Public Control of Monitoring of Human Rights in Places of Detention, the Committee notes with concern the lack of a functioning national system with fully trained professionals to review all places of detention and cases of alleged abuses of persons while in custody (arts. 6, 7, and 14).

The State party should:

(a) Consider amending the Criminal Code in order to criminalize torture as such;

(b) Take all necessary measures for a fully functioning independent human rights monitoring body to review all places of detention and cases of alleged abuses of persons while in custody, ensuring regular, independent, unannounced and unrestricted visits to all places of detention, and to initiate criminal and disciplinary proceedings against those found responsible;

(c) Ensure that all alleged cases of torture, ill-treatment and disproportionate use of force by law enforcement officials are fully and promptly investigated by an authority independent of ordinary prosecutorial and police organs, that those found guilty are punished under laws that ensure that sentences are commensurate with the gravity of the offence, and that compensation is provided to the victims or their families.

(16) The Committee expresses its concern at the alarming incidence of threats, violent assaults and murders of journalists and human rights defenders in the State party, which has created a climate of fear and a chilling effect on the media, including for those working in the North Caucasus, and regrets the lack of effective measures taken by the State party to protect the right to life and security of these persons (arts. 6, 7, and 19).

The State party is urged to:

(a) Take immediate action to provide effective protection to journalists and human rights defenders whose lives and security are under threat due to their professional activities;

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

(c) Provide the Committee with detailed information on developments in all cases of criminal prosecutions relating to threats, violent assaults and murders of journalists and human rights defenders in the State party covering the period between 2003 and 2009.

(17) The Committee is concerned about reports of extraditions and informal transfers by the State party to return foreign nationals to countries in which the practice of torture is alleged while relying on diplomatic assurances, notably within the framework of the 2001 Shanghai Convention on Combating Terrorism, Separatism and Extremism. In particular, the Committee notes with concern the return to Uzbekistan of persons suspected of involvement in the Andijan protests of 2005 (arts. 6, 7 and 13).

The State party should ensure that no individual, including persons suspected of terrorism, who are extradited or subjected to informal transfers, whether or not in the context of the Shanghai Cooperation Organisation, is exposed to the danger of torture or cruel, inhuman or degrading treatment or punishment. Furthermore, the State party should recognize that, the more systematic the practice of torture or cruel, inhuman or degrading treatment, the less likely it will be that a real risk of such treatment can be avoided by diplomatic assurances, however stringent any agreed follow-up procedure may be. The State party should exercise the utmost care in the use of such assurances and adopt clear and transparent procedures allowing review by adequate judicial mechanisms before individuals are deported, as well as effective means to monitor the fate of the affected individuals.

(18) While the Committee welcomes the various measures taken by the State party to combat trafficking in persons, in particular through legislation and international cooperation, the Committee is concerned about the notable lack of recognition of the rights and interests of trafficking victims in the counter-trafficking efforts of the State party (art. 8).

The State party should, as a matter of priority, take all necessary measures to ensure that victims of trafficking in human beings are provided with medical, psychological, social and legal assistance. Protection should be provided to all witnesses and victims of trafficking so that they may have a place of refuge and an opportunity to give evidence against those held responsible. The State party should also continue to reinforce international cooperation as well as existing measures to combat trafficking in persons and the demand for such trafficking, by devoting sufficient resources to prosecuting perpetrators and imposing sanctions on those found responsible.

(19) The Committee expresses concern about the significant number of persons with mental disabilities who are deprived of their legal capacity in the State party and the apparent lack of adequate procedural and substantive safeguards against disproportionate restrictions in their enjoyment of rights guaranteed under the Covenant. In particular, the Committee is concerned that there are no procedural safeguards and no recourse to appeal against the judicial decision based on the mere existence of a psychiatric diagnosis to deprive an individual of his/her legal capacity, as well as against the decision to institutionalize the individual which often follows legal incapacitation. The Committee is also concerned that persons deprived of legal capacity have no legal recourse to challenge other violations of their rights, including ill-treatment or abuse by guardians and/or staff of institutions they are confined to, which is aggravated by the lack of an independent inspection mechanism regarding mental health institutions (arts. 9 and 10).

The State party should:

(a) Review its policy of depriving persons with mental disabilities of their legal capacity and establish the necessity and proportionality of any measure on an individual basis with effective procedural safeguards, ensuring in any event that all persons deprived of their legal capacity have prompt

access to an effective judicial review of the original decision, and, when applicable, of the decision to subject them to institutionalization;

(b) Ensure that persons with mental disabilities are able to exercise the right to an effective remedy against violations of their rights and consider providing less restrictive alternatives to forcible confinement and treatment of persons with mental disabilities;

(c) Take appropriate measures to prevent all forms of ill-treatment in psychiatric institutions, including through the establishment of inspection systems that take into account the United Nations Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care (adopted by the General Assembly in resolution 46/119).

(20) While welcoming the adoption of the Federal Special-Purpose Programme for the Development of the Penal Correction System for 2007–2016, pursuant to Government decision No. 540 of September 2006, as well as the overall reduction of the prison population to conform to institutional capacity and the allocation of necessary resources, the Committee remains concerned about overcrowding in prisons which continues to be a problem in some areas, as acknowledged by the State party (art. 10).

The State party should continue to take measures to improve conditions of detention of persons deprived of their liberty through its Federal Special-Purpose Programme, particularly in relation to the problem of overcrowding in prisons, with a view to achieving full compliance with requirements of article 10.

(21) The Committee is concerned about the lack of independence of judges in the State party. In particular, the Committee is concerned about the appointment mechanism for judges that exposes them to political pressure and about the lack of an independent disciplinary mechanism, particularly in cases of corruption. The Committee is also concerned about the relatively low rate of acquittal for criminal cases (arts. 2 and 14).

The State party should amend the relevant domestic legal provisions in order to ensure the full independence of the judiciary from the executive branch of government and consider establishing, in addition to the collegiate corpus of judges, an independent body responsible for matters relating to the appointment and promotion of judges, as well as their compliance with disciplinary regulations.

(22) The Committee expresses concern about the potential impact of the proposed draft law on lawyers' activity and the Bar on the independence of the legal profession and the right to a fair trial as stipulated in article 14 of the Covenant. In particular, it notes with concern that the bill proposes to enable the State Registration Agency to remove a lawyer's licence to practise through a court action without prior approval of the Chambers of Lawyers under certain circumstances, and to obtain access to the legal files of lawyers under investigation and demand information on any case in which they are involved (art. 14).

The State party should review the compatibility of the proposed draft law on lawyers' activity and the Bar with its obligations under article 14 of the Covenant, as well as article 22 of the Basic Principles on the Role of Lawyers and refrain from taking any measures that constitute harassment or persecution of lawyers and unnecessarily interfere with their defence of clients.

(23) While welcoming the reduction, in 2008, of the prescribed length of civilian service for conscientious objectors from 42 months to 21 months, the Committee notes with concern that it is still 1.75 times longer than military service, and that the State party

maintains the position that the discrimination suffered by conscientious objectors is due to such alternative service amounting to “preferential treatment” (para. 151, CCPR/C/RUS/6). The Committee notes with regret that the conditions for alternative service are punitive in nature, including the requirement to perform such services outside places of permanent residence, the receipt of low salaries, which are below the subsistence level for those who are assigned to work in social organizations, and the restrictions in freedom of movement for the persons concerned. The Committee is also concerned that the assessment of applications, carried out by a draft panel for such service, is under the control of the Ministry of Defence (arts. 18, 19, 21, 22 and 25).

The State party should recognize fully the right to conscientious objection, and ensure that the length and the nature of this alternative to military service do not have a punitive character. The State party should also consider placing the assessment of applications for conscientious objector status entirely under the control of civilian authorities.

(24) The Committee is concerned that media professionals continue to be subjected to politically motivated trials and convictions, and in particular, that the practical application of the Mass Media Act as well as the arbitrary use of defamation laws has served to discourage critical media reporting on matters of valid public interest, adversely affecting freedom of expression in the State party (arts. 9, 14, and 19).

The State party should ensure that journalists can pursue their profession without fear of being subjected to prosecution and libel suits for criticizing Government policy or Government officials. In doing so, the State party should:

(a) **Amend its Criminal Code to reflect the principle that public figures should tolerate a greater degree of criticism than ordinary citizens;**

(b) **Decriminalize defamation and subject it only to civil lawsuits, capping any damages awarded;**

(c) **Provide redress to journalists and human rights activists subjected to imprisonment in contravention of articles 9 and 19 of the Covenant;**

(d) **Bring relevant provisions of the Mass Media Act into line with article 19 of the Covenant by ensuring a proper balance between the protection of a person’s reputation and freedom of expression.**

(25) In the light of numerous reports that the extremism laws are being used to target organizations and individuals critical of the Government, the Committee regrets that the definition of “extremist activity” in the Federal Law on Combating Extremist Activity remains vague, allowing for arbitrariness in its application, and that the 2006 amendment to this law has made certain forms of defamation of public officials an act of extremism. The Committee also notes with concern that some provisions of article 1 of the Federal Law on Combating Extremist Activity include acts that are not sanctioned in the Criminal Code and are only punishable under the Code of Administrative Offences, such as mass dissemination of extremist materials, the application of which may not be subject to judicial review. The Committee is also concerned about the loose manner in which the definition of “social groups” in article 148 of the Criminal Code has been interpreted by the courts and their reliance on various experts in this respect, granting protection for State organs and agents against “extremism” (arts. 9 and 19).

The Committee reiterates its previous recommendation (CCPR/CO/79/RUS, para. 20) that the State party should revise the Federal Law on Combating Extremist Activity with a view to making the definition of “extremist activity”

more precise so as to exclude any possibility of arbitrary application, and consider repealing the 2006 amendment. Moreover, in determining whether written material constitutes “extremist literature”, the State party should take all measures to ensure the independence of experts upon whose opinion court decisions are based and guarantee the right of the defendant to counter-expertise by an alternative expert. The State party should also define the concept of “social groups” as stipulated in section 148 of the Criminal Code in a manner that does not include organs of the State or public officials.

(26) The Committee is concerned about the reports of excessive use of force by the police during demonstrations, in particular in the context of the 2007 Duma elections and the 2008 presidential elections, and regrets that it did not receive any information from the State party on any investigation or prosecution measures taken in relation to members of the police in connection with the excessive use of force (art. 21).

The State party should provide detailed information on the results of any investigation, prosecution and disciplinary measures taken vis-à-vis members of the police in connection with the alleged cases of excessive use of force in the context of the Duma elections in 2007 and the presidential elections in 2008. The State party should establish an independent body with authority to receive, investigate and adjudicate all complaints of excessive use of force and other abuses of power by the police.

(27) The Committee notes with concern that, despite the amendments of July 2009, the restrictions on the registration and operation of associations, non-governmental organizations and political parties under the 2006 Non-Profit Organizations Act continue to pose a serious threat to the enjoyment of the rights to freedom of expression, association and assembly in the State party. The Committee also notes with regret that the measures taken by the State party to reduce the number of international donors benefiting from tax exemption in the Russian Federation has significantly limited the availability of foreign funding to non-governmental organizations (arts. 19, 21, and 22).

The State party should ensure that any restriction on the activities of non-governmental organizations under the 2006 Non-Profit Organizations Act is compatible with the provisions of the Covenant by amending the law as necessary. The State party should refrain from adopting any policy measures that directly or indirectly restrict or hamper the ability of non-governmental organizations to operate freely and effectively.

(28) The Committee is concerned about acts of violence against lesbian, gay, bisexual and transgender (LGBT) persons, including reports of harassment by the police and incidents of people being assaulted or killed on account of their sexual orientation. The Committee notes with concern the systematic discrimination against individuals on the basis of their sexual orientation in the State party, including hate speech and manifestations of intolerance and prejudice by public officials, religious leaders and in the media. The Committee is also concerned about discrimination in employment, health care, education and other fields, as well as the infringement of the right to freedom of assembly and association and notes the absence of legislation that specifically prohibits discrimination on the basis of sexual orientation (art. 26).

The State Party should:

(a) Provide effective protection against violence and discrimination based on sexual orientation, in particular through the enactment of comprehensive anti-discrimination legislation that includes the prohibition of discrimination on grounds of sexual orientation;

(b) Intensify its efforts to combat discrimination against LGBT persons, including by launching a sensitization campaign aimed at the general public as well as providing appropriate training to law enforcement officials;

(c) Take all necessary measures to guarantee the exercise in practice of the right to peaceful association and assembly for the LGBT community.

(29) While welcoming Decree No. 132 of 4 February 2009 on the sustainable development of indigenous peoples in the North, Siberia and the Far East, and the corresponding action plan for 2009–2011, the Committee expresses concern about the alleged adverse impact upon indigenous peoples of: (a) the 2004 amendment to article 4 of the Federal Law on Guarantees of the Rights of Numerically Small Indigenous Peoples; (b) the process of consolidation of the constituent territories of the Russian Federation through absorption of national autonomous areas; and (c) the exploitation of lands, fishing grounds and natural resources traditionally belonging to indigenous peoples through granting of licenses to private companies for development projects such as the construction of pipelines and hydroelectric dams (art. 27).

The State party should provide, in its next periodic report, detailed information on the impact of these measures upon the traditional habitat, way of life and economic activities of indigenous peoples in the State party, as well as on their enjoyment of rights guaranteed under article 27 of the Covenant.

(30) The Committee requests the State party to publish its sixth periodic report and these concluding observations, making them widely available to the general public and to the judicial, legislative and administrative authorities. Printed copies should be distributed to universities, public libraries, the library of the parliament, lawyers' associations, and other relevant places. The Committee also requests the State party to make the sixth periodic report and these concluding observations available to civil society and to the non-governmental organizations operating in the State party. In addition to Russian, the Committee recommends that the report and the concluding observations be translated into the main minority languages spoken in the Russian Federation.

(31) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the recommendations in paragraphs 13, 14, 16 and 17 above.

(32) The Committee requests the State party to include in its seventh periodic report, due to be submitted by 1 November 2012, specific, up-to-date information on follow-up action taken on all the recommendations made and on the implementation of the Covenant as a whole. The Committee also requests that the seventh periodic report be prepared in consultation with civil society organizations operating in the State party.

69. **Ecuador**

(1) The Human Rights Committee examined the fifth and sixth periodic reports of Ecuador (CCPR/C/ECU/5) at its 2667th and 2668th meetings (CCPR/C/SR.2667 and 2668) held on 19 and 20 October 2009, and adopted at its 2682nd meeting (CCPR/C/SR.2682), held on 29 October 2009, the following concluding observations.

A. Introduction

(2) The Committee welcomes the consolidated periodic report submitted by the State party. It is pleased to have the opportunity to resume the dialogue with the State party and expresses its appreciation of the exchanges pursued with the delegation. However, the Committee regrets that the replies to the list of questions have not been submitted by the State party in keeping with the provisions of article 40 of the Covenant, but rather in the

name of the Ministry of Justice and Human Rights. It also regrets the shortcomings in the replies to the questions posed during the dialogue.

B. Positive aspects

(3) The Committee notes with satisfaction the legislative reforms carried out by the State party, in particular through the entry into force of the new Constitution in October 2008, the repeal in 2007 of the so-called contempt provisions of the Criminal Code, as well as the declaration in 2006 of the mandatory preventive detention (“*detención en firme*”) measure as unconstitutional, which implied a progressive lessening of prison numbers, thereby reducing the incidence of overcrowding.

(4) The Committee notes the inclusion of the provision for the Public Defender’s Office under the current Constitution (art. 191) as a safeguarding mechanism for persons unable to engage the services of a defence counsel to guarantee their rights. It also welcomes the fact that this legal measure was included in the new Code of the Judiciary.

(5) The Committee notes with satisfaction the decision to declare unconstitutional articles 145 and 147 of the National Security Act, whereby civilians could be tried by military courts for acts committed during states of emergency.

(6) The Committee notes the voluntary character of military service under article 161 of the current Constitution.

(7) The Committee welcomes the provision in part II, Rights, chapter 6, article 66, paragraph 29, and article 78 of the Constitution dealing with prevention measures and the eradication of human trafficking as well as the protection and social reintegration of the victims. In this regard it also welcomes the implementation of the National Plan to Combat Human Trafficking and Exploitation.

C. Principal subjects of concern and recommendations

(8) The Committee notes with satisfaction that the new Constitution establishes the principle of equality between men and women and the principle of non-discrimination. However, the Committee continues to be concerned by the disparity between the *de jure* and *de facto* situation with regard to the legal protection of women and to gender equality (arts. 2, 3, 25 and 26).

The State party should adopt effective measures to guarantee the full implementation of current legislation so as not to discriminate against women. The State party should redouble its efforts to combat discrimination against women in the world of work so as to ensure practical equality of opportunity in obtaining high-level positions in the public and private sector as well as equal pay for equal work.

(9) The Committee welcomes the creation of the Women’s and Family Commissions and the establishment of specialized units concerned with domestic violence and sexual offences in the Public Prosecutor’s Office in the main districts as well as the introduction of a Programme for the Protection of Victims of Sexual Violence and efforts to ensure the application of Act 103 on Violence against Women and the Family. Nevertheless, the Committee is concerned at the large number of cases of violence against women and girls and the high level of sexual abuse and harassment against girls in schools (arts. 3, 7 and 24).

The State party should:

- (a) Investigate and punish the offenders;
- (b) Ensure effective access to justice by the victims of sexual violence;

(c) Grant police protection to victims, and establish shelters where they can live in dignity;

(d) Redouble its efforts to provide an educational environment free of discrimination and violence through awareness-raising campaigns and the training of educational personnel and students;

(e) Take preventive and awareness-raising measures to counter gender violence, such as the provision of training for police officers, especially in the Women's Commissions, on women's rights and gender violence.

In this connection, the Committee would like to receive in the State party's next periodic report detailed information on the progress achieved in combating gender violence.

(10) The Committee welcomes the written explanation from the State party concerning the declarations of states of emergency proclaimed in the current year in the cities of Guayaquil, Quito and Manta. However, the Committee is concerned by the allegations that State agents used force against people participating in public demonstrations (art. 4).

The State party should give practical effect to the provisions of article 4 of the Covenant, as required by article 165 of the Constitution. The State should likewise investigate and sanction those responsible for such acts and compensate the victims.

(11) The Committee welcomes with satisfaction the initiatives taken by the Ministry of Education and Culture to eliminate illiteracy but notes with concern the high rate of illiteracy among girls living in rural areas (arts. 3 and 24).

The State should redouble its efforts to eradicate illiteracy, particularly among girls living in rural areas.

(12) While the Committee notes that discrimination against sexual minorities is prohibited under article 11, paragraph 2, of the new Constitution, it is concerned at the fact that transsexual women have been placed in private clinics or rehabilitation centres in order to undergo so-called sexual reorientation treatments. It also deeply regrets that such persons have been subject to forced detention and ill-treatment in rehabilitation clinics in the town of Portoviejo in June 2009 (arts. 2 and 7).

The State party should take preventive and protective measures to ensure that persons of a different sexual orientation are not detained in private clinics or rehabilitation centres in order to be subjected to so-called sexual reorientation treatments. The Committee recommends that the State party investigate the alleged detentions and torture and adopt the necessary remedial measures in accordance with the Constitution.

(13) The Committee notes with concern the continued occurrence of cases of ill-treatment of prisoners by the police in the context of police detention, without those responsible being brought to justice in most cases (art. 7).

The State party should:

(a) Take immediate and effective measures to put an end to such abuses, monitor, investigate and, where appropriate, prosecute and punish law enforcement officers who commit acts of ill-treatment and compensate the victims. In this connection, the State party should in its next periodic report provide statistics on criminal and disciplinary proceedings initiated for this type of act and the results thereof;

(b) Intensify human rights training for law enforcement agents so that they do not engage in such conduct.

(14) While the Committee notes that the Children and Adolescents Code prohibits corporal punishment in schools, it remains concerned that corporal punishment traditionally continues to be accepted and practised as a form of discipline in the family and other contexts (arts. 7 and 24).

The State party should take practical steps to put an end to corporal punishment. It should likewise encourage non-violent forms of discipline as alternatives to corporal punishment in the education system, and should conduct public information campaigns to explain its harmful effects.

(15) The Committee regrets not having received clear and precise information from the State party concerning the Truth Commission which was to investigate, bring to light and put an end to impunity for human rights violations committed by agents of the State between 1984 and 1988 (art. 6).

The State party should ensure that human rights violations are investigated, the perpetrators prosecuted and the victims and their families granted fair compensation, having regard to the provisions of the Truth Commission's report.

(16) The Committee is concerned about allegations that members of the armed and police forces have been responsible for the death, by discharge of firearms or use of tear gas, of people participating in public demonstrations (arts. 6, 7, 19 and 21).

The State party should take the necessary steps to put an end to the deaths of participants in public demonstrations at the hands of the police, such as through the establishment of commissions to investigate such acts. The Committee urges the State party to investigate the alleged abuses and bring to justice those responsible.

(17) While acknowledging the measures taken by the State party to improve detention conditions, the Committee is concerned by the high levels of overcrowding and the poor conditions prevalent in social rehabilitation centres, especially the lack of hygiene, shortage of safe drinking water, violence, inadequate medical attention and shortage of staff (art. 10).

The State party should intensify its efforts to improve the conditions for all detainees, in total compliance with the Standard Minimum Rules for the Treatment of Prisoners. In particular, it should tackle overcrowding as a matter of priority. The State party should provide the Committee with information on progress achieved, with particular regard to the implementation of specific measures to improve the conditions of detainees.

(18) While noting that article 11.2 of the Constitution lays down the principle of non-discrimination on the grounds of a person's criminal record and that the draft amendment to Decree No. 3301 on refugees expressly prohibits the requesting of a criminal record certificate and that the Refugees Department responsible for dealing with requests for refugee status, should not ask for criminal records when handling refugee applications, the Committee regrets that, according to some sources, the practice of requesting a criminal record certificate as an entrance requirement is applied exclusively to Colombian immigrants (arts. 2 and 26).

The State party should take the necessary steps to ensure that the constitutional principle of non-discrimination on the grounds of a person's criminal record is reflected in practice. In the light of paragraph 5 of the Committee's general comment No. 15 (1986) on the position of aliens under the Covenant, the

Committee reminds the State party that, while the Covenant does not recognize the right of aliens to enter or reside in the territory of a State party, an alien may, in certain circumstances, enjoy the protection of the Covenant, even in relation to entry or residence, for example, when considerations of non-discrimination, prohibition of inhuman treatment and respect for family life arise.

(19) While noting that the specific rights of indigenous peoples are enshrined in chapter IV of the current Constitution, the Committee remains concerned that indigenous peoples and Afro-Ecuadorians continue in practice to be the victims of racial discrimination. It is also concerned that Title II, article 11.2 of the Constitution does not establish racial non-discrimination as a principle for the exercise of rights (art. 26).

The State party should take appropriate measures to ensure the practical implementation of the Constitutional and legal provisions that guarantee the principle of non-discrimination against indigenous peoples and full compliance with articles 26 and 27 of the Covenant.

(20) The Committee requests that the State party's fifth periodic report and these concluding observations be published and widely disseminated to the general public, the judicial, legislative and administrative authorities and non-governmental organizations. Printed copies of these documents should be distributed to universities, public libraries, the Parliamentary library and other relevant places. It would also be desirable to distribute a summary of the report and the concluding observations to the indigenous communities in their own languages.

(21) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit, within one year, relevant information on assessment of the situation and on the implementation of the Committee's recommendations in paragraphs 9, 13 and 19 above.

(22) The Committee invites the State party, given that it has not yet submitted its core document, to do so in accordance with the harmonized guidelines on reporting under the international human rights treaties, which were adopted at the Fifth Inter-Committee Meeting of the human rights treaty bodies held in June 2006 (HRI/GEN/2/Rev.4).

(23) The Committee requests the State party, in its next report due to be submitted by 30 October 2013 at the latest, to provide information on the remaining recommendations made and on compliance with the Covenant as a whole.

70. **Mexico**

(1) The Human Rights Committee considered the fifth periodic report of Mexico (CCPR/C/MEX/5) at its 2686th to 2688th meetings, held on 8 and 9 March 2010 (CCPR/C/SR.2686 to 2688). At its 2708th meeting, held on 23 March 2010 (CCPR/C/SR.2708), it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the submission of the State party's fifth periodic report, which gives detailed information on measures adopted by the State party to further the implementation of the Covenant, while observing that the report was submitted late and does not contain clear reference to the implementation of the Committee's previous concluding observations (CCPR/CO/79/Add.109). It also welcomes the dialogue with the delegation, the detailed written replies (CCPR/C/MEX/Q/5/Add.1) submitted in response to the Committee's list of issues, and the additional information and clarifications provided orally.

B. Positive aspects

(3) The Committee welcomes the following legislative and other measures adopted since the examination of the State party's previous periodic report:

(a) The adoption in 2007 of the General Law on access by women to a life without violence;

(b) The adoption in 2003 of the Federal law to prevent and eliminate discrimination;

(c) The adoption in 2003 of the Federal law on the promotion of activities of civil society organizations;

(d) The ratification of the Second Optional Protocol to the Covenant, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Rome Statute of the International Criminal Court, and the International Convention for the Protection of All Persons from Enforced Disappearance;

(e) The adoption of the National Programme for Human Rights 2008–2012.

C. Principal subjects of concern and recommendations

(4) The Committee is concerned at the lack of significant progress in the implementation of its previous recommendations, including those relating to violence against women, the deployment of the armed forces for ensuring public security, and the lack of protection of human rights defenders and journalists, and regrets that many subjects of concern still remain (art. 2).

The State party should take all necessary measures to give full effect to all recommendations adopted by the Committee.

(5) The Committee is concerned that the application of the State party's obligations under the Covenant in all parts of its territory may be hampered by the federal structure of the State party. It reminds the State party that, under article 50 of the Covenant, the provisions of the Covenant "shall extend to all parts of federal States without any limitations or exceptions" (art. 2).

The State party should take measures to ensure that the authorities, including courts, in all states, are aware of the rights set out in the Covenant and of their duty to ensure their effective implementation, and that legislation at both federal and state level is brought into line with the Covenant.

(6) The Committee regrets the inability of the delegation to indicate a specific time frame within which the proposals for reforming the State party's Constitution will be finalized. Furthermore, it regrets the lack of clarification regarding the status of the Covenant in the domestic legal order in the light of the current constitutional reform, and, in particular, the manner in which conflicts between national laws and international human rights obligations may be resolved (arts. 2 and 26).

In the light of the Committee's general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties by the Covenant, the State party should bring the draft constitution into line with international human rights standards, in particular with the Covenant. Furthermore, a procedure should be established whereby the compatibility of national laws with international human rights obligations may be challenged. The State party should also finalize the constitutional reform within a reasonable time frame.

(7) The Committee is concerned that, despite some progress achieved in respect of gender equality in recent years, inequalities between women and men still persist in many areas of life, including in political life. It also remains concerned at discrimination experienced by women when seeking employment in the so-called “*maquiladora*” industry in the northern border regions of the State party, where intrusive personal questioning and pregnancy tests continue to be required of female job seekers (arts. 2, 3 and 26).

The State party should increase its measures to ensure equality between women and men in all spheres, including the representation of women in political life, by means, inter alia, of awareness-raising campaigns and temporary special measures. Furthermore, it should combat discrimination against women, in particular in the workforce, and ensure the abolition of pregnancy tests as a requirement for access to employment. Failure to respect the prohibition on pregnancy tests should be effectively sanctioned and victims provided with reparation. The State party should strengthen the mandate of labour inspectorates with a view to enabling them to monitor working conditions of women and to ensuring that their rights are respected.

(8) The Committee welcomes the creation of the Office of the Special Prosecutor for violent crimes against women and human trafficking, the establishment of a pilot project to improve women’s access to justice (*casas de justicia*), as well as the State party’s commitment to tailor its measures to protect women from violence to the cultural and social characteristics of the respective regions. Nevertheless, the Committee notes with concern the continued prevalence of violence against women, including torture and ill-treatment, rape and other forms of sexual violence, and domestic violence, and the low number of sentences handed down in this regard. It is also concerned that the legislation of some states has not been completely harmonized with the General Law on Access by Women to a Life without Violence, since at state level no provision has been made for the establishment of a gender violence alert mechanism or the prohibition of sexual harassment (arts. 3, 7 and 24).

The State party should further intensify its efforts to combat violence against women, including by addressing the root causes of this problem. In particular, it should:

(a) **Take steps to ensure that the legislation of all states is fully harmonized with the General Law on Access by Women to a Life without Violence, in particular the provisions concerning the establishment of a database with information on cases of violence against women, the creation of a gender violence alert mechanism, and the prohibition of sexual harassment;**

(b) **Establish the specific crime of femicide in the legislation, including at state level; provide the Office of the Special Prosecutor for Violent Crimes against Women and Human Trafficking with the necessary authority to address acts of violence committed by state and federal officials;**

(c) **Conduct prompt and effective investigations and punish the perpetrators of acts of violence against women, including by ensuring efficient cooperation between state and federal authorities;**

(d) **Provide effective remedies, including psychological rehabilitation, and establish shelters for women victims of violence;**

(e) **Continue implementing training courses on human rights and gender for law enforcement officials and military personnel;**

(f) **Take preventive and awareness-raising measures and launch educational campaigns to change the perception of women’s role in society.**

(9) While welcoming the measures adopted by the State party to address the frequent acts of violence against women in Ciudad Juárez, such as the establishment of the Office of a Special Prosecutor to handle crimes of femicide in Ciudad Juárez, as well as a Commission for the prevention and eradication of violence against women in the municipality, the Committee remains concerned at the prevailing impunity in many cases of disappearance and homicide of women and at the continuing occurrence of such acts in Ciudad Juárez as well as other municipalities. It also regrets the paucity of information on the strategy to combat violence against women in Ciudad Juárez (arts. 3, 6, 7 and 14).

The institutions established to address violence against women in Ciudad Juárez should be equipped with sufficient authority and human and financial resources to fulfil their mandate effectively. The State party should also significantly strengthen its efforts to prosecute and sanction the perpetrators of acts of violence against women in Ciudad Juárez and to facilitate victims' access to justice.

(10) The Committee is concerned that, despite Federal Norm 046 (NOM-046), issued by the Ministry of Health, and the Supreme Court's ruling on the constitutionality of the decriminalization of abortion in 2008, abortion is still illegal in all circumstances under the constitutions of many states (arts. 2, 3, 6 and 26 of the Covenant).

The State party should bring the abortion laws in all states into line with the Covenant and ensure the application of Federal Norm 046 (NOM-046) throughout its territory. It should also take measures to help women avoid unwanted pregnancies so that they do not have to resort to illegal or unsafe abortions that could put their lives at risk (art. 6).

(11) The Committee notes the State party's affirmation that no state of emergency has been declared on its territory. It remains concerned, however, at reports that in some regions, certain rights have been subject to derogations in the context of the fight against organized crime. Furthermore, the Committee remains concerned at the role of the armed forces in securing public order and the increasingly frequent reports of human rights violations which appear to be perpetrated by the military. Despite the State party's clarification regarding the proposed amendments to the Law on National Security, the Committee is also concerned that these amendments may have negative effects on the implementation of rights recognized in article 4 of the Covenant, insofar as they broaden the powers of the armed forces to ensure public safety (arts. 2 and 4).

The State party should ensure that its provisions concerning states of exception are compatible with article 4 of the Covenant, as well as article 29 of the State party's Constitution. In this regard, the Committee draws the attention of the State party to its general comment No. 29 (2001) on derogations during a state of emergency. The State party should take all necessary steps to ensure that public security is, to the maximum extent possible, upheld by civilian rather than military security forces. It should also ensure that all allegations of human rights violations committed by armed forces are duly investigated and prosecuted by civil authorities.

(12) The Committee appreciates the State party's efforts to investigate cases of violations of the right to life and enforced disappearances, including by the establishment of the Office of the Special Prosecutor for Past Social and Political Movements in 2001. However, it is concerned that this Office was closed in 2007. The Committee is also concerned that the Criminal Codes of some states lack a specific provision punishing the crime of enforced disappearance, while the definition of enforced disappearance contained in the Criminal Codes of other states is not in line with international human rights standards (arts. 2, 6, 7 and 9 of the Covenant).

The State party should take immediate steps to ensure that all cases of serious human rights violations, including those committed during the so-called Dirty War, continue to be investigated, that those responsible are brought to justice and, where appropriate, punished, and that the victims or their relatives receive fair and adequate reparation. To this end, it should re-establish the Office of the Special Prosecutor to deal with such human rights violations. The State party should amend the Criminal Code at both federal and state level with a view to including the crime of enforced disappearance as defined in international human rights instruments.

(13) The Committee notes with concern the continued occurrence of torture and ill-treatment by law enforcement authorities, the limited number of convictions of those responsible, and the low sanctions imposed on the perpetrators. It also remains concerned that the definition of torture contained in the legislation of all states does not cover all forms of torture. While taking note of the initiative to establish a more systematic medical-psychological documentation of torture and ill-treatment in line with the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), the Committee is concerned that only some states have agreed to implement such a system. It is also concerned that only a small number of victims of torture have been granted reparation following judicial proceedings (art. 7).

The State party should bring the definition of torture in legislation at all levels in line with international and regional standards, with a view to covering all forms of torture. An investigation should be opened into each case of alleged torture. The State party should reinforce its measures to put an end to torture and ill-treatment, to monitor, investigate and, where appropriate, prosecute and punish the perpetrators of acts of ill-treatment and compensate the victims. It should also systematize the audio-visual recording of interrogations in all police stations and places of detention and make sure that the specialized medical-psychological examination of alleged cases of ill-treatment is carried out in line with the Istanbul Protocol.

(14) The Committee takes note of the currently proposed reforms of the State party's criminal justice system, which inter alia aims to establish an accusatory system and enshrines the principle of the presumption of innocence. However, it notes that this reform has not yet been fully implemented. Furthermore, the Committee expresses concern that under the current law, great evidentiary value is attached to the first confessions made before a police officer or prosecutor and that the burden of proof that statements were not made as a result of torture or cruel, inhuman or degrading treatment is not placed on the prosecution (arts. 7 and 14).

The State party should take steps to accelerate the implementation of the reform of the criminal justice system. It should also adopt immediate measures to ensure that only confessions made or confirmed before a judicial authority are admitted as evidence against a defendant and that the burden of proof in torture cases does not rest on the alleged victims.

(15) The Committee expresses its concern regarding the legality of the use of "*arraigo penal*" (short-term detention) in the context of combating organized crime, which allows the possibility of holding an individual without charge for up to 80 days, without bringing him before a judge and without the necessary legal safeguards as prescribed by article 14 of the Covenant. It regrets the lack of clarification regarding the level of evidence needed for an "*arraigo*" order. The Committee underscores that persons detained under "*arraigo*" are exposed to ill-treatment (arts. 9 and 14 of the Covenant).

In the light of the 2005 decision of the Supreme Court regarding the unconstitutionality of “*arraigo penal*” and its classification as arbitrary detention by the Working Group on Arbitrary Detention, the State party should take all necessary measures to remove “*arraigo*” detention from legislation and practice at both federal and state levels.

(16) While acknowledging the measures taken by the State party to improve conditions of detention, such as the construction of new facilities, the Committee is concerned by the high levels of overcrowding and the poor conditions prevalent in places of detention, as acknowledged by the State party. It also notes the high incarceration rate in the State party. The Committee is further concerned at reports that in some prisons male and female inmates are detained in so-called “mixed prisons” and that violence against women in detention is widespread (arts. 3 and 10).

The State party should harmonize the prison legislation of all states and expedite the establishment of a single database for all penitentiaries throughout its territory with a view to ensuring a more even distribution of the prison population. Moreover, it should ensure that courts apply alternative forms of punishment. The State party should step up its efforts to improve conditions for all detainees, in compliance with the Standard Minimum Rules for the Treatment of Prisoners. As a matter of priority, it should tackle overcrowding, as well as the separation of female and male inmates, and adopt specific regulations to protect the rights of women in detention.

(17) The Committee is concerned that article 33 of the current constitutional reform proposal consolidates the exclusive right of the executive branch to expel any foreigner whose stay is deemed inappropriate, with immediate effect and without the possibility of appeal (arts. 2 and 13).

The State party should ensure that the reform of article 33 of the Constitution does not deprive non-nationals of the right to challenge an expulsion decision, for example through the remedy of “*amparo*”, in line with the case law of the Mexican Supreme Court.

(18) The Committee notes with concern that the State party’s military courts have jurisdiction to try cases of human rights violations committed by military personnel in cases where the victim is a civilian. It is also concerned that victims or relatives of victims do not have access to a remedy, including “*amparo*”, in such cases (arts. 2, 14 and 26).

The State party should amend its Code of Military Justice so as to ensure that the jurisdiction of military courts does not extend to cases of human rights violations. In no event may military courts judge cases where the victims are civilians. Victims of human rights violations perpetrated by military officials should have access to effective remedies.

(19) The Committee continues to be concerned that the State party does not have a law recognizing the right of conscientious objection to military service and does not intend to adopt one (art. 18).

The State party should adopt legislation recognizing the right of conscientious objection to military service, ensuring that conscientious objectors are not subject to discrimination or punishment.

(20) The Committee welcomes the establishment of a Special Prosecutor’s Office for Crimes against Journalists, but regrets the lack of effective measures taken by the State party to protect their right to life and security and to sanction the perpetrators of such violations. It also welcomes the decriminalization of slander and libel at the federal level,

but remains concerned at the lack of such decriminalization in many states (arts. 6, 7 and 19).

The State party should guarantee the right of journalists and human rights defenders to freedom of expression in the conduct of their activities. It should also:

(a) Take immediate steps to provide effective protection to journalists and human rights defenders whose lives and security are under threat due to their professional activities, including by the timely adoption of the bill on crimes committed against freedom of expression exercised through the practice of journalism;

(b) Ensure the prompt, effective, and impartial investigation of threats, violent attacks and assassinations perpetrated against journalists and human rights defenders and, where appropriate, prosecute and institute proceedings against the perpetrators of such acts;

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

(d) Take steps to decriminalize defamation in all states.

(21) The Committee notes with concern reports of acts of violence against lesbian, gay, bisexual and transgender (LGBT) persons. Moreover, while noting that the legal prohibition of discrimination covers discrimination based on sexual orientation, the Committee is concerned at reports of discrimination against individuals on the basis of their sexual orientation in the State party, including in the educational system (art. 26 of the Covenant).

The State party should adopt immediate steps to effectively investigate all reports of violence against LGBT persons. It should also strengthen its efforts to provide effective protection against violence and discrimination based on sexual orientation, including in the educational system, and launch a campaign to raise awareness amongst the general public with a view to combating social prejudice.

(22) While acknowledging the measures adopted by the State party, such as the Programme for the development of indigenous peoples 2009–2010 and the 2001 constitutional reforms aimed at guaranteeing indigenous rights, the Committee remains concerned that indigenous peoples are not sufficiently consulted in the decision-making process with respect to issues affecting their rights, such as during the constitutional reform discussions in 2001 (arts. 2 and 25 to 27).

The State party should consider reviewing the relevant provisions of the Constitution reformed in 2001, in consultation with indigenous peoples. It should also take all necessary steps to ensure the effective consultation of indigenous peoples for decision-making in all areas that have an impact on their rights, in accordance with article 1, paragraph 2, and article 27 of the Covenant.

(23) The State party should widely disseminate the text of its fifth periodic report to the Committee, the written replies it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations among the judicial, legislative and administrative authorities, civil society and non-governmental organizations, as well as among the general public. Copies of those documents should be circulated to universities, public libraries, the parliamentary library and other relevant recipients.

(24) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 8, 9, 15 and 20.

(25) The Committee requests the State party to provide in its sixth periodic report, due to be submitted by 30 March 2014, specific, up-to-date information on all its recommendations and on its compliance with the Covenant as a whole. The Committee also recommends that the State party, when preparing its sixth periodic report, consult civil society and non-governmental organizations operating in the country.

71. Argentina

(1) The Committee considered the fourth periodic report of Argentina (CCPR/C/ARG/4) at its 2690th and 2691st meetings (CCPR/C/SR.2690 and SR.2691), held on 10 and 11 March 2010, and adopted the following concluding observations at its 2708th meeting (CCPR/C/SR.2708), held on 23 March 2010.

A. Introduction

(2) The Committee welcomes the fourth periodic report of Argentina and is grateful for the oral and written replies provided by the State party's delegation, which made it possible to have an open and constructive dialogue on the various issues facing the country. The Committee appreciates the detailed information on the State party's legislation relating to implementation of the Covenant and on its new draft legislation. It notes, however, the lack of statistical information that would provide a picture of how the situation has developed, at both the federal and provincial levels, in the areas mentioned in its previous concluding observations.

B. Positive aspects

(3) The Committee welcomes the numerous legislative and institutional changes that have taken place since its consideration of the third periodic report, such as the decriminalization of libel and slander in statements regarding topics of public interest and the drafting of the 2005 National Plan against Discrimination.

(4) The Committee welcomes the information concerning the progress made in the prosecution of persons responsible for serious human rights violations during the military dictatorship and in the recovery of the identity of children who were taken from their families during that time, as well as the adoption of various laws amending the Code of Criminal Procedure with a view to expediting the trials of such persons. The Committee is also pleased to note the establishment of the Special Investigation Unit within the National Commission for the Right to Identity (CONADI) and of the National Genetic Data Bank.

(5) The Committee welcomes the State party's accession, since its submission of its third periodic report, to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, which enjoys constitutional status. It also notes with satisfaction the ratification of the Rome Statute of the International Criminal Court.

(6) The Committee welcomes the State party's ratification of a number of human rights treaties, including the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the Convention on the Rights of Persons with Disabilities; and the International Convention for the Protection of All Persons from Enforced Disappearance.

(7) The Committee welcomes the State party's practice of seeking amicable settlements with victims of human rights violations, granting non-monetary reparations and establishing ad hoc arbitral tribunals to decide on compensation in these cases.

C. Principal subjects of concern and recommendations

(8) The Committee notes with concern that, owing to the country's federal system of government, many of the rights laid down in the Covenant are not uniformly protected throughout the country (art. 2).

The State party should take measures to guarantee the full implementation of the Covenant throughout its territory, without any limitations or exceptions, in accordance with article 50 of the Covenant with a view to ensuring that all persons are able to fully enjoy their rights in any part of the country.

(9) Although the Committee is pleased to note the progress made in processing the cases of those responsible for serious human rights violations during the military dictatorship, it is concerned by the slow pace at which the various phases of these trials, including that of cassation, are proceeding, particularly in certain provinces, such as Mendoza (art. 2).

The State party should continue to make rigorous efforts to process these cases in order to guarantee that serious human rights violations, including those involving sexual abuse and the seizure of children, do not go unpunished.

(10) The Committee notes with concern that, despite the principle set forth in article 114 of the Constitution concerning the importance of having a balanced Council of the Magistrature, representatives of political organs close to the executive branch predominate at the expense of judges and lawyers (art. 2).

The State party should take measures to achieve the balance envisaged in the constitutional provision regarding the composition of the Council of the Magistrature and to avoid situations in which the executive branch controls this body.

(11) Even as it notes with satisfaction the adoption of the Integral Protection Act to prevent, punish and eradicate violence against women in the context of their interpersonal relations, the Committee is disturbed to note the existence of shortcomings in the effective implementation of the Act (arts. 3 and 26 of the Covenant).

The State party should adopt, with all due speed, measures to establish implementing legislation for the Integral Protection Act and to provide for a budgetary allocation that permits its effective implementation throughout the country. The State party should compile national statistics on domestic violence with a view to maintaining reliable data on the scope of the problem and on trends in that regard.

(12) Although the Committee welcomes the State party's establishment of the Office of Domestic Violence to provide assistance to victims of domestic abuse, it is concerned that the Office's sphere of responsibility is limited to the City of Buenos Aires and that the services it offers include only very limited free legal assistance in the courts (arts. 3 and 26).

The State party should take measures to ensure that services such as those offered by the Office of Domestic Violence are accessible in all parts of the country and that free legal assistance is guaranteed in cases of domestic violence brought before the courts.

(13) The Committee expresses its concern at the restrictive legislation on abortion contained in article 86 of the Criminal Code and at the inconsistency in the courts' interpretations of the grounds for exemption from punishment set out in this article (arts. 3 and 6 of the Covenant).

The State party should amend its legislation so that it effectively helps women to prevent unwanted pregnancies and protects them from having to resort to clandestine abortions that could endanger their lives. The State should also adopt measures for educating judges and health workers about the scope of article 86 of the Criminal Code.

(14) The Committee is concerned by the information it has received concerning deaths, including deaths of minors in some cases, caused by police violence.

The State party should take measures to ensure that incidents such as those described above do not occur and to ensure that those responsible for them are duly prosecuted and punished.

(15) The Committee reiterates its concern at the subsistence of legislation giving the police the power to detain persons (including minors) whom they have not apprehended in the act of committing an offence, and to do so without a warrant or subsequent judicial review, for the sole stated purpose of verifying their identity, in violation of, inter alia, the principle of the presumption of innocence (arts. 9 and 14).

The State party should take measures to withdraw the power of the police to detain persons when their detention is not related to the commission of an offence and is in violation of the principles set out in article 9 of the Covenant.

(16) While recognizing the importance of the Supreme Court decision in the *Verbitsky, Horacio writ of habeas corpus* case, which sets standards for the protection of the rights of persons deprived of their liberty, the Committee regrets the lack of measures for the effective implementation of these standards and the failure of criminal procedural law and practice relating to pretrial detention and post-trial imprisonment at the provincial level to comply with international standards. The Committee wishes to express its concern, in particular, at the fact that a large percentage of prisoners remain in pretrial detention and at the long duration of such detention (arts. 9 and 10).

The State party should take measures, without delay, to reduce the number of persons held in pretrial detention and the length of pretrial detention by taking such steps as having greater recourse to precautionary measures or making greater use of bail or of electronic bracelets. The Committee reiterates that pretrial detention should not be the norm; instead it should be resorted to only as an exceptional measure and to the extent that it is necessary and consistent with due process of law and with article 9, paragraph 3, of the Covenant. There should be no offences for which it is mandatory.

(17) Despite the information provided by the State party with regard to measures taken to improve living conditions in the country's prisons, the conditions in many of them remain a source of concern for the Committee. These conditions include a high rate of overcrowding, violence inside prisons, the poor quality of services and insufficient satisfaction of basic needs, in particular with regard to hygiene, food and medical care. The Committee is also concerned that, owing to the lack of space in these institutions, some detainees who have been charged remain in police stations for long periods. The fact that some prisons continue to operate despite court orders that they be shut down is a further cause of concern. The Committee also regrets that the Procurator of Prisons is authorized to deal with matters relating to inmates in federal penitentiaries only (art. 10).

The State party should adopt effective measures for putting an end to prison overcrowding and ensuring compliance with the requirements set out in article 10. In particular, the State party should take measures to comply with the Standard Minimum Rules for the Treatment of Prisoners. The practice of keeping accused persons at police stations should be halted. The functions of the Procurator of Prisons should cover the entire country. The State party should also take measures to guarantee that all occurrences of injury and death in prisons and detention centres are duly investigated and to ensure compliance with court orders mandating the closure of some of these centres.

(18) The Committee notes with concern the abundance of information it has received on the frequent use of torture and cruel, inhuman or degrading treatment at police stations and in prisons, particularly in the provinces of Buenos Aires and Mendoza. It also notes that very few of the cases reported lead to investigations or trials and even fewer result in the conviction of those responsible, making for a high rate of impunity. The Committee is also concerned by the judicial practice with regard to the characterization of the facts, whereby torture is frequently classified as a less serious offence, such as unlawful coercion, for which penalties are less severe (art. 7).

The State party should take immediate and effective measures against such practices. It should monitor, investigate and, where appropriate, prosecute and punish law enforcement officers responsible for acts of torture and should compensate the victims. The legal characterization of the facts must take into account their seriousness and relevant international standards.

The State party should establish registers of cases of torture and other cruel, inhuman or degrading treatment or punishment, or, where appropriate, strengthen existing registers with a view to maintaining reliable information on the real scale of the problem throughout the country, monitoring developments in this connection and taking adequate measures to address it.

The State party should redouble its efforts to provide human rights training for law enforcement officers in order to dissuade them from engaging in such conduct.

The State party should expedite the adoption of the necessary legal measures for the establishment of an independent national preventive mechanism, as provided for in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This process should take into account the need for effective coordination between federal and provincial levels.

(19) The Committee notes with concern the absence of procedural law and practice that would guarantee the effective implementation of the right set out in article 14, paragraph 5, of the Covenant throughout the country (art. 14).

The State party should take the necessary and effective measures to guarantee the right of every person who is convicted of a crime to have the conviction and sentence reviewed by a higher tribunal. In this connection, the Committee recalls its general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, which emphasizes, in paragraph 48, the need to review substantively the conviction and sentence.

(20) The Committee notes with concern that, despite the fact that a large percentage of persons who have been arrested and charged do not have legal counsel of their choosing and must use the services of the Office of the Public Defender, the Office does not have the necessary means to provide adequate legal assistance in every case. It further notes that,

despite the provisions of article 120 of the Constitution, the operational and budgetary independence of the Office of the Public Defender from the Office of the Procurator of Prisons is not assured throughout the country. This could have a negative impact on the quality of the services provided by the Office of the Public Defender (art. 14).

The State party should take measures designed to ensure that the Office of the Public Defender can provide all persons suspected of having committed a crime with appropriate and effective services as from the time of their apprehension by the police in order to protect the rights set out in the Covenant. The State party should also take steps to guarantee the budgetary and operational independence of the Office of the Defender from other State organs.

(21) The Committee wishes to express its concern about the intimidation of persons participating as witnesses for the prosecution in trials for crimes involving serious human rights violations during the dictatorship, including the abduction and disappearance of Jorge Julio López (art. 19 of the Covenant).

The State party should pursue its efforts to clarify the whereabouts of Jorge Julio López and to identify and bring to trial those responsible for his disappearance. The State party should also strengthen measures for the effective implementation of the National Programme for the Protection of Witnesses and Defendants.

(22) The refusal to recognize the Central de Trabajadores Argentinos as a trade union is disturbing to the Committee, given that the State is a party to the International Labour Organization (ILO) Convention concerning Freedom of Association and Protection of the Right to Organise (Convention No. 87) and in the light of the Supreme Court decision against trade union monopoly (art. 22).

The State party should take measures designed to guarantee national implementation of international standards on freedom of association, including article 22 of the Covenant, and should avoid any discrimination in this regard.

(23) The Committee wishes to express its concern over serious shortcomings in the operation of custodial institutions for children, including instances of collective punishment and strict confinement, and over the current juvenile criminal justice system, which, inter alia, makes excessive use of internment and does not guarantee adequate legal assistance to minors in conflict with the law (art. 24).

The State party should take measures to establish a juvenile criminal justice system that is respectful of the rights protected by the Covenant and other relevant international instruments. The Committee believes that measures are needed to guarantee respect for such principles as the right of such minors to receive treatment that promotes their reintegration into society, the use of detention and imprisonment only as a last resort, the right of minors to be heard in criminal proceedings relating to them and the right to receive appropriate legal assistance.

(24) The Committee is concerned by the information it has received with regard to inadequate care for users of mental health services, in particular as concerns the right to be heard and the right to have access to legal assistance in connection with decisions relating to their internment (art. 26).

The State party should take measures with a view to protecting the rights of these persons under the Covenant and to aligning its legislation and practice with international standards on the rights of persons with disabilities.

(25) The Committee is concerned by information that it has received which indicates that indigenous groups have been the target of violence and have been forcibly evicted from their ancestral lands in a number of provinces for reasons having to do with control over natural resources (arts. 26 and 27 of the Covenant).

The State party should adopt such measures as are necessary to put an end to evictions and safeguard the communal property of indigenous peoples as appropriate. In this connection, the State party should redouble its efforts to implement the programme providing for a legal cadastral survey of indigenous community property. The State party should also investigate and punish those responsible for the above-mentioned acts of violence.

(26) The Committee requests that the State party's fourth periodic report and these concluding observations be published and broadly disseminated among the general public; judicial, legislative and administrative bodies; and non-governmental organizations. Printed copies should also be distributed in universities, public libraries, the library of Parliament and other appropriate places.

(27) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on developments in its situation and on its compliance with the recommendations made by the Committee in paragraphs 17, 18 and 25 of these concluding observations.

(28) The Committee requests that, in its next periodic report, to be submitted prior to 30 March 2014, the State party provide information on the Committee's other recommendations and on the Covenant as a whole. It also requests that appropriate disaggregated statistics on major areas of concern be provided in that report.

72. **Uzbekistan**

(1) The Human Rights Committee considered the third periodic report of Uzbekistan (CCPR/C/UZB/3) at its 2692nd, 2693rd and 2694th meetings, held on 11 and 12 March 2010 (CCPR/C/SR.2692, 2693 and 2694). At its 2710th meeting, held on 24 March 2010 (CCPR/C/SR.2710), it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the timely submission of the third periodic report of the State party, which includes information on measures taken in respect of a number of recommendations contained in the Committee's previous concluding observations (CCPR/CO/83/UZB). It also welcomes the written replies (CCPR/C/UZB/Q/3/Add.1), submitted in response to the Committee's list of issues, the dialogue with the delegation, and the additional information and clarifications provided orally and in writing by the delegation.

B. Positive aspects

(3) The Committee welcomes the following legislative and other measures adopted since the examination of the second periodic report of the State party:

(a) The abolition of the death penalty as of 1 January 2008, and the accession of the State party to the Second Optional Protocol to the Covenant in December 2008;

(b) The adoption in of April 2009 of amendments in a number of legislative acts, including amendments of the Criminal Procedure Code and the Code regulating the execution of penalties, reforms which led, inter alia, to strengthen the Office of the Ombudsman, and provide it with the possibility to visit detainees without prior authorization and to communicate with them in private;

(c) The introduction of judicial control over decisions to place individuals in custody (habeas corpus) in January 2008;

(d) The reform, in 2008, of the rules governing the right of defence for persons deprived of liberty, allowing them to contact their counsel and relatives as of the moment of their factual apprehension;

(e) The adoption, in April 2008, of the Law on combating trafficking in human beings; the establishment of a nation-wide inter-agency Commission on trafficking prevention; the adoption of the National Plan of Action (2008–2010), aiming at strengthening the fight against trafficking in human beings; and the accession, in August 2008, to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;

(f) The measures taken to fight against child labour and the accession, in 2008, to the International Labour Organization (ILO) Conventions No. 138 (1973) concerning Minimum Age for Admission to Employment and No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst forms of Child Labour, and the accession, in December 2008, to the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the Rights of the Child on the sale of children, child prostitution and child pornography.

C. Principal subjects of concern and recommendations

(4) The Committee expresses its concern about the lack of significant progress in the implementation of a number of the Committee's previous recommendations (CCPR/CO/83/UZB), and regrets that a large number of concerns remain unaddressed (art. 2).

The State party should take all necessary measures to give full effect to all recommendations adopted by the Committee.

(5) While noting that, pursuant to the International Treaties Act of 25 December 1995, international treaties to which Uzbekistan is a party are subject to direct and mandatory application, and the State party's indications, in the report and the written replies, that international law prevails over national law in case of conflict, the Committee is still concerned about an insufficient awareness of the Covenant's provisions and their practical application in the domestic legal system (art. 2).

The State party should take measures to ensure that its authorities, including courts, are fully aware of the rights and freedoms set out in the Covenant, and of their duty to ensure their effective implementation.

(6) The Committee regrets the failure of the State party to implement any of its Views adopted on individual communications submitted under the Optional Protocol to the Covenant. It also regrets the absence of information on the body empowered to follow up on the measures taken, so as to ensure that the Committee's Views are given due attention (arts. 2 and 7).

The State party should comply fully with its obligations under the Covenant and the Optional Protocol. It should provide all victims of violations of the Covenant, as found in the Committee's Views, with an effective remedy, and ensure that similar violations do not occur in the future. It should also provide information, in its next periodic report, on the authorities empowered to follow up on the measures taken to address the Committee's Views under the Optional Protocol.

(7) The Committee also remains concerned about the failure of the State party to inform relatives of persons sentenced to death and executed, prior to the abolition of the death penalty in 2008, on the exact date and place of burial of those executed, in breach of article 7 of the Covenant (arts. 2 and 7).

The State party should take the necessary steps to inform the families of prisoners, whose death sentences have been carried out prior to the abolition of the capital punishment, of the date of execution and the burial place of their relatives.

(8) While taking note of the State party's statement that it conducted all necessary investigations in respect of the Andijan events of 2005, and that several individuals have already been convicted in this connection, the Committee is concerned at the absence of a comprehensive and fully independent investigation on the exact circumstances of the events during which 700 civilians, including women and children, were killed by the military and security services. It also notes with regret that the State party has not provided the requested information regarding the national rules on the use of firearms by security forces against civilians (arts. 2, 6, and 7).

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

(9) The Committee is concerned that the existing regulations on states of emergency do not fulfil all requirements of article 4 of the Covenant, nor do they include all guarantees therein. It notes the explanation given by the State party that a draft law on the state of emergency is under preparation (arts. 2 and 4).

The State party should ensure that all its legislation and regulations concerning states of emergency are fully compatible with article 4 of the Covenant. In this regard, the Committee recalls its general comment No. 29 (2001) on derogations during a state of emergency.

(10) The Committee remains concerned about reports, according to which the definition of torture in the State party's Criminal Code (art. 235) may not ensure conformity between the State party's legislation and the definition in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and that this affects the charges brought against suspected perpetrators. The Committee also notes the apparent contradiction between the oral and written statements of the State party, on the one hand, that the law does comply with the definition, and the written reply, on the other, regarding the State party's intention to amend its legislation, in order to align it both with article 1 of the Convention against Torture, and article 7 of the Covenant in the framework of its National Plan of Action on the implementation of the 2007 recommendations of the Committee against Torture (CAT/C/UZB/CO/3). While taking note of the ruling of the Supreme Court of Uzbekistan, in 2003, that the provisions of national law relating to torture must be read in the light of article 1 of the Convention against Torture, the Committee remains unconvinced that national law fully complies with all requisites contained in article 1 of the Convention against Torture (art. 7).

The Committee reiterates that the State party should review its criminal legislation, as affirmed in the written replies to the list of issues, including article 235 of its Criminal Code, in order to ensure full compliance with article 1 of the Convention against Torture and article 7 of the Covenant.

(11) The Committee notes with concern the continued reported occurrence of torture and ill-treatment, the limited number of convictions of those responsible, and the low sanctions generally imposed, including simple disciplinary measures, as well as indications that individuals responsible for such acts were amnestied and, in general, the inadequate or insufficient nature of investigations on torture/ill-treatment allegations. It is also concerned about reports on the use, by courts, of evidence obtained under coercion, despite the 2004 ruling of the Supreme Court on the inadmissibility of evidence obtained unlawfully (arts. 2, 7 and 14).

The State party should:

(a) **Make sure that an inquiry is conducted by an independent body in each case of alleged torture;**

(b) **Strengthen its measures to put an end to torture and other forms of ill-treatment, to monitor, investigate and, where appropriate, prosecute and punish all perpetrators of acts of ill-treatment, so as to avoid impunity;**

(c) **Compensate the victims of torture and ill-treatment;**

(d) **Envisage audio-visual recording of interrogations in all police stations and places of detention;**

(e) **Make sure that the specialized medical-psychological examination of alleged cases of ill-treatment is carried out in line with the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol);**

(f) **Review all criminal cases based on allegedly forced confessions and use of torture and ill-treatment and verify whether these claims were properly addressed.**

(12) The Committee remains concerned about the lack of legislation governing expulsion of foreign nationals, and that expulsions and extraditions are regulated mainly by bilateral agreements, which may allow for the forcible removal of foreigners to States where they face a risk of being subjected to torture or ill-treatment, in violation of the provisions of articles 7 and 13 of the Covenant (arts. 6, 7 and 13).

The State party should take steps to adopt domestic legislation governing the treatment of refugees and asylum-seekers in compliance with the Covenant and international refugee law. The State party should also:

(a) **Ensure that no one can be extradited, expelled, deported or forcibly returned to a country where he or she would be at risk of torture or ill-treatment or violation of the right to life;**

(b) **Establish a mechanism allowing persons who consider that such forced removal would put them at risk, to appeal against the removal decisions, with suspensive effect. In this regard, the State party should seek assistance from relevant international organizations.**

(13) The Committee remains concerned about the persistence of reports of violence against women, in particular domestic violence, in spite of the various measures taken by the State party. It remains concerned that domestic violence does not constitute an act specifically punishable under criminal law. It is also concerned at reports of forced marriages and the persistence of bride abductions in certain parts of the country. In this respect, it is concerned that no provision in the State party's Criminal Code specifically prohibits and punishes bride abductions (arts. 2, 3, 7 and 26).

The State party should adopt legislation specifically criminalizing all aspects of domestic violence and prohibiting and punishing bride abductions. The State party should continue carrying out focused awareness-raising campaigns to sensitize the population to these problems, including through local authorities and the Makhalla Committees. Local authorities, law-enforcement and police officials, as well as social workers and medical personnel should be trained on how to detect and adequately advise victims of domestic violence. The State party should also ensure that a sufficient number of fully operational shelters for victims of domestic violence exist in all parts of the State party.

(14) The Committee reiterates its concern that the length of custody for which a suspect or an accused may be held without being brought before a judge — 72 hours — is excessive. It is also concerned that in practice, an apprehended individual may be kept in police facilities for 48 additional hours, if a judge requires additional information, prior to deciding whether to release the person or place him or her in pretrial detention. The Committee shares the concern expressed by the State party during the dialogue that, while new legislation has been introduced on judicial control of detention (habeas corpus), the full effect of its implementation has yet to be seen, since judges, prosecutors, and lawyers in practice still follow older legal concepts (art. 9).

The State party should:

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

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

(15) The Committee has noted the explanations of the State party on the scope of application of the notions of “terrorism” and “terrorist activities” as included in the Law on fight against terrorism (art. 2) and the Criminal Code (art. 155). While noting the affirmation by the State party that its anti-terrorist legislation is in full compliance with the provisions of the Covenant, the Committee remains concerned about how the guarantees of the Covenant apply in practice to persons suspected or charged with such crimes. The Committee also remains concerned regarding the number of persons reportedly detained as suspects of involvement in terrorist/extremist activities or on terrorist charges (arts. 9 and 14).

The State party should ensure that the rights under the Covenant of all persons suspected of involvement in terrorist activities are fully protected. In particular, the State party should ensure that anyone arrested or detained on a criminal charge, including persons suspected of terrorism, has immediate access to a lawyer and that the grounds for detention are examined by a court.

(16) The Committee remains concerned that the judiciary is not fully independent in the State party, in particular owing to the fact that judges’ positions are renewed in effect by the Executive every five years (arts. 2 and 14).

The State party should ensure the full independence and impartiality of the judiciary by guaranteeing judges’ security of tenure.

(17) Although noting with interest the 2008 legislative modifications, according to which every detained suspect or accused is entitled to contact a defence lawyer or relatives immediately from the moment of the actual apprehension, the Committee is concerned about the absence of information on the application of these guarantees in practice. The Committee is also concerned that the recent reform of the regulations governing defence lawyers has increased the role of the Ministry of Justice in matters related to the legal

profession, including disciplining of lawyers. The Committee is also concerned about the practice according to which lawyers' licences are only valid for three years and are renewed thereafter by a qualification commission composed of representatives of the Ministry of Justice and the Lawyers' Chamber (arts. 7, 9, and 14).

The State party should ensure that all apprehended persons have the right to contact relatives and a lawyer. The State party should review and amend its laws and practice, so as to ensure the independence of lawyers, including through a revision of the system regarding the granting of licences.

(18) The Committee remains concerned about the need for individuals to receive an exit visa in order to be able to travel abroad. It is also concerned that the State party maintains the compulsory address registration of individuals (*propiska*), which may interfere with the enjoyment of a number of other rights under the Covenant, and may result in abuses and permit corruption (art. 12).

The State party should abolish the exit visa system, and also ensure that its address registration system (*propiska*) is in compliance with the provisions of article 12 of the Covenant.

(19) The Committee is concerned regarding the limitations and restrictions on freedom of religion and belief, including for members of non-registered religious groups. It is concerned about persistent reports on charges and imprisonment of such individuals. It is also concerned about the criminalization, under article 216-2 of the Criminal Code, of "conversion of believers from one religion to another (proselytism) and other missionary activities" (CCPR/C/UZB/3, para. 707) (art. 18).

The State party should amend its legislation, in particular, article 216-2 of the Criminal Code, in line with the requirements of article 18 of the Covenant. In this regard, the Committee recalls its general comment No. 22 (1993) on the right to freedom of thought, conscience and religion.

(20) The Committee is concerned that inequalities between women and men continue to persist in many areas of life, including employment and political life, despite progress achieved in recent years, such as an increase in the number of female members of Parliament at the last parliamentary elections, a result gained due to positive measures taken. In general, it is concerned about the persistence of stereotypes regarding the place of women in society, including the media (arts. 2, 3, 25 and 26).

The State party should combat discrimination against women, in particular in the sphere of employment, including through temporary targeted measures. More generally, it should strengthen its measures to ensure equality between women and men in all spheres of society and life, including to increase the representation of women in political life, by means of, inter alia, awareness raising campaigns in order to change perceptions and prevent stereotypes.

(21) The Committee remains concerned that even if polygamy de jure is addressed by the State party's Criminal Code (art. 126), de facto polygamy still exists. In addition, the criminal law provides criminal responsibility only in respect to individuals who share the same household. The Committee recalls its view that polygamy violates the dignity of women (see general comment No. 28 (2000) on the equality of rights between men and women, para. 24) (arts. 2, 3 and 26).

The State party should modify its legislation and ensure that all forms of polygamy are prohibited by law and subject to prosecution. More generally, the State party should also engage in systematic awareness-raising campaigns and programmes in order to sensitize society to the matter, change mentalities and stereotypes and eradicate polygamy.

(22) The Committee is concerned about reports that individuals have been harassed, physically attacked, or discriminated in the State party on the basis of their sexual orientation. It is also concerned that article 120 of the Criminal Code criminalizes consensual sexual activities between adult males (arts. 7, 17 and 26).

The State party should review its legislation and align it with article 26 of the Covenant. It should also provide effective protection against violence and discrimination based on sexual orientation.

(23) While noting with interest the different measures taken by the State party to increase the protection of the rights of the child, and, in particular, the adoption of the Rights of the Child (safeguards) Act in January 2008, and accession, as already mentioned, to two ILO Conventions (Nos. 138 and 182), the Committee remains concerned about reports, according to which children are still employed and subjected to harsh working conditions in particular for cotton harvesting (art. 24).

The State party should ensure that its national law and international obligations regulating child labour are fully respected in practice and that children receive the protection guaranteed by article 24 of the Covenant.

(24) The Committee remains concerned about the number of representatives of independent non-governmental organizations (NGO), journalists, and human rights defenders imprisoned, assaulted, harassed or intimidated, because of the exercise of their profession. The Committee also notes with concern that some representatives of international organizations, including NGOs, are denied entry to the State party. Furthermore, it is also concerned about the absence of sufficient investigations on all alleged assaults, threats, or acts of harassment of journalists and human rights defenders. Finally, the Committee is concerned over the existing provisions in articles 139 and 140 of the Criminal Code on defamation and insult, which may be used to punish individuals who criticize the existing regime (arts. 19, 22 and 7).

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

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

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

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

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

(25) The Committee reiterates its concerns about the legal provisions and application that, in practice, impose unreasonable restrictions on the registration of political parties and public associations by the Ministry of Justice, which may result in major practical obstacles to opposition parties and organizations (arts. 19, 22 and 25).

The State party should bring its law, regulations and practice governing the registration of political parties into line with the provisions of articles 19, 22 and 25 of the Covenant.

(26) The Committee is concerned that, at present, only members of a limited number of registered religious groups can apply for an alternative to military service. In this context, the Committee is concerned that the low number of conscientious objectors (seven) that performed alternative service in 2003–2007 may reflect a fear of adverse consequences for those who might take advantage of the existing provisions for alternative service. Furthermore, the Committee is concerned that the State party's regulations on alternative service do not apply to individuals who refuse to perform military service on ethical grounds. Finally, it is concerned about the lack of detailed information on how the system works in practice and, in particular, at the reports that decisions whether to allow an individual to carry out a substitution service are taken by a military body (art. 18).

The State party should adopt legislation recognizing explicitly the right of conscientious objection, ensuring that all conscientious objectors are not subjected to discrimination or punishment. The authority granting individuals the possibility to perform alternative service should include civilians.

(27) The State party should widely disseminate the text of its third periodic report, the written replies it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations to its judicial, legislative and administrative authorities, civil society and NGOs operating in the country as well as among the general public. Hard copies of those documents should be distributed to universities, public libraries, and all other relevant places.

(28) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 8, 11, 14 and 24.

(29) The Committee requests the State party to provide in its fourth periodic report, due to be submitted by 30 March 2013, specific, up-to-date information on all its recommendations and on the Covenant as a whole. The Committee also requests the State party, when preparing its fourth periodic report, to consult civil society and non-governmental organizations operating in the country.

73. New Zealand

(1) The Human Rights Committee considered the fifth periodic report of New Zealand (CCPR/C/NZL/5) at its 2696th and 2697th meetings, held on 15 and 16 March 2010 (CCPR/C/SR.2696 and 2697). At its 2711th and its 2712th meetings, held on 25 March 2010 (CCPR/C/SR.2711 and 2712), it adopted the following concluding observations.

A. Introduction

(2) The Committee notes with appreciation the timely submission of the fifth periodic report of the State party which gives detailed information on measures adopted by the State party to further the implementation of the Covenant. Furthermore, it expresses its appreciation for the quality of the written replies to the list of issues (CCPR/C/NZL/Q/5/Add.1) as well as of the answers provided orally during the consideration of the report.

B. Positive aspects

(3) The Committee welcomes the following legislative and other measures:

(a) The adoption of the Civil Union Act 2005 regarding the recognition of civil unions of persons of the same sex and the right to equality of gay, lesbian, bisexual and transgender persons;

(b) The repeal of the defence permitting the use of force against children in the home for the purposes of parental correction in the Crimes Act;

(c) The adoption of the Immigration Act 2009;

(d) The ratification of international human rights treaties, including the Convention on the Rights of Persons with Disabilities and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

(4) The Committee welcomes the contribution of the New Zealand Human Rights Commission and non-governmental organizations to its work.

C. Principal subjects of concern and recommendations

(5) The Committee welcomes the State party's indication that it is currently amending its regulations on detention so as to permit the withdrawal of its reservation to article 10, paragraphs 2 (b) and 3, of the Covenant. The Committee further notes the intention of the State party to maintain its other reservations.

The State party should proceed to withdraw its reservations to article 10, paragraphs 2 (b) and 3, and consider withdrawing all its other reservations to the Covenant.

(6) The Committee welcomes the adoption of a national action plan for human rights 2005–2010 by the New Zealand Human Rights Commission and notes the delegation's statement that all Government agencies are asked to take the action plan into consideration when developing their policies and programs, but is concerned that the State party has not formally endorsed such a plan as Government policy (art. 2).

The State party should engage in the development and the official adoption, as Government policy, of a national human rights action plan 2010–2015.

(7) The Committee reiterates its concern that the Bill of Rights Act 1990 (BORA) does not reflect all Covenant rights. It also remains concerned that the Bill of Rights does not take precedence over ordinary law, despite the 2002 recommendation of the Committee in this regard. Furthermore, it remains concerned that laws adversely affecting the protection of human rights have been enacted in the State party, notwithstanding that they have been acknowledged by the Attorney-General as being inconsistent with the BORA (art. 2).

The State party should enact legislation giving full effect to all Covenant rights and provide victims with access to effective remedies within the domestic legal system. It should also strengthen the current mechanisms to ensure compatibility of domestic law with the Covenant.

(8) While welcoming the decision of the State party to undertake a case-flow analysis of the Family Court with a view to reducing delays in issuing decisions following the views adopted in communication No. 1368/2005 (CCPR/C/89/D/1368/2005/Rev.1), the Committee is concerned that the authors of the case have not yet received reparation (art. 2).

The State party should give full effect to all views on individual communications adopted by the Committee, in order to comply with article 2, paragraph 3, of the Covenant which guarantees the right of a victim of a human rights violation to an effective remedy and reparation when there has been a violation of the Covenant.

(9) The Committee is concerned about the low representation of women in high-level and managerial positions and on boards of private enterprises (arts. 2, 3, 25 and 26).

In light of the Committee's general comment No. 28 (2000) on article 3 (the equality of rights between men and women), the State party should seek ways to further encourage the participation of women in high-level and managerial positions and on boards of private enterprises through enhanced cooperation and dialogue with partners in the private sector.

(10) While noting the assurances of the State party that electro-muscular disruption devices (EMDs) "TASERS" are only to be used by trained law enforcement officers and in situations in which such use is warranted by clear and strict guidelines, the Committee is concerned that the use of such weapons may lead to severe pain, including life-threatening injuries (arts. 6 and 7).

The State party should consider relinquishing the use of electro-muscular disruption devices (EMDs) "TASERS". While such weapons remain in use, it should intensify its efforts to ensure that its guidelines, which restrict their use to situations where greater or lethal force would be justified, are adhered to by law enforcement officers at all times. The State party should continue carrying out research on the effects of the use such weapons.

(11) While noting the steps taken by the State party to address the risk of human rights violations in relation with the Corrections (Contract Management of Prisons) Amendment Bill 2009, the Committee reiterates its concern at the privatization of prison management. It remains concerned as to whether such privatization in an area where the State party is responsible for the protection of human rights of persons deprived of their liberty effectively meets the obligations of the State party under the Covenant and its accountability for any violations, irrespective of the safeguards in place (arts. 2 and 10).

The State party should ensure that all persons deprived of their liberty are guaranteed all rights enshrined in the Covenant. In particular, all measures of privatization of prison management should continue to be closely monitored with a view to ensuring that under no circumstances can the State party's responsibility for guaranteeing to all persons deprived of their liberty all Covenant rights, in particular those under article 10, be impeded.

(12) While noting the delegation's acknowledgement, the Committee notes with concern the disproportionately high incarceration rate of Māori, in particular Māori women. It is also concerned that the proportion of Māori among persons accused of a crime as well as among victims of a crime is substantially higher than their proportion within the general population, which points to underlying social causes and raises concerns regarding the possibility of discrimination in the administration of justice (arts. 2, 10 and 14).

The State party should strengthen its efforts to reduce the over-representation of Māori, in particular Māori women, in prisons and continue addressing the root causes of this phenomenon. The State party should also increase its efforts to prevent discrimination against Māori in the administration of justice. Law enforcement officials and the judiciary should receive adequate human rights training, in particular on the principle of equality and non-discrimination.

(13) While noting the obligations imposed under Security Council resolution 1373 (2001), the Committee expresses concern at the compatibility of some provisions of the Terrorism Suppression Amendment Act 2007 with the Covenant. It is particularly concerned at the designation procedures of groups or individuals as terrorist entities and at the lack of a provision in the Act to challenge these designations, which are incompatible with article 14 of the Covenant. The Committee is also concerned about the introduction of

a new section allowing courts to receive or hear classified security information against groups or individuals designated as terrorist entities in their absence (arts. 2, 14 and 26).

The State party should ensure that its counter-terrorism legislation is in full conformity with the Covenant. In particular, it should take steps to ensure that the measures taken to implement Security Council resolution 1267 (1999) as well as the national designation procedures for terrorist groups fully comply with all the legal safeguards enshrined in article 14 of the Covenant.

(14) While acknowledging the delegation's explanations, the Committee regrets the lack of information concerning the proceedings with regard to so-called Operation 8 (anti-terrorism raids carried out on 15 October 2007), which allegedly involved excessive use of force against Māori communities. It also notes with concern that the trials of the suspects arrested during this operation will only begin in 2011 (arts. 2, 7, 14 and 26).

The State party should ensure that the Terrorism Suppression Amendment Act is not applied in a discriminatory manner and does not lead to excessive use of force against suspects, in the light of the need to balance the preservation of public security and the enjoyment of individual rights. It should also provide the Committee in its next periodic report with detailed information on the results of any investigation, prosecution and disciplinary measures taken vis-à-vis law enforcement officials in connection with the alleged human rights violations perpetrated, in particular cases of excessive use of force, in the context of Operation 8. Furthermore, the State party should ensure that the trials of those arrested in the context of Operation 8 are held within a reasonable time frame.

(15) While the Committee welcomes the measures adopted concerning trafficking in human beings, the Committee is concerned that to date, the State party has failed to identify any case of trafficking (art. 8).

The State party should intensify its efforts to identify victims of trafficking and ensure the systematic collection of data on trafficking flows to and in transit through its territory. Training for police officers, border guards, judges, lawyers and other relevant personnel should be provided, in order to raise awareness of the sensitivity of the issue of trafficking and the rights of victims.

(16) The Committee notes the State party's policy to use detention of asylum-seekers in very limited circumstances. Furthermore, it is concerned that the State party's policy of "safe third countries" permits the refusal to consider a claim for protection or refugee status on the basis that the person lodged, or could have lodged, a claim in another country, which may lead to breaches of the principle of non-refoulement. It is also concerned at reports that asylum-seekers and undocumented migrants are detained in correctional facilities together with convicted prisoners (art. 13).

The State party should:

(a) Bring its legislation fully in line with the principle of non-refoulement;

(b) Ensure that no asylum-seeker or refugee is detained in correctional facilities and other places of detention together with convicted prisoners, and amend the Immigration Act accordingly;

(c) Consider extending the mandate of the New Zealand Human Rights Commission so that it can receive complaints of human rights violations related to immigration laws, policies and practices and report on them.

(17) The Committee is concerned that the finding of an infringement of the presumption of innocence in criminal legislation related to drug possession by the Supreme Court has not yet led to amendments of the relevant legislation (arts. 9 and 14).

In the light of the Committee's general comment No. 32 (2007) on article 14 (Right to equality before courts and tribunals and to a fair trial), the State party should expedite the adoption of amendments to the Misuse of Drugs Act 1975, with a view to ensuring compatibility with articles 9 and 14 of the Covenant and ensuring the right to be presumed innocent.

(18) While welcoming the initiatives taken to protect children from abuse and noting the State party's acknowledgment of the need for addressing this issue, the Committee expresses concern at the incidence of child abuse in the State party (arts. 7 and 24).

The State party should further strengthen its efforts to combat child abuse by improving mechanisms for its early detection, encouraging reporting of suspected and actual abuse, and by ensuring that the relevant authorities take legal action against those involved in child abuse.

(19) While acknowledging the negotiation process initiated with regard to a review or possible repeal of the Foreshore and Seabed Act 2004, the Committee is concerned that the Act discriminates against the Māori, and extinguishes their customary title over the foreshore and seabed (arts. 2, 26 and 27).

The State party should increase its efforts for effective consultation of representatives of all Māori groups with regard to the current review of the Foreshore and Seabed Act 2004, with a view to amending or repealing it. In particular, the public consultation period should be sufficiently long so as to enable all Māori groups to have their views heard. Furthermore, in the light of the Committee's general comment No. 23 (1994) on article 27 (the rights of minorities), special attention should be paid to the cultural and religious significance of access to the foreshore and seabed for the Māori.

(20) The Committee welcomes the initiative of the State party for constitutional reform which also aims at giving greater effect to the Treaty of Waitangi. It notes, however, that the Treaty is currently not a formal part of domestic law, which makes it difficult for Māori to invoke it before the courts. The Committee also welcomes the efforts of the State party to settle historical Treaty claims, but is concerned at reports that in one particular case, the State party put an end to consultations despite the claim of some Māori groups that the settlements did not adequately reflect original tribal ownership (arts. 2, 26 and 27).

The State party should continue its efforts to review the status of the Treaty of Waitangi within the domestic legal system, including the desirability to incorporate it into domestic law, in consultation with all Māori groups. Furthermore, the State party should ensure that the views expressed by different Māori groups during consultations in the context of the historical Treaty claims settlement process are duly taken into account.

(21) The State party should widely disseminate the Covenant, the two Optional Protocols to the Covenant, the text of the fifth periodic report, the written responses it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations so as to increase awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public. The Committee also suggests that the report and the concluding observations be translated into the other official language of the State party.

(22) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 12, 14 and 19.

(23) The Committee requests the State party to provide in its sixth periodic report, due to be submitted by 30 March 2015, specific, up-to-date information on all its recommendations and on the Covenant as a whole. The Committee also requests the State party, when preparing the sixth periodic report, to broadly consult with civil society and non-governmental organizations.

74. Estonia

(1) The Committee considered the third periodic report submitted by Estonia (CCPR/C/EST/3) at its 2715th and 2716th meetings, held on 12 and 13 July 2010 (CCPR/C/SR.2715 and 2716), and adopted the following concluding observations at its 2736th meeting (CCPR/C/SR.2736), held on 27 July 2010.

A. Introduction

(2) The Committee welcomes the timely submission of the third report of Estonia and expresses its appreciation for the constructive dialogue that the Committee had with the delegation. It welcomes the detailed information provided on measures adopted by the State party and on its forthcoming plans to further implement the Covenant. The Committee is also grateful to the State party for the written replies submitted in advance in response to the Committee's written questions, as well as for the additional detailed information provided orally and in writing by the delegation.

B. Positive aspects

(3) The Committee, which notes the sustained commitment by the State party to the protection of human rights, welcomes the following legislative and other measures:

- (a) The adoption of a new Code of Criminal Procedure, which entered into force in 2004;
- (b) The adoption of the Victim Support Act, which entered into force in 2004;
- (c) The amendment to the Penal Code (sect. 133), which entered into force in 2007, which improves the definition of elements of enslavement;
- (d) The amendments to the Police Act and related legislation, which entered into force in 2008;
- (e) The amendments to the Imprisonment Act;
- (f) The adoption of the State Legal Aid Act, which entered into force in 2005;
- (g) The adoption of a new Code of Enforcement Procedure, which entered into force in 2010; and
- (h) The appointment of the Chancellor of Justice as the national preventive mechanism for the prevention of torture.

(4) The Committee also welcomes the ratification of, or accession to, the following instruments:

- (a) The Second Optional Protocol to the International Covenant on Civil and Political Rights, aimed at abolishing the death penalty, which entered into force in 2004;
- (b) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, which entered into force in 2004;

(c) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, which entered into force in September 2004.

(d) The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, which entered into force in June 2004; and

(e) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which entered into force in 2007.

C. Principal subjects of concern and recommendations

(5) While noting the information provided by the State party in relation to the competence, mandate and functions of the Chancellor of Justice, the Committee is concerned that this institution is nevertheless not sufficiently involved in the promotion and protection of human rights, in full compliance with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles, General Assembly resolution 48/134), especially where it concerns the role as a coordinating body and in facilitating cooperation between State institutions and the civil society (art. 2).

The State party should either provide the Chancellor of Justice with a broader mandate to more fully promote and protect all human rights or achieve that aim by some other means, in full compliance with the Paris Principles, and take into account in this regard the requirements for the national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

(6) While welcoming the adoption of the 2004 Gender Equality Act to combat discrimination against women and the 2008 Equal Treatment Act, the Committee is concerned at the prevalence of discrimination against women in the State party, in particular in the labour market where the pay gap between men and women is about 40 per cent. It is also concerned about the overlap of competence between the Chancellor of Justice and the Gender Equality and Equal Treatment Commissioner in dealing with discrimination complaints, which may impede the effectiveness of both institutions in the area of gender equality. Furthermore, the Committee is concerned at the lack of human and financial resources granted to the Office of the Gender Equality and Equal Treatment Commissioner, and at the fact that the State party has not yet established the Gender Equality Council (art. 3).

The State party should take appropriate measures to:

(a) **Ensure the effective application of the Gender Equality Act and the Equal Treatment Act, especially with regard to the principle of equal pay for equal work between men and women;**

(b) **Carry out awareness-raising campaigns to eliminate gender stereotypes in the labour market and among the population;**

(c) **Ensure the effectiveness of the system of complaints filed before the Chancellor of Justice and the Gender Equality and Equal Treatment Commissioner by clarifying their respective roles;**

(d) **Reinforce the effectiveness of the Office of the Gender Equality and Equal Treatment Commissioner by providing it with sufficient human and financial resources; and**

(e) Set up the Gender Equality Council, as foreseen by the Gender Equality Act.

(7) The Committee is concerned that the definition contained in the State party's Penal Code (sect. 122) is too narrow and is not in conformity with the definition provided in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment, nor with article 7 of the Covenant (art. 7).

The State party should amend its Penal Code in order to ensure full compliance with international norms concerning the prohibition of torture, in particular with article 7 of the Covenant.

(8) The Committee is concerned that the State party is not prepared to take the initiative and consider collective reparation for persons deprived of their liberty following the "Bronze Night" events of 2007, but only to address individual submissions of redress (arts. 7 and 14).

The State party should decide on what collective reparation is to be granted to persons deprived of their liberty following to the "Bronze Night" events of 2007.

(9) While noting the efforts made by the State party to combat trafficking in women and girls, in particular the Development Plan for Trafficking in Human Beings 2006–2009, the Committee is concerned at the persistence in the State party of this phenomenon (art. 8).

The State party should:

(a) Intensify its efforts to address trafficking in women and girls, including through its Development Plan on Reduction of Violence for 2010–2014;

(b) Prosecute, sentence and punish those responsible;

(c) Adopt the amendments relating to insert a specific provision on trafficking in the Penal Code under preparation in the Ministry of Justice; and

(d) Increase international cooperation on this issue.

(10) The Committee is concerned that the entry into the country of non-citizens in same-sex partnership, even when their partnership has been officially recognized abroad and their partner is already residing in the State party, remains subject to the immigration quota system (arts. 2, 12, 17, 23 and 26).

The State party should review its legislation and practice in order to broaden the rights of persons living in same-sex relationship, in particular to facilitate the granting of a residence permit to non-citizens in same-sex partnership with a partner already residing in the State party.

(11) While noting that a person whose asylum application has been rejected can appeal before an administrative court, the Committee remains concerned that according to the Act on Granting International Protection to Aliens, the appeal has no suspensive effect (arts. 2 and 13).

The Committee reiterates its recommendation that a decision declaring an asylum application inadmissible should not entail the denial of a suspensive effect upon appeal.

(12) The Committee is concerned that mentally disabled persons or their legal guardians, where appropriate, are often denied the right to be sufficiently informed about criminal proceedings and charges against them, the right to a fair hearing and the right to adequate and effective legal assistance. The Committee is further concerned by the fact that experts

appointed to assess a patient's need for continued coercive treatment work in the same hospital as the one in which the patient is held (art. 14).

The State party should guarantee that mentally disabled persons or their legal guardians, where appropriate, are sufficiently informed about criminal proceedings and charges against them and enjoy the right to a fair hearing and the right to adequate and effective legal assistance for their defence. It should also ensure that experts appointed to assess patients' need of continued coercive treatment are impartial. Furthermore, the State party should provide training to judges and lawyers on the rights which ought to be guaranteed to mentally disabled persons tried in criminal courts.

(13) While noting the improvements in the Code of Criminal Procedure to reduce the length of criminal proceedings, the Committee remains concerned that there are no special provisions for criminal proceedings, when the person indicted is detained (art. 14).

The State party should review its Code of Criminal Procedure in order to insert provisions stipulating the need to expedite proceedings where the accused persons are being detained.

(14) The Committee is concerned that few of the applications for an alternative to military service have been approved during the last few years (11 of 64 in 2007, 14 of 68 in 2008, 32 of 53 in 2009). It is also concerned about the lack of clear grounds for accepting or rejecting an application for an alternative to military service (arts. 18 and 26).

The State party should clarify the grounds under which applications for an alternative to military service are accepted or rejected and take relevant measures to ensure that the right to conscientious objection is upheld.

(15) While noting that the present draft Public Service Act presented to Parliament includes a provision restricting the number of public servants not authorized to strike, the Committee is concerned that public servants who do not exercise public authority do not fully enjoy the right to strike (art. 22).

The State party should ensure in its legislation that only the most limited number of public servants is denied the right to strike.

(16) While noting the implementation of the "Integration in the Estonian society 2000–2007" programme and the "Estonian Integration 2008–2013" programme by the State party, the Committee is concerned that the Estonian language proficiency requirements continue to impact negatively on employment and income levels for members of the Russian-speaking minority, including in the private sector. The Committee is further concerned by the fact that the confidence and trust of the Russian-speaking population in the State and its public institutions have decreased (arts. 26 and 27).

The State party should strengthen measures to integrate Russian-speaking minorities into the labour market, including with regard to professional and language training. It should also take measures to increase the confidence and trust of the Russian-speaking population in the State and its public institutions.

(17) The Committee is concerned that information on the Covenant, its concluding observations and reports submitted by the State party is not widely disseminated, including among prosecutors, judges and lawyers. It is also concerned by the limited relationship between the State party and non-governmental organizations and the fact that non-governmental organizations are not fully consulted in the process of drafting reports submitted to the Committee (art. 2).

The State party should take all appropriate measures to disseminate, both in Estonian and Russian, the Covenant and, making full use of the State party's

proficiency in information technology, the concluding observations adopted by and the reports submitted to the Committee. It should provide training to prosecutors, judges and lawyers on the Covenant and reinforce its relationship with non-governmental organizations, and consult them in the process of drafting periodic reports to the Committee.

(18) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, information on the current situation and on its implementation of the Committee's recommendations given in paragraphs 5 and 6 above.

(19) The Committee requests the State party to provide, in its next periodic report due to be submitted by 30 July 2015, information on action taken to implement the remaining recommendations and its compliance with the Covenant as a whole.

75. Israel

(1) The Human Rights Committee considered the third periodic report of Israel (CCPR/C/ISR/3) at its 2717th, 2718th and 2719th meetings, held on 13 and 14 July 2010 (CCPR/C/SR.2717, 2718 and 2719). At its 2740th meeting, held on 29 July 2010 (CCPR/C/SR.2740), it adopted the following concluding observations.

A. Introduction

(2) The Committee notes the submission of the State party's third periodic report, which provides detailed information on measures adopted by the State party to further the implementation of the Covenant. While also noting the written replies to the list of issues (CCPR/C/ISR/Q/3/Add.1), it regrets their late submission. It also regrets the absence of disaggregated data and of any substantive answer to questions 3, 11, 12, 16, 18, 19, 20, 24 and 28. The Committee appreciates the dialogue with the delegation, the answers provided orally during the consideration of the report and the additional written submissions.

(3) The Committee notes and recognizes Israel's security concerns in the context of the present conflict. At the same time, it stresses the need to observe and guarantee human rights, in accordance with the provisions of the Covenant.

B. Positive aspects

(4) The Committee welcomes the following legislative and other measures, as well as ratifications of international human rights treaties:

(a) Investigation and Testimony Procedures Law (Adaptation to Persons with Mental or Psychological Disability) 5765-2005 (the "Investigation and Testimony Procedures Law (Adaptation to Persons with Mental or Psychological Disability)");

(b) Anti Trafficking Law (Legislative Amendments) 5766-2006, (the "Anti Trafficking Law");

(c) Gender Implications of Legislation Law (Legislative Amendments) 5768-2007, which imposes the duty to systematically examine the gender implications of any primary and secondary legislation before it is enacted by the Knesset;

(d) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2008);

(e) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2005).

C. Principal subjects of concern and recommendations

(5) The Committee reiterates its view, previously noted in paragraph 11 of its concluding observations on the State party's second periodic report (CCPR/CO/78/ISR)

and paragraph 10 of its concluding observations on the State party's initial report (CCPR/C/79/Add.93), that the applicability of the regime of international humanitarian law during an armed conflict, as well as in a situation of occupation, does not preclude the application of the Covenant, except by operation of article 4, whereby certain provisions may be derogated from in time of public emergency. The Committee's position has been endorsed, unanimously, by the International Court of Justice in its Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (Advisory Opinion, I.C.J. Reports 2004, p. 136), according to which the Covenant is applicable in respect of acts done by a State in exercise of its jurisdiction outside its own territory. Furthermore, the applicability of the regime of international humanitarian law does not preclude accountability of States parties under article 2, paragraph 1, of the Covenant for the actions of their authorities or agents outside their own territories, including in occupied territories. The Committee therefore reiterates and underscores that, contrary to the State party's position, in the current circumstances, the provisions of the Covenant apply to the benefit of the population of the occupied territories, including in the Gaza Strip, with regard to all conduct by the State party's authorities or agents in those territories affecting the enjoyment of rights enshrined in the Covenant (arts. 2 and 40).

The State party should ensure the full application of the Covenant in Israel as well as in the occupied territories, including the West Bank, East Jerusalem, the Gaza Strip and the occupied Syrian Golan Heights. In accordance with the Committee's general comment No. 31, the State party should ensure that all persons under its jurisdiction and effective control are afforded the full enjoyment of the rights enshrined in the Covenant.

(6) While noting that the principle of non-discrimination is incorporated in several pieces of domestic legislation and that it has been upheld by the State party's Supreme Court, the Committee is concerned that the State party's Basic Law: Human Dignity and Liberty (1992), which serves as Israel's bill of rights, does not contain a general provision on equality and non-discrimination. It is further concerned at long delays in deciding cases where the principle of non-discrimination is invoked, and their implementation (arts. 2, 14 and 26).

The State party should amend its Basic Laws and other legislation to include the principle of non-discrimination and ensure that allegations of discrimination brought before its domestic courts are promptly addressed and implemented.

(7) With reference to paragraph 12 of its previous concluding observations (CCPR/CO/78/ISR) and to paragraph 11 of its concluding observations on the State party's initial report (CCPR/C/79/Add.93), the Committee reiterates its concern at the State party's prolonged process of review regarding the need to maintain the state of emergency it declared in 1948. While noting the State party's declaration under article 4 with regard to derogations from article 9, the Committee nonetheless expresses concern at the frequent and extensive use of administrative detention, including for children, under Military Order No. 1591, as well as the Emergency Powers (Detention) Law. Administrative detention infringes detainees' rights to a fair trial, including their right to be informed promptly and in detail, in a language which they understand, of the nature and cause of the charge against them, to have adequate time and facilities for the preparation of their defence and to communicate with counsel of their own choosing, to be tried in their presence, and to defend themselves in person or through legal assistance of their own choosing (arts. 4, 14 and 24).

Referring to its general comment No. 29, the Committee reiterates that measures derogating from the provisions of the Covenant must be of an

exceptional and temporary nature and be limited to the extent strictly required. Therefore, the State party should:

(a) **Complete as soon as possible its review of legislation governing the state of emergency. Pending the completion of its review, the State party should carefully re-examine the modalities governing the renewal of the state of emergency;**

(b) **Refrain from using administrative detention, in particular for children, and ensure that detainees' rights to fair trial are upheld at all times; and**

(c) **Grant administrative detainees prompt access to counsel of their own choosing, inform them immediately, in a language which they understand, of the charges against them, provide them with information to prepare their defence, bring them promptly before a judge and try them in their own or their counsel's presence.**

(8) The Committee notes with concern the State party's military blockade of the Gaza Strip, in force since June 2007. While recognizing the State party's recent easing of the blockade with regard to the entry of civilian goods by land, the Committee is nevertheless concerned at the effects of the blockade on the civilian population in the Gaza Strip, including restrictions to their freedom of movement, some of which have led to deaths of patients in need of urgent medical care, and restrictions on the access to sufficient drinking water and adequate sanitation. The Committee also notes with concern the use of force when boarding vessels carrying humanitarian aid for the Gaza Strip, which resulted in the death of nine individuals and the wounding of several others. While noting the preliminary findings of the State party's investigation into the incident, the Committee is concerned at the lack of independence of the commission of inquiry and the fact that it is prohibited from questioning the officials of the State party's armed forces involved in the incident (arts. 1, 6 and 12).

The State party should lift its military blockade of the Gaza Strip, insofar as it adversely affects the civilian population. The State party should invite an independent, international fact-finding mission to establish the circumstances of the boarding of the flotilla, including its compatibility with the Covenant.

(9) Referring to the conclusions and recommendations of the United Nations Fact Finding Mission on the Gaza Conflict dated 25 September 2009, the Committee notes that the State party's armed forces have opened few investigations into incidents involving alleged violations of international humanitarian law and human rights law during its military offensive in the Gaza Strip (27 December 2008–18 January 2009, "Operation Cast Lead"), which have led to one conviction and two indictments. It notes with concern, however, that the majority of the investigations were carried out on the basis of confidential operational debriefings. While noting that the findings led to the preparation of new guidelines and orders concerning the protection of the civilian population and property and the assignment of humanitarian affairs officers to each military unit, the Committee nevertheless regrets that the State party has not yet conducted independent and credible investigations into serious violations of international human rights law, such as the direct targeting of civilians and civilian infrastructure, such as waste water plants and sewage facilities, the use of civilians as "human shields", refusal to evacuate the wounded, firing live bullets during demonstrations against the military operation and detention in degrading conditions (arts. 6 and 7).

The State party should launch, in addition to the investigations already conducted, credible, independent investigations into the serious violations of international human rights law, such as violations of the right to life,

prohibition of torture, the right to humane treatment of all persons in custody and the right to freedom of expression. All decision makers, be they military or civilian officials, should be investigated and where relevant prosecuted and sanctioned.

(10) The Committee notes the State party's affirmation that utmost consideration is given to the principles of necessity and proportionality during its conduct of military operations and in response to terrorist threats and attacks. Nevertheless, the Committee reiterates its concern, previously expressed in paragraph 15 of its concluding observations (CCPR/CO/78/ISR), that, since 2003, the State party's armed forces have targeted and extrajudicially executed 184 individuals in the Gaza Strip, resulting in the collateral unintended death of 155 additional individuals, this despite the State party's Supreme Court decision of 2006, according to which a stringent proportionality test must be applied and other safeguards respected when targeting individuals for their participation in terrorist activity (art. 6).

The State party should end its practice of extrajudicial executions of individuals suspected of involvement in terrorist activities. The State party should ensure that all its agents uphold the principle of proportionality in their responses to terrorist threats and activities. It should also ensure that the utmost care is taken to protect every civilian's right to life, including civilians in the Gaza Strip. The State party should exhaust all measures for the arrest and detention of a person suspected of involvement in terrorist activities before resorting to the use of deadly force. The State party should also establish an independent body to promptly and thoroughly investigate complaints about disproportionate use of force.

(11) The Committee notes with concern that the crime of torture, as defined in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and in conformity with article 7 of the Covenant, still has not been incorporated into the State party's legislation. The Committee notes the Supreme Court decision on the exclusion of unlawfully obtained evidence, but is nevertheless concerned at consistent allegations of the use of torture and cruel, inhuman or degrading treatment, in particular against Palestinian detainees suspected of security-related offences. It is also concerned at allegations of complicity or acquiescence of medical personnel with the interrogators. The Committee also expresses its concern at information that all complaints of torture are either denied factually, or justified under the "defence of necessity" as "ticking time bomb" cases. The Committee observes that the prohibition of torture, cruel, inhuman or degrading treatment in article 7 is absolute and according to article 4, paragraph 2 no derogations therefrom are permitted, even in time of public emergency (arts. 4 and 7).

The State party should incorporate into its legislation the crime of torture, as defined in article 1 of the Convention against Torture and in conformity with article 7 of the Covenant. It also reiterates its previous recommendation (CCPR/CO/78/ISR, para. 18), that the State party should completely remove the notion of "necessity" as a possible justification for the crime of torture. The State party should also examine all allegations of torture, cruel, inhuman or degrading treatment pursuant to the Manual on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment (Istanbul Protocol).

(12) While noting that the conduct of law-enforcement officials is subject to review and oversight, the Committee expresses concern about the independence of these oversight mechanisms and about the fact that despite numerous allegations of torture, cruel, inhuman or degrading treatment and excessive use of force, only a few cases result in criminal investigations and sentences. Regarding the independence of the Ministry of Justice Police

Investigation Unit (“Mahash”), the Committee notes that investigators employed by the police but working on a temporary basis in the unit are being replaced by civilians, but is concerned that the former still outnumber their civilian colleagues. The Committee is further concerned that the Inspector for complaints against the Israel Security Agency (ISA) interrogators is a staff member of the ISA and that, despite supervision by the Ministry of Justice and examination of the Inspector’s decisions by the Attorney General and the State Attorney, no complaint has been criminally investigated during the reporting period. It is also concerned at the provision in the General Security Service Law which exempts ISA personnel from criminal or civil responsibility for any act or omission performed in good faith and reasonably by the official within the scope of his/her functions. Moreover, the Committee notes with concern that allegations against members of the Israel Defence Forces are being investigated by the Investigative Military Police, a unit subordinate to the Head of General Staff of the armed forces (arts. 6 and 7).

The State party should ensure that all alleged cases of torture, cruel, inhuman or degrading treatment and disproportionate use of force by law-enforcement officials, including police, personnel of the security service and of the armed forces, are thoroughly and promptly investigated by an authority independent of any of these organs, that those found guilty are punished with sentences that are commensurate with the gravity of the offence, and that compensation is provided to the victims or their families.

(13) The Committee notes that the State party is currently reviewing the definition of terrorism and other related issues. It regrets, however, the absence of information on whether the Committee’s recommendation in paragraph 14 of its previous concluding observations (CCPR/CO/78/ISR) has been taken into account. While welcoming the State party’s Supreme Court judgement according to which preventing a detainee suspected of security-related offences from meeting a lawyer constitutes a grave harm to his/her rights, the Committee is nevertheless particularly concerned at the State party’s intention to include, in its revised anti-terror legislation, provisions based on the Criminal Procedure (Detainee Suspected of Security Offence) (Temporary Provision) Law which allow for significant delays before trial, before providing access to a lawyer and for decisions on the extension of detention to be taken, in exceptional circumstances, in the absence of the suspect. Moreover, in certain circumstances, a judge can decide not to disclose evidence to the detainee owing to security concerns. Furthermore, it is concerned at the continued application and declaration of conformity with Basic Laws by the State party’s Supreme Court, of the Detention of Unlawful Combatants Law as amended in 2008. The Committee also regrets the lack of information on the possibility for a detainee to challenge any decision of postponement (arts. 2 and 14).

The Committee reiterates its previous recommendation that measures designed to counter acts of terrorism, whether adopted in connection with Security Council resolution 1373 (2001) or in the context of the ongoing armed conflict, should be in full conformity with the Covenant. The State party should ensure that:

(a) Definitions of terrorism and of security suspects are precise and limited to the countering of terrorism and the maintenance of national security and are in full conformity with the Covenant;

(b) All legislation, regulations and military orders comply with the requirements of the principle of legality with regard to accessibility, equality, precision and non-retroactivity;

(c) Any person arrested or detained on a criminal charge, including persons suspected of security-related offences, has immediate access to a

lawyer, for example by introducing a regime of special advocates with access to all evidence, including classified evidence, and immediate access to a judge;

(d) A decision on postponement of access to a lawyer or a judge can be challenged before a court; and

(e) **The Detention of Unlawful Combatants Law as amended in 2008 is repealed.**

(14) The Committee notes with concern the issuance by the General Officer Commander of the Israeli Occupation Force of military orders No. 1649 “Order regarding security provisions” and No. 1650 “Order regarding prevention of infiltration”, amending military order No. 329 of 1969 and widening the definition of “illegal infiltration” to persons who do not lawfully hold a permit issued by the military commander. While noting the assurances by the State party’s delegation that the amended military orders would not affect any residents of the West Bank or anybody holding a permit issued by the Palestinian National Authority, the Committee is concerned at information that, with the exception of 2007–2008, Israel has not processed any applications for renewal of West Bank visitor permits of foreign nationals, including spouses of West Bank residents, and applications for permanent residency status, which therefore leaves many long-term residents, including foreigners, without permits. It is further concerned at information that persons in the West Bank holding residency permits with addresses in the Gaza Strip are being forcibly returned, including those with entry permits into the West Bank. The Committee is also concerned that, under the amended military orders, deportations may occur without judicial review if a person is apprehended less than 72 hours after entry into the territory. While noting the creation of a committee for the examination of deportation orders, the Committee is concerned that it lacks independence and judicial authority, and that review of a deportation order is not mandatory (arts. 7, 12 and 23).

The State party should carry out a thorough review of the status of all long-term residents in the West Bank and ensure that they are issued with a valid permit and registered in the population register. The State party should refrain from expelling long-term residents of the West Bank to the Gaza Strip on the basis of their former addresses in the Gaza Strip. In the light of the State party’s obligations under article 7, the Committee recommends that the State party review military orders No. 1649 and No. 1650 to ensure that any person subject to a deportation order is heard and may appeal the order to an independent, judicial authority.

(15) Recalling its previous recommendation in paragraph 21 of the preceding concluding observations (CCPR/CO/78/ISR), the Committee reiterates its concern that the Citizenship and Entry into Israel Law (Temporary Provision), as amended in 2005 and 2007, remains in force and has been declared constitutional by the Supreme Court. The Law suspends the possibility, with certain rare exceptions, of family reunification between an Israeli citizen and a person residing in the West Bank, East Jerusalem or the Gaza Strip, thus adversely affecting the lives of many families (arts. 17, 23 and 24).

The Committee reiterates that the Citizenship and Entry into Israel Law (Temporary provision) should be revoked and that the State party should review its policy with a view to facilitating family reunifications for all citizens and permanent residents without discrimination.

16. Referring to paragraph 19 of the Committee’s previous concluding observations (CCPR/CO/78/ISR), the Advisory Opinion of the International Court of Justice, and the State party’s Supreme Court ruling of 2005, the Committee expresses concern at the restrictions to freedom of movement imposed on Palestinians, in particular persons residing in the “Seam Zone” between the wall and Israel, the frequent refusal to grant agricultural

permits to access the land on the other side of the wall or to visit relatives, and the irregular opening hours of the agricultural gates. Moreover, the Committee is concerned that despite the State party's temporary freeze on the construction of settlements in the West Bank, East Jerusalem and the occupied Syrian Golan Heights, the settler population continues to increase (arts. 1, 12 and 23).

The State party should comply with the Committee's previous concluding observations and take into account the Advisory Opinion of the International Court of Justice and stop the construction of a "Seam Zone" by means of a wall, seriously impeding the right to freedom of movement, and to family life. It should cease all construction of settlements in the occupied territories.

(17) The Committee is concerned that, despite its previous recommendation in paragraph 16 of its concluding observations (CCPR/CO/78/ISR), the State party continues its practice of demolishing property and homes of families whose members were or are suspected of involvement in terrorist activities, without considering other less intrusive measures. This practice was disproportionately exacerbated during the State party's military intervention in the Gaza Strip ("Operation Cast Lead"), leading to the destruction of housing and civilian infrastructure such as hospitals, schools, farms, water plants etc. Moreover, the Committee is concerned at frequent administrative demolition of property, homes and schools in the West Bank and East Jerusalem owing to the absence of construction permits, their issuance being frequently denied to Palestinians. Furthermore, it is concerned at discriminatory municipal planning systems, in particular in "area C" of the West Bank and in East Jerusalem, disproportionately favouring the Jewish population of these areas (arts. 7, 17, 23 and 26).

The Committee reiterates that the State party should cease its practice of collective punitive home and property demolitions. The State party should also review its housing policy and issuance of construction permits with a view to implementing the principle of non-discrimination regarding minorities, in particular Palestinians, and to increasing construction on a legal basis for minorities of the West Bank and East Jerusalem. It should also ensure that municipal planning systems are not discriminatory.

(18) The Committee is concerned at water shortages disproportionately affecting the Palestinian population of the West Bank, due to prevention of construction and maintenance of water and sanitation infrastructure, as well as the prohibition of construction of wells. The Committee is further concerned at allegations of pollution by sewage water of Palestinian land, including from settlements (arts. 6 and 26).

The State party should ensure that all residents of the West Bank have equal access to water, in accordance with the World Health Organization quality and quantity standards. The State party should allow the construction of water and sanitation infrastructure, and wells. Furthermore, the State party should address the issue of sewage and waste water in the occupied territories emanating from Israel.

(19) The Committee notes that certain exemptions from compulsory military service have been granted on the grounds of conscientious objection. It is concerned about the independence of the "Committee for Granting Exemptions from Defence Service for Reasons of Conscience", which is composed entirely, with the exception of one civilian, of officials of the armed forces. It notes that persons whose conscientious objection is not accepted by the Committee may be repeatedly imprisoned for their refusal to serve in the armed forces (arts. 14 and 18).

The "Committee for Granting Exemptions from Defence Service for Reasons of Conscience" should be made fully independent, persons submitting applications

on the grounds of conscientious objections should be heard and have the right to appeal the Committee's decision. Repeated imprisonment for refusal to serve in the armed forces may constitute a violation of the principle of *ne bis in idem*, and should therefore be ceased.

(20) While noting the State party's argument regarding security concerns, the Committee is nevertheless concerned at frequent disproportionate restrictions on access to places of worship for non-Jews. It further notes with concern that the regulations containing a list of holy sites only include Jewish holy places (arts. 12, 18 and 26).

The State party should increase its efforts to protect the rights of religious minorities and ensure equal and non-discriminatory access to places of worship. Furthermore, the State party should pursue its plan also to include holy sites of religious minorities in its list.

(21) The Committee notes with concern that the State party's Supreme Court upheld the ban on family visits to Palestinian prisoners in Israel, including for children. The Committee is also concerned that detainees suspected of security-related offences are not allowed to maintain telephone contact with their families (arts. 23 and 24).

The State party should reinstate the family visit programme supported by the International Committee of the Red Cross for prisoners from the Gaza Strip. It should enhance the right of prisoners suspected of security-related offences to maintain contact with their families, including by telephone.

(22) The Committee is concerned at a number of differences in the juvenile justice system between that operating under Israeli legislation and that under military orders in the West Bank. Under military orders, children of the age of 16 are tried as adults, even if the crime was committed when they were below the age of 16. Interrogations of children in the West Bank are conducted in the absence of parents, close relatives or a lawyer and are not audio-visually recorded. The Committee is further concerned at allegations that children detained under military orders are not promptly informed, in a language which they understand, of the charges against them and that they may be detained up to eight days before being brought before a military judge. It is also very concerned at allegations of torture, cruel, inhuman or degrading treatment of juvenile offenders (arts. 7, 14 and 24).

The State party should:

- (a) **Ensure that children are not tried as adults;**
- (b) **Refrain from holding criminal proceedings against children in military courts, ensure that children are only detained as a measure of last resort and for the shortest possible time, and guarantee that proceedings involving children are audio-visually recorded and that trials are conducted in a prompt and impartial manner, in accordance with fair trial standards;**
- (c) **Inform parents or close relatives of where the child is detained and provide the child with prompt access to free and independent legal assistance of its own choosing;**
- (d) **Ensure that reports of torture or cruel, inhuman or degrading treatment of detained children are investigated promptly by an independent body.**

(23) While noting the State party's efforts to facilitate access to public administration services for its Arab minority, the Committee expresses concern at the continued limited use of the Arabic language by the State party's authorities, including the absence of translations of leading cases of its Supreme Court into Arabic. It is also concerned about the process of transliteration of road signs from Hebrew into Arabic, as well as the frequent

lack of road signs in Arabic. Moreover, the Committee is concerned at severe limitations on the right to cultural contact with other Arab communities owing to the ban on travel to “enemy States”, the majority of which are Arab States (arts. 26 and 27).

The State party should continue its efforts to make its public administration services fully accessible to all linguistic minorities and to ensure that full accessibility in all official languages, including Arabic, is provided. The State party should also consider translating cases of its Supreme Court into Arabic. It should in addition ensure that all road signs are available in Arabic and should reconsider its transliteration process from Hebrew into Arabic. Furthermore, the State party should increase its efforts to guarantee the right of minorities to enjoy their own culture, including by travelling abroad.

(24) The Committee notes that school enrolment rates have increased and that infant mortality has declined among the Bedouin population. Nevertheless, the Committee is concerned at allegations of forced evictions of the Bedouin population on the basis of the Public Land Law (Expulsion of Invaders) of 1981 as amended in 2005, and of inadequate consideration of traditional needs of the population in the State party’s planning efforts for the development of the Negev, in particular the fact that agriculture is part of the livelihood and tradition of the Bedouin population. The Committee is further concerned at difficulties of access to health structures, education, water and electricity for the Bedouin population living in towns which the State party has not recognized (arts. 26 and 27).

In its planning efforts in the Negev area, the State party should respect the Bedouin population’s right to their ancestral land and their traditional livelihood based on agriculture. The State party should also guarantee the Bedouin population’s access to health structures, education, water and electricity, irrespective of their whereabouts on the territory of the State party.

(25) The Committee requests the State party to publish its third periodic report, the replies to the list of issues and these concluding observations, making them widely available to the general public and to the judicial, legislative and administrative authorities. The Committee also requests the State party to make the third periodic report, the replies to the list of issues and these concluding observations available to civil society and to the non-governmental organizations operating in the State party. In addition to Hebrew, the Committee recommends that the report, the replies to the list of issues and the concluding observations be translated into Arabic and other minority languages spoken in Israel.

(26) In accordance with rule 71, paragraph 5, of the Committee’s rules of procedure, the State party should provide, within one year, relevant information on its implementation of the recommendations in paragraphs 8, 11, 22 and 24 above.

(27) The Committee requests the State party to include in its fourth periodic report, due to be submitted by 30 July 2013, specific, up-to-date information on follow-up action taken on all the recommendations made and on the implementation of the Covenant as a whole in the entirety of the State party’s territory, including the occupied territories. The Committee also requests that the fourth periodic report be prepared in consultation with civil society organizations operating in the State party.

76. **Colombia**

(1) The Human Rights Committee considered the sixth periodic report of Colombia (CCPR/C/COL/6) at its 2721st and 2722nd meetings, held on 15 and 16 July 2010 (CCPR/C/SR.2721 and 2722). At its 2739th meeting, held on 28 July 2010, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the submission of the sixth periodic report of the State party, which provides information on measures adopted by the State party to further the implementation of the Covenant, while observing that the report mainly describes legislative advances without making an assessment of the degree of de facto implementation of rights. It also welcomes the dialogue with the delegation, the detailed written replies (CCPR/C/COL/Q/6/Add.1) submitted in response to the Committee's list of issues, and the additional information and clarifications provided orally. The Committee thanks the State party for having translated its replies to the list of issues presented.

B. Positive aspects

(3) The Committee welcomes the following legislative and other measures adopted since the examination of the State party's previous periodic report:

(a) The adoption of Act No. 1257 of 2008, on awareness-raising, prevention and punishment in respect of acts of violence and discrimination against women. This act also amends the Criminal Code, the Code of Criminal Procedure and Act No. 294 of 1996 and introduces new provisions;

(b) The adoption of Act No. 1098 of 2006, enacting the Code for Children and Adolescents.

(4) The Committee welcomes the State party's continued collaboration with the Office of the United Nations High Commissioner for Human Rights (OHCHR) since the establishment of an office in the country in 1997.

(5) The Committee also considers as positive the State party's cooperation with the special rapporteurs, special representatives and working groups of the United Nations human rights system.

(6) The Committee welcomes the jurisprudence of the Constitutional Court and its extensive references to and application of international human rights standards.

(7) The Committee welcomes the fact that during the period since it considered the fifth periodic report in 2004, the State party has ratified the following instruments:

(a) Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (ratified on 23 January 2007);

(b) Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (ratified on 25 May 2005);

(c) Inter-American Convention on Forced Disappearance of Persons (ratified on 12 April 2005);

(d) International Labour Organization Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182) (ratified on 28 January 2005).

C. Principal subjects of concern and recommendations

(8) The Committee expresses its concern at the lack of significant progress on the implementation of its previous recommendations, including those relating to legal benefits for persons demobilized from illegal armed groups, collusion between the armed forces and paramilitary groups, the failure to investigate serious human rights violations and attacks against human rights defenders. The Committee regrets that many subjects of concern still remain (article 2 of the Covenant).

The State party should take all necessary measures to give full effect to the recommendations adopted by the Committee.

(9) The Committee expresses serious concern over Act No. 975 of 2005 (Justice and Peace Act) since, despite the State party's claim (para. 49 of the report and in its oral replies) that the law does not allow amnesties for such crimes, de facto impunity exists for many serious human rights violations. The vast majority of the over 30,000 demobilized paramilitaries have not availed themselves of Act No. 975, and their legal situation is far from clear. The Committee notes with serious concern that only two persons have been convicted and that few investigations have been initiated despite the systematic violence highlighted in *versión libre* accounts of the paramilitaries charged. The Committee also notes with concern information to the effect that acts by new groups that have emerged in various parts of the country after the demobilization process began are consistent with the modus operandi of those paramilitary groups. The Committee points out that the adoption of Act No. 1312 of July 2009 on the application of the principle of discretion to prosecute leads to impunity if the waiver of prosecution is applied without regard to human rights standards and represents a violation of the victim's right to full redress. The Committee points out to the State party, in accordance with its general comment No. 31 (2004), that "the general obligation to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies ... [and that] the problem of impunity for these violations, a matter of sustained concern by the Committee, may well be an important contributing element in the recurrence of the violations" (arts. 2, 6 and 7).

The State party must comply with its obligations under the Covenant and other international instruments, including the Rome Statute of the International Criminal Court, and investigate and punish serious violations of human rights and international humanitarian law with appropriate penalties which take into account their grave nature.

(10) The Committee notes that by the end of 2009 there were 280,420 victims registered under Act No. 975 of 2005 and is concerned that to date judicial reparation for victims has been awarded in only one case. The Committee notes the creation and gradual implementation of a programme of individual reparations through administrative channels (Decree No. 1290 of 2008). However, it is concerned that, in spite of the references to the State's subsidiary or residual responsibility, this programme is based on the principle of solidarity and does not explicitly recognize the State's duty to guarantee rights. The Committee is also concerned at the discrepancy between normative provisions and their enforcement. In practice, reparation tends to take the form of humanitarian assistance and so far does not provide for full reparation. It is of particular concern to the Committee that Decree No. 1290 does not recognize victims of acts committed by State agents. The Committee regrets that to date no collective reparation measures have been put in place (art. 2).

The State party should ensure that legislation is adopted and should implement a policy that fully guarantees the right to an effective remedy and to full reparation. Implementation of this law must be pursued taking into account the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (General Assembly resolution 60/147, annex) and taking into account the five elements of that right: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. Particular attention should be paid to gender issues and to victims who are children, Afro-Colombians or indigenous people. Resources should be specifically assigned to provide psychological and social care and rehabilitation.

(11) The Committee is concerned that the extradition, by order of the executive branch, of paramilitary leaders to the United States of America to answer charges of drug trafficking has produced a situation that hampers investigations into their responsibility for gross human rights violations. Extradition in those conditions therefore hinders victims' exercise of their rights to justice, the truth and redress and contravenes the State's responsibility to investigate, try and punish human rights violations (arts. 2, 6 and 7).

The State party should ensure that extraditions do not hamper the efforts required to investigate, try and punish gross human rights violations. The State party should take steps to ensure that extradited persons do not shun their responsibility with regard to investigations in Colombia into gross human rights violations. The State party should ensure that future extraditions take place within a legal framework that recognizes the obligations imposed by the Covenant.

(12) The Committee expresses its grave concern at the persistence of serious violations of human rights, including extrajudicial executions, forced disappearances, torture, rape and recruitment of children for use in the armed conflict. The Committee emphasizes the serious lack of statistics and concise information on the number of cases of torture and related investigations. The Committee notes the particular vulnerability of certain groups, such as women, children, ethnic minorities, displaced persons, the prison population, and lesbian, gay, bisexual and transgender (LGBT) persons. The Committee is concerned at the lack of criminal investigations and the slow progress of existing investigations, since many of them are still at the pre-investigation stage, thus contributing to continued impunity for serious human rights violations (arts. 2, 3, 6, 7, 24 and 26).

The State party should ensure that prompt and impartial investigations are conducted by the competent authorities and that human rights violations are punished with sentences appropriate to their seriousness. The State should provide the Human Rights and International Humanitarian Law Unit with additional resources in order to speed up its work. The Committee underlines the importance of the cases concerned being assigned to that Unit. The State must also strengthen security measures for justice operators and for all witnesses and victims. The State party should establish a centralized system making it possible to identify all serious human rights violations and to properly monitor their investigation.

(13) The Committee recognizes as positive the efforts made by the State party to prevent gross human rights violations through the introduction of the Early Warning System (SAT) of the Ombudsman, designed to prevent displacement and other serious human rights violations. It also takes note of the presence of community defenders in highly vulnerable population groups. However, the Committee is concerned at the increasing number of SAT risk reports which are not converted into early warnings by the Inter-Agency Early Warning Committee (CIAT) and notes that in some cases there are no responses or effective prevention measures, which at times continues to result in massive displacements (art. 2).

The State party must strengthen SAT, ensuring that preventive measures are taken and that the civil authorities at the departmental, municipal and other levels participate in the coordination of preventive measures. The State party must monitor and follow up all risk reports issued, whether or not CIAT converts them into early warnings. Likewise, the State must strengthen the Ombudsman's presence in areas at high risk of violations and extend the scope of the programme of community defenders.

(14) The Committee is deeply concerned at the widespread pattern of extrajudicial executions of civilians, subsequently described by the security forces as combat casualties.

The Committee expresses its concern at the numerous complaints that the directives of the Ministry of Defence which grant incentives and payment of rewards without internal oversight or supervision have contributed to executions of civilians. The Committee notes the measures taken by the State party to put a stop to extrajudicial executions; it is, however, concerned that there are more than 1,200 cases and that few convictions have been made. The Committee notes with concern that the military justice system continues to assume jurisdiction in cases of extrajudicial executions in which the alleged perpetrators are members of the security forces (arts. 6 and 7).

The State party should take effective measures to discontinue any directive of the Ministry of Defence that can lead to serious violations of human rights, such as extrajudicial executions, and fully comply with its obligation to ensure that serious human rights violations are impartially investigated by the regular justice system and that those responsible are punished. The Committee underlines the responsibility of the High Council of the Judiciary when it comes to resolving conflicts of jurisdiction. The Committee also emphasizes the importance of ensuring that such crimes remain clearly and effectively outside the jurisdiction of military courts.

The State party should guarantee the security of witnesses and their relatives in such cases.

The State party must implement the recommendations issued by the Special Rapporteur on extrajudicial, summary or arbitrary executions following his mission to Colombia in 2009 (A/HRC/14/24/Add.2).

(15) The Committee expresses its concern at the high incidence of forced disappearances and the number of corpses recovered from mass graves, a total of 2,901 at the end of 2009. The Committee notes that the graves have been discovered mainly on the basis of statements by demobilized paramilitaries. The Committee notes the efforts made to implement the National Plan for the Search of Disappeared Persons but it regrets the slow pace of implementation and the lack of institutional coordination among the various institutions and with the victims' relatives (arts. 2 and 6).

The State party should take effective steps to allocate sufficient resources to implement the National Plan for the Search of Disappeared Persons, ensuring proper institutional coordination among all competent authorities. The State should guarantee that victims' families and civil society organizations are adequately involved in its development in order to secure prompt identification of the corpses in mass graves. The Committee invites the State party to ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

(16) The Committee notes that various civil servants, including a number of former directors of the Administrative Department of Security (DAS), the intelligence agency that comes under the Office of the President of the Republic, are being investigated for illegal surveillance activities carried out systematically since 2003 against international and regional organizations, human rights defenders, journalists and justice operators. The Committee is particularly concerned at the surveillance and threats to which intelligence agents have subjected judges of the Supreme Court. The Committee notes that the President has ordered DAS to be closed down and a new intelligence agency to be set up (art. 19).

The State party should create robust controls and oversight systems for its intelligence service and establish a national mechanism to purge intelligence files, in consultation with victims and relevant organizations and in coordination with the Procurator-General. The State should investigate, try and punish with appropriate penalties the persons responsible for those crimes.

(17) The Committee is concerned at the frequent threats and harassment of human rights defenders, trade unionists and journalists in the performance of their work. The Committee notes the resources assigned to the protection programme of the Ministry of the Interior but considers that the State party has not fully complied with its duty to guarantee the security and safety of witnesses and victims (arts. 6, 7, 17, 19 and 22).

The Committee urges the State party to take effective steps to guarantee the security of human rights defenders, trade unionists and journalists. The State should continue to strengthen the protection programme of the Ministry of the Interior, allocate additional resources, ensure that the protection measures taken are coordinated with the beneficiaries and that intelligence agents are not involved in the programme. The State party should provide the Committee with detailed information on all criminal proceedings relating to threats, assaults and murders of human rights defenders, trade unionists and journalists in its next periodic report.

(18) The Committee expresses deep concern about reports of the alarming incidence of sexual violence against women and girls. It is concerned about the number of such violations attributed to members of the Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo (Revolutionary Armed Forces of Colombia – People’s Army) (FARC-EP) and illegal armed groups that have emerged from the demobilization of paramilitary organizations. The Committee further expresses its grave concern about cases, mostly involving young girls, in which the alleged perpetrators are members of the security forces. The Committee regrets that not all of the necessary measures have been taken in order to make progress in the investigations of the 183 cases of sexual violence referred to the Attorney General’s Office by the Constitutional Court. It is also concerned about the failure of the mechanisms established by Act No. 975 of 2005 to reflect crimes involving sexual violence (arts. 3, 7, 24 and 26).

The State party should adopt effective measures to investigate all cases of sexual violence referred to the Attorney General’s Office by the Constitutional Court and should establish a reliable system for documenting incidents of any type of sexual or gender violence.

Acts of sexual violence reportedly committed by the security forces should be investigated, tried and firmly punished, and the Ministry of Defence should enforce a policy of zero tolerance of such violations which provides for the dismissal of the perpetrators.

The State party should increase the resources allocated to the physical and psychological recovery of women and girls who are victims of sexual violence and ensure that they do not suffer secondary victimization in gaining access to justice.

(19) The Committee congratulates the State party on its progress in implementing the earlier recommendation made by the Committee in 2004 (CCPR/CO/80/COL, para. 13) through Constitutional Court ruling C-355 of 2006, which decriminalizes abortion in certain circumstances: when the woman is a victim of rape or incest, when pregnancy poses a serious risk to her life or health, and when the foetus displays signs of serious malformations that make its life outside the womb unviable. However, the Committee is concerned that, despite Ministry of Health Decree No. 4444 of 2006, health-service providers refuse to perform legal abortions and that the Procurator-General does not support enforcement of the relevant Constitutional Court ruling. The Committee is likewise concerned that insufficient sex education in the school curriculum and public information on how to gain access to a legal abortion continues to cause loss of life among women who have resorted to unsafe abortions (arts. 3, 6 and 26).

The State party must ensure that health providers and medical professionals act in conformity with the ruling of the Court and do not refuse to perform legal abortions. Further, the State party should take steps to help women to avoid unwanted pregnancies so that they do not have to resort to illegal or unsafe abortions that may put their lives at risk. The State party should facilitate access to public information on access to legal abortions.

(20) The Committee is concerned about the high incidence of arbitrary arrests and, in particular, the use of preventive administrative detention by the police and mass arrests by the police and the army. The Committee notes that arrest warrants are frequently insufficiently substantiated by evidence and that arrests are used as a means of stigmatizing certain groups, such as community leaders, youth, indigenous people, Afro-Colombians and campesinos (arts. 9, 24 and 26).

The Committee recommends that the State party take steps to eradicate preventive administrative detention and mass arrest and to act on the recommendations made by the Working Group on Arbitrary Detention following its mission to Colombia in 2008 (A/HRC/10/21/Add.3).

(21) The Committee notes with concern the high rate of overcrowding and complaints of torture and other cruel, inhuman or degrading treatment or punishment in prisons and places of temporary detention. The Committee is concerned that prolonged solitary confinement is used as a form of punishment. It is concerned at the failure to separate accused persons from convicted persons and at the lack of physical and mental health services for prisoners. Although the Committee notes that the initiative to set up human rights committees in prisons is a positive development, it is concerned that such mechanisms are supervised by the National Penitentiary and Prison Agency (INPEC) and do not constitute independent preventive mechanisms (arts. 7 and 10).

The State party should adopt effective measures to improve material conditions in prisons, reduce the current overcrowding and properly meet the basic needs of all persons deprived of their liberty. The use of solitary confinement should be reviewed and restricted. Complaints of torture and other cruel, inhuman or degrading treatment or punishment in prisons and places of temporary detention should be promptly and impartially investigated and brought to the attention of the criminal courts. The Committee invites the State party to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as soon as possible, the better to prevent violations of the right to integrity of the person.

(22) The Committee notes with satisfaction Constitutional Court ruling C-728 of 2009 exhorting Congress to regulate conscientious objection to military service, which represents progress in the implementation of the Committee's earlier recommendation of 2004 (CCPR/CO/80/COL, para. 17). However, the Committee is still concerned by the lack of progress on the introduction of the necessary legislative amendments for recognizing conscientious objection and by the use of "round-ups" as a means of checking who has carried out military service (art. 18).

The State party should, without delay, adopt legislation recognizing and regulating conscientious objection so as to provide the option of alternative service, without the choice of that option entailing punitive effects, and should review the practice of "round-ups".

(23) The Committee is concerned at the very high incidence of forced displacement (over 3.3 million persons by the end of 2009 according to the State party) and at the lack of effective measures for prevention and care. The Committee notes with concern that attention to the needs of the displaced population remains inadequate and is marked by an

insufficient allocation of resources and the lack of comprehensive measures for providing differentiated care for women, children, Afro-Colombians and indigenous people (arts. 12, 24, 26 and 27).

The State party should ensure the development and implementation of a comprehensive policy for the displaced population that should provide for differentiated care, with the emphasis on women, children, Afro-Colombians and indigenous people. The State party should strengthen mechanisms for ensuring that the land of displaced persons can be restituted. The State should evaluate the progress being made on a regular basis in consultation with the beneficiary population. The State party must also implement the recommendations made by the Representative of the Secretary-General on the human rights of internally displaced persons following his visit to Colombia in 2006 (A/HRC/4/38/Add.3).

(24) The Committee is concerned about the recruitment of children by illegal armed groups, especially by FARC-EP and the Ejército de Liberación Nacional (National Liberation Army) (ELN). The Committee is also concerned that security forces continue to use children in military civic acts, such as the “Soldier for a day” programme and that children are interrogated in order to obtain intelligence (arts. 2, 7, 8 and 24).

The State party should strengthen all possible measures to prevent the recruitment of children by illegal armed groups and should by no means involve children in intelligence activities or in military civic acts aimed at militarizing the civilian population.

(25) The Committee is concerned that the Afro-Colombian and indigenous population groups continue to be discriminated against and to be particularly exposed to the violence of armed conflict. Despite legal recognition of their right to collective land ownership, in practice those population groups face enormous obstacles in exercising control over their lands and territories. The Committee also regrets that no progress has been made on the adoption of legislation to criminalize racial discrimination or on the adoption of legislation for holding prior consultations and guaranteeing the free, prior and informed consent of the members of the relevant community (arts. 2, 26 and 27).

The State party must strengthen special measures in favour of Afro-Colombian and indigenous people in order to guarantee the enjoyment of their rights and, in particular, to ensure that they exercise control over their land and that it is restituted to them, as appropriate. The State party should adopt legislation criminalizing racial discrimination and adopt the pertinent legislation for holding prior consultations with a view to guaranteeing the free, prior and informed consent of community members.

(26) The State party should widely disseminate the text of its sixth periodic report, the written replies it has provided in response to the list of issues drawn up by the Committee and the present concluding observations among the judicial, legislative and administrative authorities, civil society and non-governmental organizations, as well as among the general public and ensure that they are available in the principal indigenous languages. Copies of those documents should be circulated to universities, public libraries, the parliamentary library and other relevant recipients.

(27) In accordance with rule 71, paragraph 5, of the Committee’s rules of procedure, the State party should provide, within one year, relevant information on its implementation of the recommendations made by the Committee in paragraphs 9, 14 and 16.

(28) The Committee requests the State party to provide in its seventh periodic report, due to be submitted by 1 April 2014, specific, up-to-date information on all of its

recommendations and on its compliance with the Covenant as a whole. The Committee also recommends that the State party, when preparing its seventh periodic report, consult civil society and the non-governmental organizations operating in the country.

77. **Cameroon**

(1) The Committee considered the fourth periodic report submitted by Cameroon (CCPR/C/CMR/4) at its 2725th and 2726th meetings, held on 19 and 20 July 2010 (CCPR/C/SR.2725 and 2726). The Committee adopted the following concluding observations at its 2739th and 2740th meetings, held on 28 and 29 July 2010 (CCPR/C/SR.2739 and 2740).

A. Introduction

(2) The Committee welcomes the submission, albeit with some delay, of the State party's fourth periodic report prepared in accordance with the Committee's guidelines. It also appreciates the written replies (CCPR/C/CMR/Q/4/Add.1) provided in advance by the State party as well as the answers and information provided by the State party's delegation during its dialogue with the Committee.

(3) The Committee appreciates the input to its proceedings by Cameroon non-governmental organizations (NGOs) and recalls the obligation of the State party to respect and protect the human rights of the personnel of all human rights organizations on its territory.

B. Positive aspects

(4) The Committee welcomes the State party's ratification during the reporting period of a number of international instruments relating to human rights protected by the Covenant, in particular:

(a) The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, in 2004;

(b) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, in 2006.

(5) The Committee also welcomes the State party's:

(a) Adoption of Law No. 2004/016 of 22 July 2004 to strengthen the independence of the National Commission on Human Rights and Freedoms (NCHRF);

(b) Measures to strengthen the legal framework for the protection against human trafficking and slavery through Law No. 2005/15 of 29 December 2005 against Child Slavery and Trafficking; and

(c) Efforts to strengthen protection of human rights related to the administration of justice, including provisions under the Criminal Procedure Code which came into force on 1 January 2007 aimed at redressing cases of illegal arrest or detention.

C. Principal subjects of concern and recommendations

(6) The Committee is concerned about the delays in ensuring effective remedies and appropriate compensation for violations of Covenant rights in compliance with Views adopted by the Committee on communications Nos. 458/1991 (*Mukong*), 1134/2002 (*Gorji-Dinka*), 1353/2005 (*Njaru*), and 1186/2003 (*Titahongo*) (art. 2).

The State party should take the necessary measures to give full effect to the Committee's Views and establish mechanisms to facilitate the implementation

of the Committee's Views, so as to guarantee the right to an effective remedy as established in article 2, paragraph 3, of the Covenant.

(7) With regard to the commendable efforts of the State party to strengthen the independence of the National Commission on Human Rights and Freedoms (NCHRF), the Committee considers that further measures could be taken with a view to ensuring the effective functioning of the NCHRF in full independence from the Government. The Committee also notes concerns raised by civil society organizations that reports of the NCHRF are not easily accessible (art. 2).

The State party should further guarantee the independence of the NCHRF by providing it with adequate resources to carry out its mandate effectively. Furthermore, reports publicized by the NCHRF should be widely disseminated and made easily accessible.

(8) Notwithstanding the prohibition of discrimination enshrined in the Constitution of Cameroon, the Committee is concerned that women are discriminated against under articles 1421 and 1428 of the Civil Code concerning the right of spouses to administer communal property, article 229 of the Civil Code regulating divorce, and article 361 of the Penal Code that defines the crime of adultery in terms more favourable to men than women. The Committee also remains concerned that women are vulnerable to discrimination under customary law, even if customary law can in principle only be applied when compatible with statutory law. In general, the Committee is concerned about the prevalence of stereotypes and customs in Cameroon which are contrary to the principle of equality of rights between men and women and hinder the effective implementation of the Covenant (arts. 2, 3 and 26).

The State party should bring its legislation into conformity with the Covenant by ensuring that women are not discriminated against under the law. The State party should also strengthen measures to ensure that women are not subjected to discriminatory treatment when customary law is applied, including through: (a) ensuring compatibility of the wide range of customary law in the country with statutory law and the Covenant; (b) raising awareness amongst women about their rights under statutory law and the Covenant; and (c) ensuring easy access to complaints procedures concerning discriminatory practices sanctioned by customary law. The State party should also continue and strengthen its efforts to address discriminatory traditions and customs through education and awareness-raising campaigns. In this connection, the Committee draws the attention of the State party to its general comment No. 28 (2000) concerning equality of rights between men and women.

(9) The Committee reiterates its concern about the continuing existence of polygamy in the State party. The Committee is also concerned about reported cases of marriage of girls as young as 12 years old and regrets that the State party has not taken measures to address the different ages for marriage between women and men, set at 15 and 18 years respectively. The Committee does not accept the justification suggested by the State party to the effect that girls mature faster and are more likely to handle family life at an earlier age than boys (arts. 2, 23 and 26).

The State party should amend its legislation to bring it into conformity with the Covenant by banning the practice of polygamy and by raising the minimum legal age for marriage for girls to the same age as for boys. Appropriate measures, including awareness-raising campaigns, should also be taken to protect girls from early marriage.

(10) Notwithstanding the efforts made by the State party to combat this practice, the Committee remains concerned about cases of female genital mutilation in some areas of the

country and about the lack of an explicit legal prohibition of female genital mutilation (arts. 3 and 7).

The State party should introduce specific legislation prohibiting female genital mutilation. The State party should also redouble its efforts to raise awareness about the need to end this practice.

(11) The Committee is concerned about high levels of domestic violence against women in the State party and about weak protection against such violence, including rape. While noting that the law criminalizes rape, the Committee is concerned that only a small proportion of cases are reported and investigated as a consequence of widespread perceptions of domestic violence as a purely private matter. The Committee is also concerned that under the Penal Code a perpetrator of rape can be exonerated if he offers to marry the victim and she accepts (arts. 3 and 7).

The State party should accelerate the adoption of specific legislation on violence against women with a view to strengthening the legal framework for the protection against domestic violence; sexual harassment; rape, including marital rape; and other forms of violence suffered by women. Measures should also be taken to ensure that women fleeing an abusive partner or husband have access to assistance and can seek refuge in crisis centres. With regard to the crime of rape, the State party should repeal the provision providing for the exoneration of the crime of rape if the perpetrator marries the victim.

(12) The Committee remains deeply concerned about the criminalization of consensual sexual acts between adults of the same sex, punishable with imprisonment from six months to five years under article 347 (bis) of the Penal Code. As the Committee and other international human rights mechanisms have underlined, such criminalization violates the rights to privacy and freedom from discrimination enshrined in the Covenant. The information provided by the State party did not allay the Committee's concern about arbitrariness in the implementation of article 347 (bis), also observed by the United Nations Working Group on Arbitrary Detention in its Opinion No. 22/2006 (Cameroon) (A/HRC/4/40/Add.1), and about reported cases of inhumane and degrading treatment of persons detained on charges of having sexual relations with a person of the same sex. The Committee is also concerned that the criminalization of consensual sexual acts between adults of the same sex impedes the implementation of effective education programmes in respect of HIV/AIDS prevention (arts. 2, 7, 9, 17 and 26).

The State party should take immediate steps towards decriminalizing consensual sexual acts between adults of the same sex, in order to bring its law into conformity with the Covenant. The State party should also take appropriate measures to address social prejudice and stigmatization of homosexuality and should clearly demonstrate that it does not tolerate any form of harassment, discrimination and violence against individuals because of their sexual orientation. Public health programmes to combat HIV/AIDS should have a universal reach and ensure universal access to HIV/AIDS prevention, treatment, care and support.

(13) While noting the efforts by the State party, jointly with international partners, to improve access to reproductive health services, the Committee remains concerned about high maternal mortality and about abortion laws which may incite women to seek unsafe, illegal abortions, with attendant risks to their life and health. It is also concerned about the unavailability of abortion in practice even when the law permits it, for example in cases of pregnancy resulting from rape (art. 6).

The State party should step up its efforts to reduce maternal mortality, including by ensuring that women have access to reproductive health services.

In this regard, the State party should amend its legislation to effectively help women avoid unwanted pregnancies and protect them from having to resort to illegal abortions that could endanger their lives.

(14) The Committee notes that the death penalty has not been implemented since 1997 but that the courts continue to impose this penalty, in accordance with the Penal Code (art. 6).

The State party should consider abolishing the death penalty or at least formalizing the current de facto moratorium on the death penalty. The State party is encouraged to accede to the Second Optional Protocol to the Covenant.

(15) The Committee remains deeply concerned about continued reports of cases of extrajudicial executions by law enforcement officers. Notwithstanding the information provided by the State party's delegation that the perpetrators of such crimes are consistently brought to justice, the Committee is concerned about reports that allegations of extrajudicial killings have in some cases not been effectively investigated and regrets that the State party was not able to provide statistics on the number of reported cases of extrajudicial killings by military and civil security forces and law-enforcement personnel (art. 6).

The State party should monitor more closely allegations of extrajudicial killings and ensure that all such allegations are investigated in a prompt and effective manner with a view to rooting out such crimes, bringing perpetrators to justice, and providing effective remedies to victims. In order to ensure effective and impartial investigation, the State party should establish a special independent mechanism to carry out investigations into alleged cases of extrajudicial killing by security forces and law enforcement personnel.

(16) The Committee is concerned that acts of "vigilante justice" against persons suspected of crimes reportedly resulted in several deaths during the reporting period and that the perpetrators are rarely prosecuted (art. 6).

The State party should take effective measures to address the continued occurrence of "vigilante justice" and to ensure that such acts are investigated and the persons responsible brought to justice.

(17) The Committee notes the commitment expressed by the State party to eliminate torture, including through the establishment in 2005 of a Special Division for the Control of Services to ensure "the policing of the Police". However, the Committee is deeply concerned that torture remains widespread in the State party. Reviewing information provided by the State party on disciplinary sanctions against law enforcement personnel in cases of torture, the Committee is concerned that penalties handed down in these cases are insignificant compared to the damage caused to the victims and are much weaker than those established in the Criminal Code for the crime of torture. The committee is also concerned that victims of torture by law enforcement and prison personnel in some cases are unable to report such violations and that confessions obtained under torture are still taken into consideration during court hearings, notwithstanding the explicit provision on the inadmissibility of confessions obtained under duress under the Criminal Procedure Code (arts. 7 and 10).

The State party should ensure that (a) victims of torture, in particular those held in detention, have easy access to mechanisms to report violations, (b) impartial and independent inquiries are carried out to address such allegations of torture and inhuman and degrading treatment, and (c) perpetrators are appropriately punished. The punishment handed down and compensation provided to victims should be proportionate to the gravity of the crime committed.

(18) The Committee is deeply concerned about reported cases of human rights violations related to the social riots which took place in February 2008, triggered by high fuel and food prices, during which reportedly more than 100 persons died and more than 1,500 persons were arrested. The Committee regrets that, more than two years after the events, investigations were still ongoing and that the State party was not able to give a fuller account of the events. The explanation provided by the State party's delegation that security forces shot warning shots and that rioters were trampled to death as they tried to escape contrasts with NGO reports according to which the deaths were mainly attributed to excessive force applied by security forces. The Committee is concerned that the State party's delegation dismissed allegations made by NGOs of cases of torture and ill-treatment of persons who were detained during the riots and of summary trials contrary to the guarantees set out in the Criminal Procedure Code and in the Covenant (arts. 6, 7, 9 and 14).

The State party should ensure that allegations of serious human rights violations related to the social riots in 2008, including allegations of excessive use of force by security forces, of torture and ill-treatment of persons detained, and of summary trials are adequately investigated and that perpetrators are brought to justice.

(19) The Committee is concerned that safeguards against illegal and arbitrary arrest provided for in the Criminal Procedure Code are often not implemented in practice, including the time limit for legal detention in police custody, and that accused persons are often not adequately informed about their rights. The Committee is also concerned that the commission foreseen in article 237 or the Code of Criminal Procedure to allow for actions for compensation in case of illegal detention has not yet become operational (arts. 9 and 14).

The State party should take appropriate measures, including training of law enforcement personnel, to ensure effective implementation of guarantees set out in the Criminal Procedure Code and to ensure that persons subjected to illegal and arbitrary detention are able to report such violations and are afforded effective judicial redress and compensation. The State party should ensure that the claims commission set up under article 237 of the Code of Criminal Procedure become operational without delay.

(20) The Committee is deeply concerned about long pretrial detention periods which often exceed the limits set for such detention in article 221 of the Criminal Procedure Code and about the high number of persons held in pretrial detention, accounting for 61 per cent of the total prison population of 23,196 according to 2009 statistics (art. 9).

The State party should take effective measures to ensure effective compliance with the Criminal Procedure Code and reduce the period of pretrial detention.

(21) While noting efforts by the State party to improve the prison infrastructure, including through the construction of new prisons and the "Programme for the Amelioration of Detention Conditions and Respect for Human Rights" 2007–2010 in cooperation with international partners, the Committee remains concerned about the continuing problem of severe overcrowding and grossly inadequate conditions in prisons. In addition to concerns about inadequate hygiene and health conditions, inadequate rations and quality of food, and inadequate access to health care, the Committee notes that the rights of women to be separated from men, of minors to be separated from adults, and of persons in pretrial detention to be separated from convicts are often not guaranteed. The Committee is of the view that there is a need for a stronger oversight of prison conditions and the treatment of prisoners (arts. 7 and 10).

The State party should ensure that all persons deprived of their liberty are treated with humanity and with respect for the inherent dignity of the human person and that conditions of detention comply with the Covenant and the United Nations Standard Minimum Rules for Treatment of Prisoners. In particular, the State party should take measures to improve the quality and quantity of food and access to health care in prisons and to ensure the separation in prisons of women from men, minors from adults, and persons in pretrial detention from convicts. The State party should also ensure that places of detention are fully open to independent national and international inspections, including through providing the NCHRF with sufficient resources to monitor prison conditions.

(22) The Committee notes that Law No. 2005/006 on asylum and refugees adopted in 2005 to strengthen protection of asylum-seekers and refugees in accordance with international standards, including with regard to non-refoulement, will only come into force upon the adoption of an implementation decree (arts. 7 and 13).

The State party should adopt the implementation decree of the 2005 Law on Refugees and establish the two committees (on refugee status determination and appeals) as provided for in the Law.

(23) The Committee is concerned that the independence of the judiciary is not fully ensured. In addition the Committee is concerned that article 64 of the Criminal Procedure Code allows for the intervention by the Ministry of Justice or by the Attorney General to end criminal proceedings in certain instances (art. 14).

The State party should remove article 64 from the Criminal Procedure Code and take other appropriate measures to ensure and protect the independence and impartiality of the judiciary.

(24) The Committee remains concerned about the jurisdiction of military courts over civilians (arts. 14 and 26).

The State party should take all necessary measures to ensure that trials of civilians by military courts are exceptional and take place under conditions which genuinely afford the full guarantees stipulated in article 14 of the Covenant.

(25) Notwithstanding the information provided by the State party that the freedom of the press is absolute and that no journalist is currently detained in Cameroon, the Committee remains concerned about consistent reports from national and international organizations monitoring freedom of the press of cases of harassment of journalists or media outlets by public officials. The Committee reiterates its concern about provisions in the Penal Code which render it a criminal offence to spread false news and about how journalists in a number of cases have been prosecuted for this or related crimes, such as the crime of defamation, as a consequence of their reporting (art. 19).

The State party should review its legislation and practice to ensure that journalists and media outlets are not subjected to harassment and prosecution as a consequence of expressing their critical views and that any restriction on press and media activities is strictly compatible with the provisions of article 19, paragraph 3, of the Covenant.

(26) The Committee is concerned that the number of qualified NGOs is very small for a country of the size of Cameroon and that these recognized NGOs do not include any human rights organization (art. 22).

The State party should take necessary steps to ensure that any restriction on freedom of association is strictly compatible with provisions of article 22 of the Covenant.

(27) While noting the efforts of the State party to raise awareness amongst judges and judicial officers about the Covenant and its direct applicability in domestic law, the Committee regrets that only in a few cases have domestic courts invoked the provisions of the Covenant (art. 2).

The State party should continue and strengthen its efforts to raise awareness about the Covenant and its applicability in domestic law amongst judges and judicial officers.

(28) The State party should publicize widely the text of its fourth periodic report, the written answers it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations.

(29) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on the assessment of the situation and the implementation of the Committee's recommendations in paragraphs 8, 17 and 18 above.

(30) The Committee requests the State party to provide in its next report, due to be submitted by 30 July 2013, information on the remaining recommendations made and on the Covenant as a whole.

V. Consideration of communications under the Optional Protocol

78. Individuals who claim that any of their rights under the International Covenant on Civil and Political Rights have been violated by a State party, and who have exhausted all available domestic remedies, may submit written communications to the Human Rights Committee for consideration under the Optional Protocol. No communication can be considered unless it concerns a State party to the Covenant that has recognized the competence of the Committee by becoming a party to the Optional Protocol. Of the 166 States that have ratified, acceded to or succeeded to the Covenant, 113 have accepted the Committee's competence to deal with individual complaints by becoming parties to the Optional Protocol (see annex I, sect. B).

79. Consideration of communications under the Optional Protocol is confidential and takes place in closed meetings (art. 5, para. 3, of the Optional Protocol). Under rule 102 of the Committee's rules of procedure, all working documents issued for the Committee are confidential unless the Committee decides otherwise. However, the author of a communication and the State party concerned may make public any submissions or information bearing on the proceedings, unless the Committee has requested the parties to respect confidentiality. The Committee's final decisions (Views, decisions declaring a communication inadmissible, decisions to discontinue the consideration of a communication) are made public; the names of the authors are disclosed, unless the Committee decides otherwise, at the request of the authors.

80. Communications addressed to the Human Rights Committee are processed by the Petitions Team of the Office of the United Nations High Commissioner for Human Rights. This Team also services the communications procedures under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities.

A. Progress of work

81. The Committee started its work under the Optional Protocol at its second session, in 1977. Since then, 1,960 communications concerning 84 States parties have been registered for consideration by the Committee, including 72 registered during the period covered by the present report. At present, the status of the 1,960 communications registered is as follows:

(a) Consideration concluded by the adoption of Views under article 5, paragraph 4, of the Optional Protocol: 731, including 589 in which violations of the Covenant were found;

(b) Declared inadmissible: 557;

(c) Discontinued or withdrawn: 274;

(d) Not yet concluded: 398.

82. The Petitions Team has also received thousands of communications in respect of which complainants were advised that further information would be needed before their communications could be registered for consideration by the Committee. Several thousand complainants were informed that their cases would not be dealt with by the Committee, for

example because they fell clearly outside the scope of application of the Covenant or of the Optional Protocol. A record of this correspondence is kept in the Secretariat and is reflected in its database.

83. At its ninety-seventh, ninety-eighth and ninety-ninth sessions, the Committee adopted Views on 50 cases. These Views are reproduced in annex V (vol. II).

84. The Committee also concluded consideration of 24 cases by declaring them inadmissible. These decisions are reproduced in annex VI (vol. II).

85. Under the Committee's rules of procedure, the Committee will normally decide on the admissibility and merits of a communication together. Only in exceptional circumstances will the Committee address admissibility separately. A State party which has received a request for information on admissibility and merits may, within two months, object to admissibility and apply for separate consideration of admissibility. Such a request will not, however, release the State party from the requirement to submit information on the merits within six months, unless the Committee, its Working Group on Communications or its designated special rapporteur decides to extend the time for submission of information on the merits until after the Committee has ruled on admissibility.

86. The Committee decided to discontinue the consideration of 10 communications for reasons such as withdrawal by the author, or because the author or counsel failed to respond to the Committee despite repeated reminders, or because the authors, who had expulsion orders pending against them, were allowed to stay in the countries concerned.

87. In five cases decided during the period under review, the Committee noted that the State party had failed to cooperate in the examination of the author's allegations. The States parties in question are Kyrgyzstan, Libyan Arab Jamahiriya, Sri Lanka and Tajikistan. The Committee deplored that situation and recalled that it was implicit in the Optional Protocol that States parties should transmit to the Committee all information at their disposal. In the absence of a reply, due weight had to be given to the author's allegations, to the extent that they had been properly substantiated.

B. Increase in the Committee's caseload under the Optional Protocol

88. As the Committee has stated in previous reports, the increasing number of States parties to the Optional Protocol and better public awareness of the procedure have led to a growth in the number of communications submitted to the Committee. The table below sets out the pattern of the Committee's work on communications over the last eight years, to 31 December 2009. Since the previous annual report, 68 communications have been registered.

Communications dealt with from 2002 to 2009

<i>Year</i>	<i>New cases registered</i>	<i>Cases concluded^a</i>	<i>Pending cases at 31 December</i>
2009	68	76	431
2008	87	88	439
2007	206	47	455
2006	96	109	296
2005	106	96	309
2004	100	78	299

<i>Year</i>	<i>New cases registered</i>	<i>Cases concluded^a</i>	<i>Pending cases at 31 December</i>
2003	88	89	277
2002	107	51	278

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

C. Approaches to considering communications under the Optional Protocol

1. Special Rapporteur on new communications

89. At its thirty-fifth session, in March 1989, the Committee decided to designate a special rapporteur authorized to process new communications as they were received, i.e. between sessions of the Committee. At the Committee's ninety-third session, in July 2008, Ms. Christine Chanet was designated Special Rapporteur. In the period covered by the present report, the Special Rapporteur transmitted 72 new communications to the States parties concerned under rule 97 of the Committee's rules of procedure, requesting information or observations relevant to the questions of admissibility and merits. In 16 cases, the Special Rapporteur issued requests for interim measures of protection pursuant to rule 92 of the Committee's rules of procedure. The competence of the Special Rapporteur to issue and, if necessary, to withdraw requests for interim measures under rule 92 of the rules of procedure is described in the annual report for 1997.¹⁵

2. Competence of the Working Group on Communications

90. At its thirty-sixth session, in July 1989, the Committee decided to authorize the Working Group on Communications to adopt decisions declaring communications admissible when all members of the Group so agreed. Failing such agreement, the Working Group refers the matter to the Committee. It also does so whenever it believes that the Committee itself should decide the question of admissibility. During the period under review, eight communications were declared admissible by the Working Group on Communications.

91. The Working Group also makes recommendations to the Committee concerning the inadmissibility of certain communications. At its eighty-third session the Committee authorized the Working Group to adopt decisions declaring communications inadmissible if all members so agreed. At its eighty-fourth session, the Committee introduced the following new rule 93, paragraph 3, in its rules of procedure: "A working group established under rule 95, paragraph 1, of these rules of procedure may decide to declare a communication inadmissible, when it is composed of at least five members and all the members so agree. The decision will be transmitted to the Committee plenary, which may confirm it without formal discussion. If any Committee member requests a plenary discussion, the plenary will examine the communication and take a decision."

¹⁵ *Official Records of the General Assembly, Fifty-second Session, Supplement No. 40, vol. I (A/52/40 (vol. I)), para. 467.*

D. Individual opinions

92. In its work under the Optional Protocol, the Committee seeks to adopt decisions by consensus. However, pursuant to rule 104 of the Committee's rules of procedure, members can add their individual or dissenting opinions to the Committee's Views. Under this rule, members can also append their individual opinions to the Committee's decisions declaring communications admissible or inadmissible.

93. During the period under review, individual opinions were appended to the Committee's Views or decisions concerning cases Nos. 1246/2004 (*Gonzalez Muñoz v. Guyana*), 1284/2004 (*Kodirov v. Uzbekistan*), 1363/2005 (*Gayoso Martínez v. Spain*), 1392/2005 (*Lukyanchik v. Belarus*), 1401/2005 (*Kirpo v. Tajikistan*), 1465/2006 (*Kaba v. Canada*), 1467/2006 (*Dumont v. Canada*), 1588/2007 (*Benaziza v. Algeria*), 1615/2007 (*Zavrel v. Czech Republic*), 1629/2007 (*Fardon v. Australia*), 1635/2007 (*Tillman v. Australia*), 1640/2007 (*El Abani v. Libya*), 1754/2008 (*Loth v. Germany*), 1793/2008 (*Marin v. France*), 1797/2008 (*Mennen v. The Netherlands*) and 1799/2008 (*Georgopoulos et al. v. Greece*).

E. Issues considered by the Committee

94. A review of the Committee's work under the Optional Protocol from its second session in 1977 to its ninety-sixth session in July 2009 can be found in the Committee's annual reports for 1984 to 2009, which contain summaries of the procedural and substantive issues considered by the Committee and of the decisions taken. The full texts of the Views adopted by the Committee and of its decisions declaring communications inadmissible under the Optional Protocol are reproduced in annexes to the Committee's annual reports to the General Assembly. The texts of the Views and decisions are also available in the treaty body database on the OHCHR website (www.ohchr.org).

95. Nine volumes of "Selected decisions of the Human Rights Committee under the Optional Protocol", from the second to the sixteenth sessions (1977–1982), from the seventeenth to the thirty-second sessions (1982–1988), from the thirty-third to the thirty-ninth sessions (1988–1990), from the fortieth to the forty-sixth sessions (1990–1992), from the forty-seventh to the fifty-fifth sessions (1993–1995), from the fifty-sixth to the sixty-fifth sessions (March 1996 to April 1999), from the sixty-sixth to the seventy-fourth sessions (July 1999 to March 2002), from the seventy-fifth to the eighty-fourth sessions (July 2002 to July 2005) and from the eighty-fifth to ninety-first sessions (October 2005 to October 2007) have been published. Some volumes are available in English, French, Russian and Spanish. The most recent volumes are currently available in only one or two languages, which is most regrettable. As domestic courts increasingly apply the standards contained in the International Covenant on Civil and Political Rights, it is imperative that the Committee's decisions can be consulted worldwide in a properly compiled and indexed volume, available in all the official languages of the United Nations.

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

1. Procedural issues

(a) *Inadmissibility for lack of standing as a victim (Optional Protocol, art. 1)*

97. In case No. 1868/2009 (*Andersen v. Denmark*), the author claimed that some public statements made by leaders of a political party amounted to hate propaganda against Muslims and violated, in particular, articles 20, paragraph 2, and 27 of the Covenant. As

she was a Muslim, those statements affected her daily life in Denmark. The Committee considered that no person may, in theoretical terms and by *actio popularis*, object to a law or practice which he or she holds to be at variance with the Covenant. Any person claiming to be a victim of a violation of a right protected by the Covenant must demonstrate either that a State party has by an act or omission already impaired the exercise of his right or that such impairment is imminent, basing his or her argument, for example, on legislation in force or on a judicial or administrative decision or practice. In the present case, the author had failed to establish that the statements in question had specific consequences for her or that the specific consequences of the statements were imminent and would personally affect her. The Committee therefore concluded that the author had failed to demonstrate that she was a victim for purposes of the Covenant and declared the claim inadmissible under article 1 of the Optional Protocol.

(b) *Claims not substantiated (Optional Protocol, art. 2)*

98. Article 2 of the Optional Protocol provides that “individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration”. Although an author does not need to prove the alleged violation at the admissibility stage, he or she must submit sufficient material substantiating the allegation for purposes of admissibility. A “claim” is, therefore, not just an allegation, but an allegation supported by substantiating material. In cases where the Committee finds that the author has failed to substantiate a claim for purposes of admissibility, it has held the communication inadmissible, in accordance with rule 96 (b) of its rules of procedure.

99. In case No. 1471/2006 (*Rodríguez Domínguez et al. v. Spain*), the authors claimed that they were deprived of their right under article 14, paragraph 5, of the Covenant to have their conviction and sentence reviewed by a higher court because Spain’s remedy of cassation is not an appeal procedure and does not permit re-examination of the evidence on which the sentence was based. However, the Committee observed that a reading of the Supreme Court’s decision clearly indicated that the Court examined all the grounds on which the authors filed their appeal, including those relating to the characterization of the facts as an attempted offence against public health. Consequently, the Committee considered that the claim had not been sufficiently substantiated and declared it inadmissible under article 2 of the Optional Protocol.

100. Other claims were declared inadmissible for lack of substantiation, including in cases Nos. 1079/2002 (*A. et al. v. Uzbekistan*), 1174/2003 (*Minboev v. Tajikistan*), 1206/2003 (*T.M. and S.I. v. Uzbekistan*), 1232/2003 (*Pustovalov v. Russian Federation*), 1246/2004 (*Gonzalez Muñoz v. Guyana*), 1312/2004 (*Latifulin v. Kyrgyzstan*), 1338/2005 (*Kaldarov v. Kyrgyzstan*), 1369/2005 (*Kulov v. Kyrgyzstan*), 1377/2005 (*Katsora v. Belarus*), 1401/2005 (*Kirpo v. Tajikistan*), 1425/2005 (*Marz v. Russian Federation*), 1502/2006 (*Marinich v. Belarus*), 1522/2006 (*N.T. v. Kyrgyzstan*), 1523/2006 (*Tiyagarajah v. Sri Lanka*), 1537/2006 (*Gerashchenko v. Belarus*), 1544/2007 (*Hamida v. Canada*), 1555/2007 (*Suils Ramonet v. Spain*), 1559/2007 (*Hernandez v. The Philippines*), 1577/2007 (*Usaev v. Russian Federation*), 1616/2007 (*Manzano et al. v. Colombia*), 1618/2007 (*Brychta v. Czech Republic*), 1619/2007 (*Pestaño v. The Philippines*), 1778/2008 (*Novotny v. Czech Republic*) and 1869/2009 (*Sanjuán v. Spain*).

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

101. A specific form of lack of substantiation is represented by cases where the author invites the Committee to re-evaluate issues of fact and evidence addressed by domestic courts. The Committee has repeatedly recalled its jurisprudence that it is not for it to

substitute its views for the judgement of the domestic courts on the evaluation of facts and evidence in a case, unless the evaluation is manifestly arbitrary or amounts to a denial of justice. If a jury or court reaches a reasonable conclusion on a particular matter of fact in the light of the evidence available, the decision cannot be held to be manifestly arbitrary or to amount to a denial of justice. Claims involving the re-evaluation of facts and evidence have thus been declared inadmissible under article 2 of the Optional Protocol. This was true for cases Nos. 1174/2003 (*Minboev v. Tajikistan*), 1240/2004 (*S.A. v. Tajikistan*), 1284/2004 (*Kodirov v. Uzbekistan*), 1312/2004 (*Latifulin v. Kyrgyzstan*), 1338/2005 (*Kaldarov v. Kyrgyzstan*), 1343/2005 (*Dimkovich v. Russian Federation*), 1520/2006 (*Mwamba v. Zambia*), 1523/2006 (*Tiyagarajah v. Sri Lanka*), 1616/2007 (*Manzano v. Colombia*), 1624/2007 (*Seto Martínez v. Spain*) and 1794/2008 (*Barrionuevo and Bernabé v. Spain*).

(d) *Inadmissibility because of incompatibility with the provisions of the Covenant (Optional Protocol, art. 3)*

102. In case No. 1425/2005 (*Marz v. Russian Federation*) the author claimed a violation of article 9, paragraphs 1 and 5, of the Covenant because, contrary to the Criminal Procedure Code, the judgment by which he had been sentenced did not indicate the beginning of his sentence term and the type and regime of the penitentiary institution to which he should be assigned. The Committee observed that the requirements of domestic legislation on the type of information a sentence should contain are outside the scope of the Covenant. It therefore considered this claim incompatible *ratione materiae* with the provisions of the Covenant and thus inadmissible under article 3 of the Optional Protocol.

103. In case No. 1572/2007 (*Mathioudakis v. Greece*), regarding the cancellation of the author's university diploma through an administrative procedure, the Committee recalled its jurisprudence that the presumption of innocence under article 14, paragraph 2, of the Covenant only applies to criminal procedures and that article 14, paragraph 5, does not apply to any other procedure not being part of a criminal process. It therefore considered the author's claim with regard to the administrative proceedings to be incompatible with the provisions of the Covenant.

104. In case No. 1609/2007 (*Chen v. The Netherlands*), the author alleged that his deportation to China would be in breach of the State party's obligation under article 24 of the Covenant. The Committee observed however that, at the moment of its examination of the case, the author was no longer a minor and therefore any future removal would not touch upon any right under that article. As a result, this claim was declared inadmissible *ratione materiae* under article 3 of the Optional Protocol.

105. In case No. 1624/2007 (*Seto Martínez v. Spain*), concerning the alleged violation of article 11 of the Covenant by the imposition of a custodial sentence for failure to pay alimony, the Committee noted that the case concerned a failure to meet not a contractual obligation but a legal obligation, as provided in article 227 of the Spanish Criminal Code. The obligation to pay alimony derived from Spanish law and not from the separation or divorce agreement signed by the author and his ex-wife. Consequently, the Committee found the communication incompatible *ratione materiae* with the provisions of article 11 of the Covenant, and thus inadmissible under article 3 of the Optional Protocol.

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

106. Under article 3 of the Optional Protocol, the Committee can declare inadmissible any communication which it considers to be an abuse of the right to submit communications. During the period under consideration, the question of abuse was raised in connection with a number of cases where several years had elapsed between the exhaustion of domestic remedies and the submission of the communication to the Committee. The

Committee recalled that the Optional Protocol establishes no time limit for the submission of communications and that the passage of time, other than in exceptional cases, does not in itself constitute an abuse of the right to submit a communication.

107. In case No. 1618/2007 (*Brychta v. Czech Republic*), the Committee noted the State party's argument that the submission of the communication amounted to an abuse of the right of submission since the author waited almost nine years since the final European Commission of Human Rights decision and more than 10 and a half years since the last domestic decision before submitting his complaint to the Committee. The author argued that, further to the European Commission's inadmissibility decision of 8 December 1997, he tried to file an appeal with the European Court of Human Rights, but was informed on 22 October 2004 that the inadmissibility decision was final and not subject to appeal. Taking account of these particular circumstances, the Committee did not consider the delay of nine years since the inadmissibility decision of the European Commission to amount to an abuse of the right of submission.

(f) *Inadmissibility because of submission to another procedure of international investigation or settlement (Optional Protocol, art. 5, para. 2 (a))*

108. Pursuant to article 5, paragraph 2 (a), of the Optional Protocol, the Committee shall ascertain that the same matter is not being examined under another procedure of international investigation or settlement. According to its jurisprudence, "same matter" must be understood as relating to the same author, the same facts and the same substantive rights. Upon becoming parties to the Optional Protocol, some States have made a reservation to preclude the Committee's competence if the same matter has already been examined under another procedure.

109. Claims regarding cases pending before the European Court of Human Rights were declared inadmissible in case No. 1573/2007 (*Šroub v. Czech Republic*), whereas in cases Nos. 1754/2008 (*Loth v. Germany*) and 1793/2008 (*Marin v. France*), the Committee considered that it was precluded from examining the communications by virtue of the reservation to article 5, paragraph 2 (a), of the Optional Protocol made respectively by Germany and France.

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

110. Pursuant to article 5, paragraph 2 (b), of the Optional Protocol, the Committee shall not consider any communication unless it has ascertained that the author has exhausted all available domestic remedies. However, it is the Committee's constant jurisprudence that the rule of exhaustion applies only to the extent that those remedies are effective and available. The State party is required to give details of the remedies which it submitted had been made available to the author in the circumstances of his case, together with evidence that there would be a reasonable prospect that such remedies would be effective. Furthermore, the Committee has held that authors must exercise due diligence in the pursuit of available remedies. Mere doubts or assumptions about their effectiveness do not absolve the authors from exhausting them.

111. In cases Nos. 1471/2006 (*Rodríguez Domínguez v. Spain*) and 1555/2007 (*Suils Ramonet v. Spain*), the Committee recalled its jurisprudence that it is necessary to exhaust only those remedies that have a reasonable prospect of success. Despite the State party's statements that an application for *amparo* had not been filed, the Committee considered that such application had no prospect of success in relation to an alleged violation of article 14, paragraph 5, of the Covenant and therefore considered that domestic remedies had been exhausted.

112. In case No. 1619/2007 (*Pestaño v. The Philippines*), the Committee noted that the State party had failed to show that any investigation had been initiated since the date of the alleged offence, with the final aim of ensuring the effective prosecution and punishment of the perpetrator/s of the alleged murder of the author's son. Under these circumstances, and considering that almost 15 years elapsed since the date of the alleged offence, the Committee considered that domestic remedies had been unreasonably prolonged and found that article 5, paragraph 2 (b), of the Optional Protocol did not preclude it from considering the communication.

113. In case No. 1284/2004 (*Kodirov v. Uzbekistan*), concerning allegations of torture, rape and intimidation of the author's son, the Committee reaffirmed its jurisprudence that the burden of proof cannot rest on the author of the communication alone, especially considering that the author and the State party do not always have equal access to the evidence and frequently the State party alone has the relevant information. It is implicit in article 4, paragraph 2, of the Optional Protocol that the State party has the duty to investigate in good faith all allegations of violations of the Covenant made against it and its representatives and to furnish to the Committee the information available to it. In cases where the allegations are corroborated by credible evidence submitted by the author and where further clarification depends on information exclusively in the hands of the State party, the Committee may consider the author's allegations substantiated in the absence of satisfactory evidence or explanations to the contrary presented by the State party. In the case in question, the Committee took into account that the State party did not provide any corroborating documentation to refute the author's claim that her son's rape and torture allegation were raised before the domestic courts, although the State party had the opportunity to do so, and which the author had sufficiently substantiated. Therefore, the Committee considered that it was not precluded by article 5, paragraph 2 (b), of the Optional Protocol from examining the communication.

114. In case No. 1392/2005 (*Lukyanchik v. Belarus*), concerning the refusal to register the initiative group that sought to nominate the author as a candidate for the office of Deputy of the House of Representatives, the State party claimed that the author had not exhausted domestic remedies, as he had not appealed the decision of the Supreme Court through the supervisory review procedure. The author, in turn, argued that the decision of the Supreme Court became executory on the same day it was taken, thus preventing him from taking part in the ongoing election campaign. The Committee observed that the author's claim on the ineffectiveness of the supervisory review procedure in his case was primarily based on the time-bound nature of the electoral process. It further noted that the State party had merely stated *in abstracto* that the author did not appeal the decision of the Supreme Court through the supervisory review procedure, without addressing the author's claim on the time-bound nature of the electoral process and without showing how this remedy might provide effective redress in his case. In these circumstances and in the absence of further information from the State party, the Committee accepted the author's argument that the supervisory review procedure was ineffective and considered that it was not precluded by article 5, paragraph 2 (b), of the Optional Protocol from examining the communication.

115. In case No. 1537/2006 (*Gerashchenko v. Belarus*), the State party argued that the author had failed to appeal to the Prosecutor's office under the supervisory review procedure of section 436 of the Civil Procedure Code. The author contested this argument, stating that such an appeal was optional. The Committee recalled its jurisprudence that supervisory review procedures against court decisions which had entered into force constitute an extraordinary means of appeal which was dependent on the discretionary power of a judge or prosecutor. When such review took place, it was limited to issues of law only and did not permit any review of facts and evidence. In such circumstances, and noting also that an appeal to the Supreme Court had been rejected, the Committee

considered that it was not precluded by article 5, paragraph 2 (b), from examining the communication.

116. In case No. 1609/2007 (*Chen v. The Netherlands*), the Committee took note of the author's allegation that if deported to China, he would face a risk of torture or cruel, inhuman or degrading treatment or punishment prohibited by article 7 of the Covenant, as a result of his inability to prove his identity to the Chinese authorities. The State party contended that the author failed to exhaust domestic remedies on that count, and the author did not contest this. The Committee observed that before the State party's jurisdictions, the author's asylum claim was mainly based on his contention that if returned to China, he would face a risk of persecution by the individuals who allegedly abducted him. Recalling that the requirement of exhaustion of domestic remedies, which allows the State party to remedy an alleged violation before the same issue is raised before the Committee, obliges authors to raise the substance of the issues submitted to the Committee before domestic courts, the Committee declared this part of the communication inadmissible.

117. In case No. 1240/2004 (*S.A. v. Tajikistan*), the Committee noted the author's claim that the investigators forced his son to confess his guilt in a murder, in violation of article 7 of the Covenant. The State party denied these allegations as groundless and pointed out that no such allegations were ever formulated by the author's son or by his defence lawyers during the preliminary investigation in court. In the absence of any other pertinent information on file in this respect, including a description of the alleged acts of ill-treatment or torture and of those who allegedly inflicted them, or any medical records in this regard, and in the absence of any explanation from the author as to why these allegations were not raised before the competent authorities at the time, the Committee concluded that this part of the communication was insufficiently substantiated and declared it inadmissible under article 2 and article 5, paragraph 2 (b) of the Optional Protocol. In the same case, the author also alleged that his son's presumption of innocence was violated, as he had been portrayed as a criminal in a TV broadcast, guilty of theft and murder. The Committee noted that nothing in the case file suggested that this allegation was ever raised in court and therefore declared this claim inadmissible under the same provision.

118. In case No. 1747/2008 (*Bibaud v. Canada*), concerning representation of persons with disabilities in legal proceedings, the Committee recalled its jurisprudence whereby, in addition to ordinary judicial and administrative appeals, the authors must also avail themselves of all other judicial remedies, including constitutional appeals, insofar as such remedies would appear to be useful and available to the author. The Committee noted that the author did not take the opportunity, in respect of the rules of procedure established in domestic law, to challenge the constitutionality of the legal provisions which she criticized. This constitutional remedy would have provided an appropriate approach in this case to highlight possible inconsistencies in the law or non-compliance with the fundamental principles that the author wished to defend for herself and her husband. The Committee could not pre-empt the outcome of such a constitutional procedure as there were no similar judgements of unconstitutionality on this issue. The Committee therefore concluded that the author had not exhausted all available domestic remedies.

119. During the period under review, other communications or specific claims were declared inadmissible for failure to exhaust domestic remedies, including cases Nos. 1541/2007 (*Gaviria Lucas v. Colombia*), 1573/2007 (*Šroub v. Czech Republic*), 1623/2007 (*Guerra de la Espriella v. Colombia*) and 1872/2009 (*D.J.D.G. et al. v. Canada*).

(h) *Burden of proof*

120. Under the Optional Protocol, the Committee bases its Views on all written information made available by the parties. This implies that if a State party does not provide an answer to an author's allegations, the Committee will give due weight to the

uncontested allegations as long as they are substantiated. In the period under review, the Committee recalled this principle in its Views on case No. 1401/2005 (*Kirpo v. Tajikistan*).

(i) *Interim measures under rule 92 of the Committee's rules of procedure*

121. Under rule 92 of its rules of procedure, the Committee may, after receipt of a communication and before adopting its Views, request a State party to take interim measures in order to avoid irreparable damage to the victim of the alleged violations. The Committee continues to apply this rule on appropriate occasions, mostly in cases submitted by or on behalf of persons who have been sentenced to death and are awaiting execution and who claim that they were denied a fair trial. In view of the urgency of such communications, the Committee has requested the States parties concerned not to carry out the death sentences while the cases are under consideration. Stays of execution have specifically been granted in this connection. Rule 92 has also been applied in other circumstances, for instance in cases of imminent deportation or extradition which may involve or expose the author to a real risk of violation of rights protected under the Covenant.

122. In case No. 1554/2007 (*El-Hichou v. Denmark*), the Committee had requested the State party not to execute the order for the author to leave the country while his complaint was being considered. The State party suspended the author's deadline to leave the country pending the outcome of the case before the Committee. A similar request made by the Committee in case No. 1872/2009 (*D.J.D.G. et al. v. Canada*) was equally granted by the State party.

2. Substantive issues

(a) *The right to an effective remedy (Covenant, art. 2, para. 3)*

123. In a number of instances the Committee found violations of article 2, paragraph 3, read together with other provisions of the Covenant, including cases Nos. 1467/2006 (*Dumont v. Canada*), 1619/2007 (*Pestaño v. The Philippines*) and 1559/2007 (*Hernandez v. The Philippines*). In the latter, the Committee recalled that a State party may not avoid its responsibilities under the Covenant with the argument that the domestic courts are dealing with the matter, when the remedies relied upon by the State party have been unreasonably prolonged. Accordingly, the Committee concluded that the State party had violated article 2, paragraph 3, read in connection with article 6 of the Covenant.

(b) *Right to life (Covenant, art. 6)*

124. In case No. 1225/2003 (*Eshonov v. Uzbekistan*), the Committee held that the arguments provided by the author pointed towards the State party's direct responsibility for the death of his son as a result of torture and, inter alia, necessitated at the very minimum a separate independent investigation of the potential involvement of the State party's law-enforcement officers in the torture and death. The Committee considered, therefore, that the State party's failure to, inter alia, exhume the body and properly address the author's claims about inconsistencies between injuries on the body and the explanations advanced by the authorities, warranted the finding that there had been a violation of article 6, paragraph 1, and article 7, of the Covenant, alone and read in conjunction with article 2 of the Covenant.

125. In case No. 1442/2005 (*Kwok v. Australia*), concerning the author's possible deportation to China, the Committee recalled that a State party which has itself abolished the death penalty would violate an individual's right to life under article 6, paragraph 1, if it were to remove a person to a country where he/she is under a sentence of death. The question in this case was whether there were substantial grounds for considering that there was a real risk that the author's deportation would result in the imposition on her of such a

sentence, i.e. a real risk of irreparable harm. The Committee observed that the State party did not contest the assertion that the author's husband had been convicted and sentenced to death for corruption, and that the warrant issued by the Chinese authorities for the author's arrest related to her involvement in the same set of circumstances. The Committee reiterated that it was not necessary to prove, as suggested by the State party, that the author would be sentenced to death but that there was a "real risk" that the death penalty would be imposed on her. It did not accept the State party's apparent assumption that a person would have to be sentenced to death to prove a "real risk" of a violation of the right to life. It also noted that it was not made out from a review of the judgements available to the Committee, albeit incomplete, of the judicial and immigration instances seized of the case that arguments were heard as to whether the author's deportation to China would expose her to a real risk of a violation of article 6 of the Covenant. While recognizing the State party's assertion that it currently had no plans to remove her from Australia, the Committee considered that an enforced return of the author to China, without adequate assurances, would constitute violations by Australia, as a State party which has abolished the death penalty, of the author's rights under article 6 and article 7 of the Covenant.

126. In case No. 1520/2006 (*Mwamba v. Zambia*), the author was convicted of murder and attempted murder and received a mandatory death sentence. The Committee recalled its jurisprudence that the automatic and mandatory imposition of the death penalty constituted an arbitrary deprivation of life, in violation of article 6, paragraph 1, of the Covenant, in circumstances where the death penalty is imposed without any possibility of taking into account the defendant's personal circumstances or the circumstances of the particular offence. The Committee found that the imposition of the death penalty itself, in the circumstances, violated the author's right under article 6, paragraph 1.

127. In case No. 1619/2007 (*Pestaño v. The Philippines*), the Committee considered that the killing of the authors' son on board a ship of the State party's Navy warranted a speedy, independent investigation on the possible involvement of the Navy in the crime. The Committee recalled that the deprivation of life by the authorities of the State is a matter of utmost gravity, and that the authorities have the duty to investigate in good faith all allegations of violations of the Covenant made against it and its authorities. To simply state that there was no direct participation of the State party in the violation of the victim's right to life fell short of fulfilling such positive obligation under the Covenant. While close to 15 years had elapsed since the death of the victim, the authors were still ignorant of the circumstances surrounding their son's death, and the State party's authorities had yet to initiate an independent investigation. The Committee concluded that the State party was bound to conduct an investigation and ensure that there was no impunity. The State party had accordingly to be held in breach of its obligation, under article 6, read in conjunction with article 2, paragraph 3, to properly investigate the death of the authors' son, prosecute the perpetrators, and ensure redress.

128. In case No. 1559/2007 (*Hernandez v. The Philippines*), the Committee, based on the material before it, concluded that the State party was responsible for the death of the author's daughter and, therefore, found that a violation of article 6, paragraph 1, had taken place.

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

129. In case No. 1232/2003 (*Pustovalov v. Russian Federation*), the Committee noted the author's claim that he was beaten and subjected to ill-treatment by the police during the interrogation, thus forcing him to confess guilt. He provided details on the methods of ill-treatment used and contended that these allegations were raised in the court, but were ignored. The Committee also noted the medical note issued by SIZO No. 1 and the letter

addressed to the administration of SIZO No. 1 by the author, a copy of which was provided by the State party. Both confirmed the author's allegations. The Committee recalled its jurisprudence that complaints about ill-treatment must be investigated promptly and impartially by competent authorities. In the absence of substantive refutation by the State party, the Committee concluded that the treatment to which the author was subjected, as described by him and supported by the medical note and letter, amounted to a violation of article 7 and article 14, paragraph 3 (g), of the Covenant.

130. In case No. 1284/2004 (*Kodirov v. Uzbekistan*), the author claimed that her son was raped and subjected to torture while in police custody for the purpose of extracting a confession, to the extent that he had to be hospitalized. In support of her allegations, the author submitted a copy of the medical certificate issued by the head of the detention facility. The State party merely affirmed that the author's allegations were unsubstantiated and that there was no information about medical treatment that her son had to undergo as a result of the alleged ill-treatment. The Committee noted, however, that the State party did not explain whether, in the light of the author's rape and torture allegations, any investigation took place in relation to her son's documented injury which required hospitalization and appeared while he was in the State party's custody. The Committee had, in the circumstances, given due weight to the author's allegations. It recalled that a State party is responsible for the security of any person under detention and, when an individual is injured while in detention, it is incumbent on the State party to produce evidence refuting the author's allegations. In the light of the information provided by the author, the Committee concluded that the lack of adequate investigation into the allegations of ill-treatment amounted to a violation of article 7, read together with article 2, of the Covenant.

131. In case No. 1369/2005 (*Kulov v. Kyrgyzstan*), the Committee noted the author's claim that during the time of his detention he was not allowed any correspondence and communication, and was kept without any contact with the outside world. The State party did not comment on this allegation. The Committee recalled its general comment 20 (1992) on the prohibition of torture or cruel, inhuman or degrading treatment or punishment, in which it recommends that States parties should make provision against incommunicado detention and noted that total isolation of a detained or imprisoned person may amount to acts prohibited by article 7. In view of the above, the Committee found that the author had been subjected to cruel, inhuman and degrading treatment, in violation of article 7 of the Covenant.

132. In case No. 1401/2005 (*Kirpo v. Tajikistan*), the Committee noted the author's claims that her son was detained unlawfully for 13 days, in the Ministry of Security, with no access to lawyer and no possibility, for 12 days, to contact his relatives. During this period, he was beaten and tortured and forced to confess guilt in a robbery. The Committee also noted that the author provided a fairly detailed description of the manner in which her son was beaten and on the method of torture used (electroshocks). The author also explains that the courts had failed in their duty to order a prompt inquiry on the alleged torture and ill-treatment of her son, and that they had disregarded the claims of the lawyers of her son in this respect. In the absence of any reply by the State party, the Committee considered that due weight should be given to the author's allegations. The Committee recalled that once a complaint about ill-treatment contrary to article 7 had been filed, a State party had to investigate it promptly and impartially. It considered that in the circumstances of the case, the facts as presented by the author and which were uncontested by the State party revealed a violation, by the State party, of the rights of the author's son under article 7 and article 14, paragraph 3 (g), of the Covenant.

133. In case No. 1465/2006 (*Kaba v. Canada*), the author, an asylum-seeker in Canada, claimed that expelling her minor daughter to Guinea, their country of origin, would entail a risk of her being subjected to excision by her father and/or members of the family. The

Committee recalled that States parties are under an obligation not to expose individuals to a real risk of being killed or subjected to torture or cruel, inhuman or degrading treatment or punishment upon entering another country by way of their extradition, expulsion or refoulement. In this connection, there is no question that subjecting a woman to genital mutilation amounts to treatment prohibited under article 7 of the Covenant. At issue is whether the author's daughter runs a real and personal risk of being subjected to such treatment if she returned to Guinea. The Committee noted that in Guinea female genital mutilation is prohibited by law, however, this legal prohibition is not complied with; that genital mutilation is a common and widespread practice in the country, particularly among women of the Malinke ethnic group; that those who practise female genital mutilation do so with impunity; that, regarding the author's daughter, Ms. Kaba appeared to be the only person opposed to this practice being carried out, unlike the family of her daughter's father, given the context of a strictly patriarchal society; that the documentation presented by the author, which had not been disputed by the State party, revealed a high incidence of female genital mutilation in Guinea; and that the girl was only 15 years old at the time the Committee was making its decision. Although the risk of excision decreases with age, the Committee was of the view that the context and particular circumstances of the case showed a real risk of the author's daughter being subjected to genital mutilation if she was returned to Guinea. Consequently, the Committee was of the view that her deportation would constitute a violation of article 7 and article 24, paragraph 1, of the Covenant, read in conjunction.

134. In case No. 1544/2007 (*Hamida v. Canada*), the author, an asylum-seeker in Canada, claimed that his expulsion to Tunisia would expose him to detention and to a risk of torture or disappearance. The Committee noted that the State party itself, referring to a variety of sources, stated that torture was known to be practised in Tunisia, but that the author did not belong to one of the categories at risk of such treatment. It considered that the author had provided substantial evidence of a real and personal risk of his being subjected to treatment contrary to article 7 of the Covenant, on account of his dissent in the Tunisian police, his six-month police detention, the strict administrative surveillance to which he was subjected and the wanted notice issued against him by the Ministry of the Interior which mentions his "escape from administrative surveillance". These facts had not been disputed by the State party. The Committee gave due weight to the author's allegations regarding the pressure put on his family in Tunisia. Having been employed by the Ministry of the Interior, then disciplined, detained and subjected to strict surveillance on account of his dissent, the Committee considered that there was a real risk of the author being regarded as a political opponent and therefore subjected to torture. This risk was increased by the asylum application which he submitted in Canada, since this made it all the more possible that the author would be seen as a regime opponent. The Committee therefore considered that the expulsion order issued against the author would constitute a violation of article 7 of the Covenant if it were enforced.

135. In case No. 1520/2006 (*Mwamba v. Zambia*), the Committee found that the imposition of the death sentence on the author after the conclusion of proceedings which did not meet the requirements of article 14 of the Covenant amounted to inhuman treatment, in violation of article 7 of the Covenant.

136. In case No. 1552/2007 (*Lyashkevich v. Uzbekistan*), the Committee noted the author's allegations that her son was subjected to psychological and physical pressure and torture to the point that he confessed guilt. However, the author provided no detailed information on the nature of the alleged torture, and failed to explain whether she, her son, or his privately hired lawyer had ever made any attempt to complain about these issues prior to the court trial. The Committee further noted the State party's contention that Mr. Lyashkevich did confess guilt voluntarily, which he confirmed to his privately hired lawyer and specifically to a prosecutor. It also noted that the State party did affirm that the courts

had examined these allegations and had found them to be groundless. In the circumstances, and on the basis of the information before it, the Committee concluded that the facts before it did not reveal a violation of the author son's rights under articles 7 and 14, paragraph 3 (g), of the Covenant.

137. In case No. 1588/2007 (*Benaziza v. Algeria*), concerning the enforced disappearance of the alleged victim, the Committee noted that the author's grandmother, who was 68 years old at the time of the events, was reportedly arrested by what clearly appears to be military security officers, most of them hooded and armed, some wearing uniforms and others in plain clothes. The author, her father and her uncles, as well as the neighbours, witnessed the scene. Despite the fact that the following day the police security services officially denied the arrest, the military officers at the office of the prosecutor of the military court in the fifth military region of Constantine, for their part, reportedly acknowledged having arrested her, adding that she would be released shortly thereafter. The Committee noted that the State party had not furnished any explanation of these allegations. The Committee recognized the degree of suffering entailed in being detained indefinitely and deprived of all contact with the outside world. It recalled its general comment No. 20 (1992) on article 7 of the Covenant, in which it recommends that States parties should make provisions against incommunicado detention. In the absence of a satisfactory explanation from the State party concerning the disappearance, the Committee considered that the facts constituted a violation of article 7 of the Covenant with regard to the missing person. The Committee also took note of the anguish and distress caused by the disappearance to the close family and concluded that the facts revealed a violation of article 7 of the Covenant also with regard to them. The Committee reached a similar conclusion in case No. 1640/2007 (*El Abani v. Libya*).

138. Other communications in which the Committee found a violation of article 7 include cases Nos. 1589/2007 (*Gapirjanov v. Uzbekistan*) and 1577/2007 (*Usaev v. Russian Federation*).

(d) *Liberty and security of person (Covenant, art. 9, para. 1)*

139. In case No. 1369/2005 (*Kulov v. Kyrgyzstan*), the Committee noted the author's allegations under article 9, paragraph 1, that the decision to detain him was unlawful, as the investigators had no evidence that he wanted to escape or to obstruct the inquiries. He added that while calculating his prison term, the courts amalgamated the sentences wrongly and did not count his term in pretrial detention. The Committee recalled its jurisprudence that remand in custody pursuant to lawful arrest must not only be lawful but reasonable in all the circumstances. Further, remand in custody must be necessary in all the circumstances, for example, to prevent flight, interference with evidence or the recurrence of crime. The State party had not shown that these factors were present in this case. In the absence of any further information, the Committee concluded that there had been a violation of article 9, paragraph 1, of the Covenant.

140. In case No. 1502/2006 (*Marinich v. Belarus*), the Committee noted the author's claim under article 9 that the charges pressed, the pretrial constraint measure selected and the continued extension of his incarceration were unlawful. The criminal case which led to his conviction was launched five months after his detention. The Committee also noted the author's claim that he was taken to the KGB without a warrant issued by a prosecutor's office or any other agency, was not presented with charges for five days and was prevented from having legal assistance during his initial interrogations. The author also claimed that during the eight months of detention in the KGB remand prison, he was presented with a variety of trumped-up charges in order to prolong his incarceration. The State party merely stated that there were no violations of the rights of the accused which could lead to the annulment of the trial. The drafting history of article 9, paragraph 1, confirms that

“arbitrariness” is not to be equated with “against the law”, but must be interpreted more broadly to include elements of inappropriateness, injustice and lack of predictability. This means, inter alia, that remand in custody pursuant to arrest must not only be lawful but reasonable in all the circumstances. Further, remand in custody must be necessary in all the circumstances, for example, to prevent flight, interference with evidence or the recurrence of crime. The State party had not shown that these factors were present in the instant case. In the absence of any further information the Committee concluded that there had been a violation of article 9 of the Covenant.

141. In case No. 1588/2007 (*Benaziza v. Algeria*), concerning the enforced disappearance of the alleged victim, the information before the Committee showed that the person was arrested by military security officers and that the office of the prosecutor of the military court in the fifth military region of Constantine confirmed that she was being held in a barracks located in the centre of Constantine. The Committee noted that the State party had not responded to this allegation but merely stated that the concept of disappearances in Algeria during the period in question covered six distinct scenarios, none of which could be attributed to the State. In the absence of adequate explanations from the State party concerning the claim that the apprehension and subsequent incommunicado detention were arbitrary or illegal, the Committee found that the facts constituted a violation of article 9.

142. In case No. 1442/2005 (*Kwok v. Australia*), concerning the detention of the author under the Migration Act, the Committee recalled its jurisprudence that, in order to avoid a characterization of arbitrariness, detention should not continue beyond the period for which the State party can provide appropriate justification. The author’s detention as an unlawful non-citizen continued, in mandatory terms, for four years until she was released into community detention. While the State party had advanced general reasons to justify the detention, the Committee observed that it had not advanced grounds particular to her case which would justify her continued detention for such a prolonged period. In particular, the State party had not demonstrated that, in the light of the author’s particular circumstances, there were no less invasive means of achieving the same ends. While welcoming her eventual release into community detention, the Committee noted that this solution was only made possible after she had already spent four years in secure detention. For these reasons, the Committee concluded that the author’s detention for a period in excess of four years without any chance of substantive judicial review, was arbitrary within the meaning of article 9, paragraph 1.

143. In case No. 1629/2007 (*Fardon v. Australia*), the Committee had to decide whether, in their application to the author, the provisions of the Queensland Dangerous Prisoners (Sexual Offenders) Act (DPSOA), under which the author continued to be detained at the conclusion of his 14-year term of imprisonment, were arbitrary. The Committee concluded that those provisions were arbitrary and, consequently, in violation of article 9, paragraph 1, of the Covenant, for a number of reasons, each of which would, by itself, constitute a violation. The most significant of these reasons were the following: (1) The author had already served his 14 year term of imprisonment and yet he continued, in actual fact, to be subjected to imprisonment in pursuance of a law which characterizes his continued incarceration under the same prison regime as detention. This purported detention amounted, in substance, to a fresh term of imprisonment which, unlike detention proper, was not permissible in the absence of a conviction for which imprisonment is a sentence prescribed by law; (2) Imprisonment is penal in character. It can only be imposed on conviction for an offence in the same proceedings in which the offence is tried. The author’s further term of imprisonment was the result of Court orders made, some 14 years after his conviction and sentence, in respect of predicted future criminal conduct which had its basis in the very offence for which he had already served his sentence. This new sentence was the result of fresh proceedings, though nominally characterized as “civil proceedings”, and fell within the prohibition of article 15, paragraph 1, of the Covenant.

The Committee therefore considered that detention pursuant to proceedings incompatible with article 15 is necessarily arbitrary within the meaning of article 9, paragraph 1, of the Covenant; (3) The DPSOA prescribed a particular procedure to obtain the relevant Court orders. This procedure was designed to be civil in character. It did not, therefore, meet the due process guarantees required under article 14 of the Covenant for a fair trial in which a penal sentence is imposed; (4) The “detention” of the author as a “prisoner” under the DPSOA was ordered because it was feared that he might be a danger to the community in the future and for purposes of his rehabilitation. The concept of feared or predicted dangerousness to the community applicable in the case of past offenders is inherently problematic. It is essentially based on opinion as distinct from factual evidence, even if that evidence consists in the opinion of psychiatric experts. But psychiatry is not an exact science. The DPSOA, on the one hand, requires the Court to have regard to the opinion of psychiatric experts on future dangerousness but, on the other hand, requires the Court to make a finding of fact of dangerousness. While Courts are free to accept or reject expert opinion and are required to consider all other available relevant evidence, the reality is that the Courts must make a finding of fact on the suspected future behaviour of a past offender which may or may not materialize. To avoid arbitrariness, in these circumstances, the State Party should have demonstrated that the author’s rehabilitation could not have been achieved by means less intrusive than continued imprisonment or even detention, particularly as the State Party had a continuing obligation under article 10, paragraph 3, of the Covenant to adopt meaningful measures for the reformation, if indeed it was needed, of the author throughout the 14 years during which he was in prison. In light of the preceding findings the Committee was of the view that the facts before it disclosed a violation of article 9, paragraph 1, of the Covenant.

144. The Committee reached a similar conclusion in case No. 1635/2007 (*Tillman v. Australia*).

(e) *Right to be informed of the reasons for arrest and charges (Covenant, art. 9, para. 2)*

145. In case No. 1401/2005 (*Kirpo v. Tajikistan*), the author claimed that her son was apprehended by officials of the Ministry of Security on 7 May 2000 and detained isolated, without being informed officially of the reasons of detention and without being provided with legal representation in spite of his numerous requests to that effect, in the premises of the Ministry of Security until 20 May 2000, when he was officially charged. The author further claimed that when the issue was raised by her son’s lawyer during the trial, the court failed to give a legal qualification on the nature of the detention of her son during the 13 initial days of detention. Even if the facts as presented demonstrate that the authorities had sufficient grounds to apprehend the author’s son as a suspect, the Committee considered that the fact that he was kept in detention for 13 days before his actual arrest was documented formally and without informing him officially of the reasons of his arrest, constituted a violation of Mr. Kirpo’s rights under article 9, paragraphs 1 and 2, of the Covenant.

146. In case No. 1312/2004 (*Latifulin v. Kyrgyzstan*), the author claimed that during the first days in detention he was not informed of the charges against him. The Committee noted that the State party had not disputed the claim but merely stated, as a general matter, that no procedural violations had been observed. In the absence of any further information the Committee found that the facts revealed a violation of article 9, paragraph 2.

(f) *Right to be brought before a judge (Covenant, art. 9, paras. 3 and 4)*

147. In case No. 401/2005 (*Kirpo v. Tajikistan*), the author claimed that her son was officially placed in pretrial detention on 20 May 2000, but he was never brought before a court to verify the lawfulness of his detention and his detention was sanctioned by a

prosecutor, in violation of article 9, paragraph 3, of the Covenant. The Committee recalled that paragraph 3 of article 9 entitled a detained person charged with a criminal offence to judicial control of his/her detention. It is inherent in the proper exercise of judicial power that it be exercised by an authority which is independent, objective and impartial in relation to the issues dealt with. In the circumstances of the case, the Committee was not satisfied that the public prosecutor could be characterized as having the institutional objectivity and impartiality necessary to be considered an "officer authorized to exercise judicial power" within the meaning of article 9, paragraph 3, and concluded that there had been a violation of this provision. A similar decision was taken by the Committee in cases Nos. 1338/2005 (*Kaldarov v. Kyrgyzstan*), 1369/2005 (*Kulov v. Kyrgyzstan*) and 1589/2007 (*Gapirjanov v. Uzbekistan*).

(g) *Treatment during imprisonment (Covenant, art. 10)*

148. In case No. 1520/2006 (*Mwamba v. Zambia*) the Committee noted that the State party had not contested the information provided by the author on his deplorable conditions of pretrial detention and detention on death row, including the claims that he was initially detained secretly, assaulted, handcuffed and shackled, denied food and water for three days and that he was incarcerated in a small and filthy cell without adequate toilet facilities. It found that the author's conditions of detention, as described, violated his right to be treated with humanity and with respect for the inherent dignity of the human person, and are therefore contrary to article 10, paragraph 1.

149. In case No. 1502/2006 (*Marinich v. Belarus*), the Committee noted the author's claim under articles 7 and 10 of the Covenant that during his detention he was held in inhuman, severe and degrading conditions at the KGB remand prison, and subsequently in colonies No. 8 in Orsha and No. 1 in Minsk, as well as subjected to inhuman treatment during his transfer from the remand prison to the colony in Orsha. He claimed that such conditions and treatment had a negative effect on his health, and led to a brain stroke while in the penal colony because the administration refused to provide him with the required medications and did not provide treatment for one week after the stroke. The State party contested part of these allegations stating that the author underwent a medical examination and was prescribed a treatment. It submitted that the investigation conducted following the author's complaint did not find any breaches of professional duties by the medical personnel of the colony No. 8 and that he was transferred to colony No. 1 due to his health condition. However, the State party did not comment on the deterioration of the author's health while in detention and on the fact that he was not provided with required medication and immediate treatment after his stroke. The Committee noted that States parties are under an obligation to observe certain minimum standards of detention, which include provision of medical care and treatment for sick prisoners, in accordance with rule 22 of the Standard Minimum Rules for the Treatment of Prisoners. It was apparent from the author's account as well as from the medical reports provided that he was in pain, and that he was not able to obtain the necessary medication and to receive proper medical treatment from the prison authorities. As the author stayed in prison for more than a year after his stroke and had serious health problems, in the absence of any other information, the Committee found that he was the victim of violation of article 7 and article 10, paragraph 1, of the Covenant.

(h) *Guarantees of a fair trial (Covenant, art. 14, para. 1)*

150. In case No. 1246/2004 (*Gonzalez v. Guyana*) the author claimed that the refusal by the Minister of Home Affairs to register her husband, a Cuban doctor, as a citizen of Guyana, and to comply with the Court order to review his case within a one month deadline violated his constitutional rights as the spouse of a Guyanese citizen and amounted to a miscarriage of justice. The fact that her husband had challenged not only the decision of the Minister of Home Affairs of Guyana but, indirectly, also the Cuban Embassy's request to

deny him citizenship, would be considered a “counterrevolutionary action” by Cuban authorities. The Committee recalled that the concept of a fair hearing, as enshrined in article 14, paragraph 1, of the Covenant, necessarily entails that justice be rendered without undue delay. It observed that the combined effect of the delays in the judicial proceedings, following the Minister’s failure to review the author’s husband’s application for citizenship within one month, as ordered in the decision of the High Court of 12 November 2003, was detrimental to the author’s and her husband’s legitimate interest to clarify his status in Guyana. The Committee concluded that the delays were unreasonable and that article 14, paragraph 1, of the Covenant had been violated.

151. In case No. 1369/2005 (*Kulov v. Kyrgyzstan*), the author claimed that his case was examined by a military court in closed meeting, the investigation classified the case file as secret without giving any grounds and the 63-page judgement was prepared within three hours, putting into question the partiality of the judges. He added that military courts did not meet the standards of independence. The Committee recalled its jurisprudence that the court must provide for adequate facilities for the attendance of interested members of the public, within reasonable limits, taking into account, for example, potential public interest in the case, duration of the oral hearing and the time the formal request for publicity has been made. The State party did not provide any comments on these allegations. In such circumstances, the Committee considered that the trial of the author did not meet the requirements of article 14, paragraph 1.

152. In case No. 1425/2005 (*Marz v. Russian Federation*), the Committee recalled its jurisprudence to the effect that while the Covenant contains no provision establishing a right to a jury trial in criminal cases, if such a right is provided under domestic law, and is granted to some persons charged with crimes, it must be granted to others similarly situated on an equal basis. If distinctions are made, they must be based on objective and reasonable grounds. The Committee noted that under the Constitution of the State party, the availability of a jury trial is governed by federal law, but that there was no federal law on the subject. The fact that a State party that is a federal union permits differences among the federal units in respect of jury trials does not in itself constitute a violation of article 14, paragraph 1, of the Covenant.

153. In case No. 1502/2006 (*Marinich v. Belarus*), the Committee recalled its jurisprudence that the court must provide for adequate facilities for the attendance of interested members of the public, within reasonable limits, taking into account, for example, potential public interest in the case, duration of the oral hearing and the time the formal request for publicity has been made. It also noted that the State party did not provide any arguments as to the measures taken to accommodate the interested public taking into account the role of the author as a public figure. The Committee further noted that the author’s allegations related to the search of his and his relatives’ home as well as search of his personal belongings, tapping his phone, surveillance of his car, and confiscation of his money and documents. In the absence of comments from the State party to counter the allegations by the author, the Committee concluded that the facts alleged constituted a violation of article 14, paragraph 1, of the Covenant.

154. In case No. 1519/2006 (*Khostikoev v. Tajikistan*), the author claimed a violation of his rights under article 14, paragraph 1 of the Covenant because the court acted in a biased manner in his case, as it did not allow his lawyer to study the case file prior to the beginning of the court trial. The court also allegedly prevented, without sufficient justification, the author’s lawyer from taking part in the initial stage of the court trial. In addition, at the beginning of the trial, the presiding judge allegedly made oral remarks to the author to the effect that if he brought a letter from the President of the Republic, he would obtain gain in his case. The author also claimed that neither the prosecutor nor the courts ever addressed the issue of the non-respect of the statutory limitation (time bar) in

his case, and they simply ignored the author's lawyer's objections in this regard. The trial court allegedly further refused to allow the possibility for the author to adduce relevant evidence. The Committee considered that the facts as presented, and not refuted by the State party, tended to reveal that the author's trial suffered from a number of irregularities which, taken as a whole, amounted to a breach of the basic guarantees of a fair trial, such as equality before the law and a fair hearing by an impartial tribunal. The Committee concluded that the author's rights under article 14, paragraph 1, had thus been violated.

155. In case No. 1616/2007 (*Manzano v. Colombia*), the authors alleged that they were tried by a court and a tribunal that did not meet the requirement of impartiality because they were established in an ad hoc manner and in violation of the natural judge ("*juez natural*") principle. However, the Committee was of the opinion that article 14 does not necessarily prohibit the creation of criminal courts with special jurisdiction if that is permitted under domestic legislation and those courts operate in conformity with the guarantees laid down in article 14. With respect to the first of these requirements, the Committee observed that the Supreme Court, after hearing the authors' appeal in cassation, concluded that the creation of those bodies had its legal basis in the Act on Organization of the Administration of Justice. The Committee was of the opinion that its role is not to evaluate the interpretation of domestic legislation by national courts. Regarding the second requirement, the Committee considered that the fact that the judicial bodies were created specifically for proceedings relating to the institution called Foncolpuertos did not mean that they operated with partiality. Other elements were necessary to prove partiality, the existence of which could not be deduced from the materials available to the Committee. The Committee therefore found that the authors had not sufficiently substantiated their allegation in that regard and considered the claim inadmissible under article 2 of the Optional Protocol.

156. In case No. 1623/2007 (*Guerra de la Espriella v. Colombia*), the author claimed that he was tried by a faceless judge and a faceless court established after the acts with which he was charged, in trials with no public hearing, at which neither he nor his counsel were present; that he had no personal contact with the prosecutor who charged him or the judges who convicted him; and that he was interrogated in darkened rooms, in front of one-way mirrors concealing his questioner, whose voice was distorted. The Committee recalled that, in order to guarantee the rights of the defence enshrined in article 14, paragraph 3, and in particular those contained in subparagraphs (d) and (e), all criminal proceedings must provide the accused with the right to an oral hearing, at which he or she may appear in person or be represented by counsel and may bring evidence and examine witnesses. Taking into account the fact that the author did not have such a hearing during the proceedings that culminated in his convictions and sentencing, together with the manner in which the interrogations were conducted, without observing the minimum guarantees, the Committee found that there was a violation of the author's right to a fair trial in accordance with article 14 of the Covenant.

157. In case No. 1640/2007 (*El Abani v. Libya*), the Committee observed that the author's father was tried 11 years after his arrest, and sentenced after a closed trial to 13 years' imprisonment. He was never given access to his criminal file, and a lawyer was appointed by the military court to assist him. The Committee also noted that Mr. El Abani was tried by a military court although he had the status of a civilian, having served as a civil judge at Benghazi court of first instance. The Committee recalls its general comment No. 32 (1982) on the right to life, in which it states that, while the Covenant does not prohibit the trial of civilians in military courts, nevertheless such trials should be very exceptional and take place under conditions which genuinely afford the full guarantees stipulated in article 14. It is incumbent on a State party that does try civilians before military courts to justify the practice. The Committee considers that the State party must demonstrate, with regard to the specific class of individuals at issue, that the regular civilian courts are unable to undertake the trials, that other alternative forms of special or high-security civilian courts are

inadequate to the task and that recourse to military courts ensures the full protection of the rights of the accused pursuant to article 14. In the present case, the State party has failed to comment on why recourse to a military court was required. The Committee therefore concluded that the trial and sentencing of the author's father to 13 years' imprisonment by a military court disclosed a violation of article 14, paragraphs 1 and 3 (a) to (d), of the Covenant.

(i) *Right to be presumed innocent until proved guilty (Covenant, art. 14, para. 2)*

158. In case No. 1870/2009 (*Sobhraj v. Nepal*), the Committee recalled that a criminal court may convict a person only when there is no reasonable doubt of his or her guilt, and it is for the prosecution to dispel any such doubt. In the present case, both the District Court and the Appeal Court had shifted the burden of proof to the detriment of the author, thereby violating article 14, paragraph 2, of the Covenant.

159. In case No. 1520/2006 (*Mwamba v. Zambia*), the author claimed that his right to be presumed innocent until proven guilty was eroded by the police officers' announcements in the media that he was culpable. The Committee recalled its jurisprudence regarding the duty of all public authorities to refrain from prejudging the outcome of a trial, including by abstaining from making public statements affirming the guilt of the accused, and the fact that the media should avoid news coverage undermining the presumption of innocence. It considered that the State party violated article 14, paragraph 2, of the Covenant in the author's case. The Committee reached a similar conclusion in case No. 1502/2006 (*Marinich v. Belarus*).

(j) *Right to communicate with counsel (Covenant, art. 14, para. 3 (b))*

160. In case No. 1232/2003 (*Pustovalov v. Russian Federation*), the Committee noted the author's claim that he was not allowed to have his lawyer present during the identification process and that the trial court denied his request to change his lawyer as well as his requests to invite additional experts and witnesses. The State party merely stated that the author's claims concerning procedural violations and violation of his right to fair trial were groundless and did not provide any arguments refuting them. In these circumstances the Committee concluded that the author's allegations had to be given due weight and that the author's rights under article 14, paragraph 3 (b), (d) and (e), were violated.

161. In case No. 1552/2007 (*Lyashkevich v. Uzbekistan*), the Committee noted the author's allegation that her son's right to defence was violated, in particular because the lawyer she had hired privately was prevented from defending her son on the day when important investigation acts were conducted. The Committee noted that the State party had only affirmed that all investigation acts in Mr. Lyashkevich's respect were conducted in the presence of a lawyer, without specifically addressing the issue of Mr. Lyashkevich's access to his privately hired lawyer. In the circumstances, and in the absence of any other information by the parties, the Committee concluded that denying the author son's access to the legal counsel of his choice for one day and interrogating him and conducting other investigation acts with him during that time constituted a violation of Mr. Lyashkevich's rights under article 14, paragraph 3 (b).

(k) *Right not to be compelled to testify against oneself or to confess guilt (Covenant, art. 14, para. 3 (g))*

162. In case No. 1284/2004 (*Kodirov v. Uzbekistan*), where the author claimed that her son was raped and subjected to torture while in police custody for the purpose of extracting a confession, the Committee recalled its jurisprudence that the wording of article 14, paragraph 3 (g), must be understood in terms of the absence of any direct or indirect physical or psychological coercion by the investigating authorities on the accused with a

view to obtaining a confession of guilt. The Committee also recalled that the burden is on the State to prove that statements made by the accused have been given of their own free will. In these circumstances, the Committee concluded that the facts before it disclosed a violation of article 7, read together with article 14, paragraph 3 (g), of the Covenant.

(l) *Right to appeal (Covenant, art. 14, para. 5)*

163. Article 14, paragraph 5, provides that everyone convicted of a crime shall have the right to have his/her conviction and sentence reviewed by a higher tribunal according to law. In case No. 1520/2006 (*Mwamba v. Zambia*), the Committee recalled its jurisprudence that the rights contained in article 14, paragraphs 3 (c), and 5, read together, confer a right to review of a decision at trial without delay and that the right of appeal is of particular importance in death penalty cases. It noted that nearly six years after the author's conviction, the only reply by the State party to the Committee was that the failure to hear the author's appeal was due to technical reasons, viz. the failure to have the record of proceedings typed. Given the fact that the author's appeal had still not been heard over eight years since his conviction, at the time of examination of the communication, the Committee considered that this delay violated the author's right to review without delay and consequently found a violation of article 14, paragraphs 3 (c), and 5 of the Covenant.

164. In case No. 1369/2005 (*Kulov v. Kyrgyzstan*), the Committee noted that, despite the fact that under the Criminal Procedure Code of the State party, the participation of the accused at the hearing of the supervisory review procedure is decided by the court itself, the State party failed to explain the reasons why it did not allow the participation of the author and his lawyers at the proceedings at the Supreme Court. In the absence of any other information, the Committee considered that there had been a violation of article 14, paragraph 5, of the Covenant. Accordingly, in these specific circumstances, the Committee found that the right to appeal of the author under article 14, paragraph 5, of the Covenant had been violated, due to failure of the State party to provide adequate facilities for the preparation of his defence and conditions for a genuine review of his case by a higher tribunal.

165. In case No. 1797/2008 (*Mennen v. The Netherlands*), the Committee recalled its jurisprudence that in appellate proceedings, guarantees of a fair trial are to be observed, including the right to have adequate facilities for the preparation of the convicted person's defence. In the circumstances of the case, the Committee did not consider that the reports provided to the author, in the absence of a motivated judgment, a trial transcript or even a list of the evidence used, constituted adequate facilities for the preparation of his defence. Furthermore, the Committee noted that the President of the Court of Appeal denied the author's request for leave to appeal with the motivation that a hearing of the appeal was not in the interests of the proper administration of justice and that counsel's contentions were not supported in law. The Committee considered this motivation inadequate and insufficient in order to satisfy the conditions of article 14, paragraph 5, of the Covenant, which require a review by a higher tribunal of the conviction and the sentence. Such review, in the frame of a decision regarding a leave to appeal, must be examined on its merits, taking into consideration on the one hand the evidence presented before the first instance judge and, on the other hand, the conduct of the trial on the basis of the legal provisions applicable to the case in question. Accordingly, the Committee found that the right to appeal of the author under article 14, paragraph 5, of the Covenant had been violated.

(m) *Right to compensation for victims of a miscarriage of justice (Covenant, art. 14, para. 6)*

166. Under the conditions set out for the application of article 14, paragraph 6, compensation according to law shall be paid to persons who have been convicted of a

criminal offence by a final decision and have suffered punishment as a consequence of that conviction, if their conviction has been reversed or they have been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice.

167. In case No. 1467/2006 (*Dumont v. Canada*), the author was convicted of a criminal offence by a final decision and was sentenced to a term of imprisonment of 52 months. He was held in prison for 34 months, until he was acquitted in view of new evidence that would not permit a reasonable jury acting on correct instructions to find him guilty beyond all reasonable doubt. The Committee observed that the author's conviction was primarily based on the victim's statements and that the doubts expressed by the victim concerning her assailant led to the reversal of the author's conviction. It further observed that, in the event of acquittal of the person prosecuted, the State party had no procedure for launching a new investigation in order to review the case and to possibly identify the real perpetrator. The Committee therefore considered that the author should not be held responsible for this situation. Owing to this gap and to delays in the civil proceedings, which had been pending for nine years, the author was deprived of an effective remedy to enable him to establish his innocence, as required by the State party in order to obtain the compensation provided for in article 14, paragraph 6. The Committee therefore noted a violation of article 2, paragraph 3, read in conjunction with article 14, paragraph 6, of the Covenant.

(n) *Right to family life (Covenant, art. 17)*

168. In case No. 1246/2004 (*Gonzalez v. Guyana*), the Committee noted that the author's husband was not allowed to reside legally in Guyana and that, as a result, he had to leave the country and could not live with his wife. It considered that this fact constituted an interference with both spouses' family. Furthermore, the manner in which the State party's authorities dealt with her husband's request for citizenship was unreasonable and amounted to arbitrary interference with the author and her husband's family. It thus constituted a breach of their right under article 17, paragraph 1, of the Covenant.

169. In case No. 1799/2008 (*Georgopoulos et al. v. Greece*), concerning the demolition of the authors' home in the Roma Riganoskampos settlement, the Committee noted that the facts were in dispute. However, it noted the information provided by the authors according to which the Patras Prosecutor launched an investigation in December 2006, which remained pending. It further noted that the State party had not explained the reasons for the delay. The Committee considered that the authors' allegations, corroborated by photographic evidence, claiming arbitrary and unlawful eviction and demolition of their home with significant impact on their family life and infringement on their rights to enjoy their way of life as a minority, had been sufficiently established. For these reasons, the Committee concluded that the demolition of the authors' shed and the prevention of the construction of a new home in the Roma settlement amounted to a violation of articles 17, 23 and 27 read alone and in conjunction with article 2, paragraph 3, of the Covenant.

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

170. In cases No. 1593 to 1603/2007 (*Jung et al. v. the Republic of Korea*), the authors claimed that their rights under article 18 of the Covenant had been violated due to the absence in the State party of an alternative to compulsory military service. Accordingly, their failure to perform military service resulted in their criminal prosecution and imprisonment. The Committee recalled its previous jurisprudence, in similar cases against the State party, that the authors' conviction and sentence amounted to a restriction on their ability to manifest their religion or belief and that, in those cases, the State party had not demonstrated that the restriction in question was necessary, within the meaning of article

18, paragraph 3. Accordingly, the Committee concluded that the State party had violated article 18, paragraph 1, of the Covenant.

(p) *Freedom of opinion and expression (Covenant, art. 19)*

171. In case No. 1377/2005 (*Katsora v. Belarus*), the author, a member of a political party, was prosecuted and fined for transporting leaflets with the logo of an association not duly registered with the Ministry of Justice. The Committee considered that, even if the sanctions imposed on the author were permitted under national law, the State party had not advanced any argument as to why they were necessary for one of the legitimate purposes set out in article 19, paragraph 3, of the Covenant, and why the breach of the requirement to register the electoral block “V-Plus” in the Ministry of Justice involved not only pecuniary sanctions, but also the seizure and destruction of the leaflets. The Committee concluded that in the absence of any pertinent explanations from the State party, the restrictions to the exercise of the author’s right to impart information could not be deemed necessary for the protection of national security or of public order (*ordre public*) or for respect of the rights or reputation of others. The Committee therefore found that the author’s rights under article 19, paragraph 2, of the Covenant had been violated.

(q) *Rights of family and child to protection (Covenant, arts. 23 and 24)*

172. In case No. 1554/2007 (*El-Hichou v. Denmark*), the Committee had to decide whether the refusal of the State party to grant a residence permit to the author for the purposes of family reunification with his father and the order to leave the country constituted a violation of his rights to protection under articles 23 and 24 of the Covenant. When the author submitted the communication he was still a minor. The Committee observed that the author’s parents were divorced, that his mother, who stayed in Morocco, obtained the custody of him and that for the first 10 years of his life the author was adequately cared for by his grandparents. When these circumstances changed, the author’s father started to make attempts to reunite with him in order to assume the role of primary caregiver. The Committee also observed that at stake in the present case were the author’s rights as a minor to maintain a family life with his father and his half-siblings and to receive protection measures as required by his status as a minor. The Committee noted that the author could not be held responsible for any decisions taken by his parents in relation to his custody, upbringing and residence. In these very specific circumstances, the Committee considered that the decisions not to allow the reunification of the author and his father in the State party’s territory and the order to leave, if implemented, would constitute interference with the family contrary to article 23 and a violation of article 24, paragraph 1, of the Covenant, due to a failure to provide the author with the necessary measures of protection as a minor.

(r) *Right to vote and to be elected at genuine periodic elections (Covenant, art. 25 (b))*

173. In case No. 1392/2005 (*Lukyanchik v. Belarus*), the author claimed that the District Electoral Commission’s decision not to register the initiative group that sought to nominate him as a candidate for office violated his right, guaranteed under article 25 (b) of the Covenant, to run for the office of Deputy of the House of Representatives. The registration of the author’s initiative group as a whole was denied on the grounds that 2 out of 64 people indicated in the group’s list had been included in it without their consent. The Committee concluded that the State party had failed to explain how the decision on the denial of registration of the author’s initiative group complied with the requirements of article 25 of the Covenant, given that well over the requisite number of members (ten) was submitted in order to register the group and that the rights of the two non-consenting individuals were restored once they were removed from the list. No suggestion was made that the author behaved in a fraudulent manner. As well, no assessment of proportionality

or reasonableness was provided to justify the denial of the author's right to run for the office of Deputy of the House of Representatives by exclusive reliance on the lack of consent of two individuals, as opposed to the consent of 62 people for their names to be included in the list of the author's initiative group. In these circumstances, the Committee concluded that the author's rights under article 25 (b) of the Covenant, read in conjunction with article 2, had been violated.

(s) *The right to equality before the law and the prohibition of discrimination (Covenant, art. 26)*

174. In case No. 1523/2006 (*Tiyagarajah v. Sri Lanka*), regarding the author's claim of discrimination on the basis of race, as he was a member of the Tamil minority, the Committee noted that the author had failed to provide sufficient information on comparable cases, so as to demonstrate that either the termination of his employment or the fact that the Supreme Court denied him leave to appeal, amounted to discrimination or unequal treatment based on race. The Committee thus found that the author had failed to substantiate sufficiently, for purposes of admissibility, any claim of a potential violation of article 26.

175. In case No. 1565/2007 (*Gonçalves et al. v. Portugal*), the authors, croupiers working in casinos, claimed that they were discriminated against vis-à-vis the members of other professions because they alone paid taxes on their tips. The Committee recalled its general comment No. 18 (1989) on non-discrimination, in which it established that the principle of equality before the law and equal protection of the law shall guarantee to all persons equal and effective protection against discrimination; that discrimination must be prohibited in law and in fact in any field regulated and protected by public authorities; and that, when adopting legislation, the State party should ensure that its content is not discriminatory. Still referring to its general comment and its long-standing case law, the Committee recalled that not every differentiation of treatment will constitute discrimination, if the criteria for such differentiation are reasonable and objective and if the aim is to achieve a purpose which is legitimate under the Covenant. The Committee observed that the tax regime for croupiers was of a unique and specific nature, a fact that was not disputed by the authors. Furthermore, the Committee was not in a position to conclude that this taxation regime was unreasonable in the light of such considerations as the size of tips, how they were distributed, the fact they were closely related to the employment contract and the fact that they were not granted on a personal basis. Accordingly, the Committee concluded that the information before it did not show that the authors had been victims of discrimination within the meaning of article 26 of the Covenant.

176. In case No. 1742/2007 (*Gschwind v. the Czech Republic*), the author claimed to have been denied the right to restitution of the property which had been confiscated to her husband when he left the former Czechoslovakia for political reasons and took up residence in another country, of which he became citizen. The Committee recalled its jurisprudence regarding similar cases against the same country, that it would be incompatible with the Covenant to require the author to meet the condition of Czech citizenship for the restitution of her property or alternatively for its compensation. The Committee reached a similar conclusion in case No. 1615/2007 (*Zavrel v. the Czech Republic*).

177. In case No. 1491/2006 (*Blücher v. Czech Republic*), the author had inherited the property from a parent who had been the victim of confiscation. The Committee observed that the citizenship requirement as a necessary condition for restitution of property previously confiscated by the authorities, made an arbitrary and, consequently, discriminatory, distinction between individuals who are equally victims of prior State confiscations, and constitutes a violation of article 26 of the Covenant. This was all the more so in the present case, where the author himself did in fact satisfy the citizenship

criterion but was denied restitution on the basis of a reliance on the same requirement of the original owner.

F. Remedies called for under the Committee's Views

178. After the Committee has made a finding of a violation of a provision of the Covenant in its Views under article 5, paragraph 4, of the Optional Protocol, it proceeds to ask the State party to take appropriate steps to remedy the violation. Often, it also reminds the State party of its obligation to prevent similar violations in the future. When pronouncing a remedy, the Committee observes that:

“Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant or not and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy in case a violation has been established, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to the Committee's Views. The State party is also requested to publish the Committee's Views.”

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

180. In case No. 1619/2007 (*Pestaño v. The Philippines*), where the Committee found a violation of article 6, read in conjunction with article 2, paragraph 3, of the Covenant, the State party was requested to provide the authors, the parents of the dead victim, with an effective remedy in the form, inter alia, of an impartial, effective and timely investigation into the circumstances of their son's death, prosecution of perpetrators and adequate compensation. A similar request was made in case No. 1225/2003 (*Eshonov v. Uzbekistan*), involving the death in custody of the author's son allegedly resulting from torture.

181. In case No. 1559/2007 (*Hernandez v. The Philippines*), where the Committee found a violation of article 6 and article 2, paragraph 3, in connection with article 6, the State party was requested to take effective measures to ensure that the criminal proceedings were expeditiously completed, that all perpetrators were prosecuted and that the author was granted full reparation, including adequate compensation.

182. In case No. 1284/2004 (*Kodirov v. Uzbekistan*), involving violations of the author's rights under article 7, read together with article 2 and with article 14, paragraph 3 (g), the Committee requested the State party to provide the author with an effective remedy, including a new trial that would comply with fair trial guarantees of article 14, impartial investigation of the author's claims falling under article 7, prosecution of those responsible and full reparation, including adequate compensation. A similar request was made in cases No. 1232/2003 (*Pustovalov v. Russian Federation*); 1401/2005 (*Kirpo v. Tajikistan*), where the Committee found violations of articles 7; 9, paragraphs 1 to 3; and 14, paragraph 3 (g); and 1369/2005 (*Kulov v. Kyrgyzstan*), concerning violations of article 7 and various paragraphs of articles 9 and 14 of the Covenant. In cases No. 1589/2007 (*Gapirjanov v. Uzbekistan*), concerning violations of articles 7 and 9, paragraph 3, and 1502/2006 (*Marinich v. Belarus*), concerning violations of articles 7, 9, 10, paragraph 1, and 14, paragraphs 1 and 2, the States parties were requested to provide the victim with an effective remedy, including appropriate compensation and initiation and pursuit of criminal proceedings to establish responsibility for his ill-treatment.

183. In case No. 1577/2007 (*Usaev v. The Russian Federation*), involving violation of articles 7 and 14, paragraph 3 (g), the State party was requested to provide the author with an effective remedy, including the payment of appropriate compensation, initiation and pursuit of criminal proceedings to establish responsibility for Mr. Usaev's ill-treatment, and to consider the author's immediate release.

184. In case No. 1465/2006 (*Kaba v. Canada*), where the Committee concluded that the expulsion of the author's minor daughter to Guinea would constitute a violation of article 7 and article 24, paragraph 1, of the Covenant, the Committee requested the State party to refrain from removing the child to a country where she runs a real risk of being subjected to genital mutilation. In case No. 1544/2007 (*Hamida v. Canada*), the Committee also found that the expulsion order issued against the author would constitute a violation of article 7 of the Covenant if it were enforced. The State party was requested to provide the author with an effective remedy, including a full reconsideration of the expulsion order. In case No. 1554/2007 (*El-Hichou v. Denmark*), concerning the violation of articles 23 and 24 in the case of expulsion of the author to his country of origin, the Committee requested the State party to take appropriate action to protect the right of the author to effective reunification with his father.

185. In case No. 1442/2005 (*Kwok v. Australia*), involving violations of article 9, paragraph 1, with respect to the author's detention and potential violations of articles 6 and 7 in the event the State party removed the author to China, the Committee concluded that the author was entitled to an appropriate remedy, including protection from removal without adequate assurances as well as adequate compensation for the length of the detention to which the author was subjected.

186. In cases Nos. 1635/2007 (*Tillman v. Australia*) and 1629/2007 (*Fardon v. Australia*), the Committee considered that the detention of the authors after the conclusion of their term of imprisonment was in violation of article 9, paragraph 1. The State party was requested to provide the authors with an effective remedy, including termination of their detention.

187. In case No. 1312/2004 (*Latifulin v. Kyrgyzstan*), involving violations of article 9, paragraphs 1 and 2, the State party was requested to provide the author with an effective remedy, in the form of appropriate compensation.

188. In case No. 1338/2005 (*Kaldarov v. Kyrgyzstan*), where the Committee found a violation of article 9, paragraph 3, of the Covenant, the State party was requested to provide the author with an effective remedy in the form of appropriate compensation, and to make such legislative changes as are necessary to avoid similar violations in the future.

189. In case No. 1519/2006 (*Khostikoev v. Tajikistan*), the Committee found a breach of the basic guarantees of a fair trial under article 14, paragraph 1; the Committee requested the State party to provide the author with an effective remedy, including the payment of appropriate compensation. The same remedy was requested in case No. 1552/2007 (*Lyashkevich v. Uzbekistan*), where the Committee found a violation of article 14, paragraph 3 (b), and case No. 1623/2007 (*Guerra de la Espriella v. Colombia*), involving violations of the author's right to a fair trial.

190. An effective remedy, including the speedy conclusion of the proceedings and compensation, was requested in case No. 1870/2009 (*Sobhraj v. Nepal*), where the Committee found violations of articles 10, paragraph 1, 15 and several paragraphs of article 14.

191. In case No. 1588/2007 (*Benaziza v. Algeria*), concerning an enforced disappearance, the Committee stated that the State party was under the obligation to provide the author with an effective remedy, in particular by conducting a thorough and diligent investigation into her grandmother's disappearance, duly informing her of the outcome of the investigation and paying appropriate compensation to the author, her father and her uncles. The Committee considered the State party duty-bound not only to conduct thorough investigations into alleged violations of human rights, particularly enforced disappearances and acts of torture, but also to prosecute, try and punish the culprits. A similar request was made in case No. 1640/2007 (*El Abani v. Libya*).

192. In case No. 1363/2005 (*Gayoso Martínez v. Spain*), where the Committee found a violation of article 14, paragraph 5, of the Covenant, the State party was requested to provide the author with an effective remedy that would permit his conviction and sentence to be reviewed by a higher Court.

193. In case No. 1797/2008 (*Mennen v. The Netherlands*), involving also a violation of article 14, paragraph 5, of the Covenant, the Committee stated that the State party was under an obligation to provide the author with an effective remedy which allowed a review of his conviction and sentence by a higher tribunal and adequate compensation. The Committee also invited the State party to review its legislation with a view to aligning it with the requirements of article 14, paragraph 5.

194. In case No. 1467/2006 (*Dumont v. Canada*), involving violation of article 2, paragraph 3, read in conjunction with article 14, paragraph 6, the Committee requested the State party to provide the author with an effective remedy in the form of adequate compensation.

195. In case No. 1520/2006 (*Mwamba v. Zambia*), the Committee found violations of articles 6, paragraph 1, due to the mandatory nature of the death penalty; 10, paragraph 1; 14, paragraphs 2, 3 (c) and 5; 6; and 7. The State party was requested to provide the author with an effective remedy, which should include a review of his conviction with the guarantees enshrined in the Covenant, as well as adequate reparation, including compensation.

196. In case No. 1246/2004 (*Gonzalez v. Guyana*), involving violations of article 14, paragraph 1 and article 17, paragraph 1 in view of the refusal to allow the author's husband to stay in Guyana, the Committee determined that the author and her husband were entitled to an effective remedy, including compensation and appropriate action to facilitate the family reunification.

197. In case No. 1799/2008 (*Georgopoulos et al. v. Greece*), involving violations of articles 17, 23, and 27, alone and read in conjunction with article 2, paragraph 3, in a matter concerning the demolition of the authors' house, the State party was requested to provide the authors with an effective remedy, as well as reparations to include compensation.

198. In cases Nos. 1593-1603/2007 (*Jung et al. v. the Republic of Korea*), involving a violation of the authors' freedom of conscience and a restriction on their ability to manifest their religion or belief, under article 18, paragraph 1, of the Covenant, the State party was requested to provide the authors with an effective remedy, including compensation.

199. An effective remedy, including full reparation and appropriate compensation, was requested in case No. 1377/2005 (*Katsora v. Belarus*), involving violations of article 19, paragraph 2, of the Covenant.

200. In case No. 1392/2005 (*Lukyanchik v. Belarus*), where the Committee found a violation of article 25 (b) of the Covenant, read in conjunction with article 2, the Committee requested the State party to provide the author with an effective remedy.

201. In cases Nos. 1491/2006 (*Blücher von Wahlstatt*), 1615/2007 (*Zavrel*) and 1742/2007 (*Gschwind*) against the Czech Republic, where the Committee found violations of article 26 on grounds of nationality, the State party was requested to provide the authors with an effective remedy, including appropriate compensation if the confiscated properties in question could not be returned.

VI. Follow-up on individual communications under the Optional Protocol

202. The present chapter sets out all information provided by States parties and authors or their counsel since the last annual report (A/64/40).

State party	Algeria
Case	<i>Medjnoune, 1297/2004</i>
Views adopted on	14 July 2006
Issues and violations found	Arbitrary arrest, failure to inform of reasons for arrest and charges against him, torture, undue pretrial delay – articles 7; 9, paragraphs 1, 2 and 3; and 14, paragraph 3 (a) and (c), of the Covenant.
Remedy recommended	An effective remedy, which includes bringing Mr. Malik Medjnoune immediately before a judge to answer the charges against him or to release him, conducting a full and thorough investigation into the incommunicado detention and treatment suffered by Mr. Medjnoune since 28 September 1999, and initiating criminal proceedings against the persons alleged to be responsible for those violations, in particular the ill-treatment. The State party is also required to provide appropriate compensation to Mr. Medjnoune for the violations.
Due date for State party's response	16 November 2006
Date of State party's response	None
Date of author's comments	9 April 2007, 27 February 2008, 12 February 2009, 28 September 2009.
Author's comments	<p>On 9 April 2007, the author informed the Committee that the State party had failed to implement its Views. Even since the Committee's Views the author's case was brought before the Cour de Tizi-Ouzou on two occasions without being heard. In addition, an individual living in Tizi-Ouzou claims to have been threatened by the judicial police to give false testimony against the author. This individual along with another (his son) claim to have been previously tortured in February and March 2002 for refusing to give evidence against the author, i.e. to say that they saw him in the area where the victim was shot. The first individual was later sentenced to three years imprisonment on 21 March 2004 for belonging to a terrorist group and the other acquitted, whereupon he fled to France where he was given refugee status.</p> <p>On 27 February 2008, the author submitted that the State party had not implemented the Views. In the light of the fact that the author's case had still not been heard, he began a hunger strike on 25 February 2008. The procureur général visited him in prison to encourage him to end his strike and stated that although he could not fix a date for a hearing himself he would contact the "appropriate authorities". In the author's view, according to domestic law, the procureur général is the only</p>

person who can request the president of the criminal court to list a case for hearing.

On 12 February 2009, the author reiterated his allegation that the State party had not implemented the Views and stated that since the Views were adopted 19 other criminal cases have been heard by the court in Tizi-Ouzou. The author went on hunger strike again on 31 January 2009, and the following day the prosecutor of the Tribunal came to the prison to inform him that his case would be heard after the elections. A year ago, during his last hunger strike, the judicial authorities also made the same promise explaining that his case was “politically sensitive” and that they did not have the power to decide to hear his case.

On 28 September 2009, the author reiterated that he has still not been tried, that his case remains a political matter and that the Government has given instructions to the judiciary not to take any action on this matter.

Committee’s decision

The Committee considers the dialogue ongoing.

State party

Belarus

Case

Smantser, 1178/2003

Views adopted on

23 October 2008

Issues and violations found

Detention in custody – article 9, paragraph 3.

Remedy recommended

An effective remedy, including compensation.

Due date for State party’s response

12 November 2009

Date of State party’s response

31 August 2009

State party’s response

The State party contests the Views and submits inter alia that the Courts acted with respect to the Belarus Constitution, and Criminal Procedural Code, as well as the Covenant. It denies that the author’s rights under the Covenant were violated.

Author’s comments

None

Committee’s decision

The Committee considers the dialogue ongoing.

Case

Korneenko and Milinkevich, 1553/2007

Views adopted on

20 March 2009

Issues and violations found

Freedom of expression, freedom of communication of information and ideas about public and political issues, the freedom to publish political material, to campaign for election and to advertise political ideas – article 19, paragraph 2, and article 25 read together with article 26 of the Covenant.

Remedy recommended

An effective remedy, including compensation amounting to a sum not less than the present value of the fine and any legal costs paid by the author.

Due date for State party’s response

12 November 2009

Date of State party's response	31 August 2009
Date of author's comments	Awaiting comments.
State party's response	The State party reiterates information and arguments previously provided prior to consideration of this case by the Committee and disputes the Committee's findings. In its view, the authors' trial was fair and the State party considers that the national courts acted with respect to the existing procedures.
Author's comments	None
Committee's decision	The Committee considers the dialogue ongoing.
State party	Cameroon
Cases	<i>Afuson Njaru, 1353/2005</i>
Views adopted on	19 March 2007
Issues and violations found	Physical and mental torture; arbitrary detention; freedom of expression; security of the person and right to a remedy – articles 7; 9, paragraphs 1 and 2; and 19, paragraph 2, in conjunction with article 2, paragraph 3 of the Covenant.
Remedy recommended	Should ensure that: (a) criminal proceedings are initiated seeking the prompt prosecution and conviction of the persons responsible for the author's arrest and ill-treatment; (b) the author is protected from threats and/or intimidation from members of the security forces; and (c) he is granted effective reparation including full compensation.
Due date for State party's response	3 March 2007
Date of State party's response	16 December 2009
State party's response	On 16 December 2009, the State party reported that arrangements had been made to compensate the author, but despite efforts made, they had not been able to contact him. No further details were provided.
Author's comments	On 25 February 2010, the author informed the Committee that the State party had failed to effectively implement the Views. Despite an initiative taken by the National Commission on Human Rights and Freedoms (NCHRF), the author had not been provided any reparation. On 29 August 2008, he met with a member of the Ministry of Foreign Affairs, after which he sent her a proposal for the purpose of resolving his case. Meanwhile, out of fear for his safety, the author went into exile in 2008 and was subsequently granted political asylum in a European country. Since his arrival he had had contact by e-mail with the same member of the Ministry, who informed him, on 27 April 2009, that there had been "a series" of inter-ministerial meetings concerning his case, the last of which recommended that, "the Committee should meet with [the author] as soon as possible, that is in May [2009]". It was unclear, according to the author, which Committee was being referred to but given that he was not in the country at the time he would not have been able to attend. He never received any

reply to requests for clarification. He requested *inter alia* a meeting to be arranged with the Special Rapporteur for follow-up on Views and the representatives of the State party to ensure prompt and effective implementation.

On 24 April 2010, the author provided the following new information. He stated that he had received a letter from the Minister of External Relations of the State party on 14 February 2010 in his European country of exile. According to this letter, a Commission composed of the Ministries of Justice, Territorial Administration and Decentralization, Finance, External Relations and the General Delegations of Police had held a meeting on 17 February 2009. After deliberations, the Commission “proposed [to the author] the maximum sum of 30.000.000 FCFA (approx. 56,000 USD) as all the damages incurred on your person in order to come out with a final conclusion that will put an end to this file”.

According to the author, the decision to grant him compensation is a positive sign of the State party’s willingness to resolve the case. Nevertheless, such a proposition is not in accordance with the damages suffered by the author, given that he is still undergoing medical treatment, is suffering severe pain in his left ear and acute hearing difficulties, as well as pain in his left jaw, memory lapses and insomnia due to post traumatic stress disorder. For these reasons, *inter alia*, the author recalls that the State party is under an obligation to grant him effective reparation including full compensation for the injuries suffered. The State party was already informed in 2008 that he requests: that he be granted 500.000.000 CFA francs (US\$ 930,000) for the general and special damages he suffered because of the violations of his human rights; that the State party pay for his medical treatment abroad; that the perpetrators be tried in court and punished according to the law; that all other threats against him by officials be promptly investigated and perpetrators be tried in court; and that the State party ensure his security.

He submits that there is clearly no indication of the State party’s intention to initiate criminal proceedings seeking the prompt investigation, prosecution and conviction of the perpetrators, and to protect the author from threats and/or intimidation from members of the security forces. Even since the adoption of the Committee’s Views in 2007, the author claims that the State party has failed to protect him from threats and/or intimidation from members of the security forces. For instance, from 2004 until 2007, he lodged more than 10 complaints against police officers following arbitrary arrests, detention, ill-treatment and after having received death threats from security forces several times. To illustrate the persecution to which he has been subjected, the author cites a number of examples of violations of his human rights which took place in 2005, all of which were reported to the judiciary, yet no investigations have been carried out and the perpetrators still

	enjoy impunity.
Committee's decision	The Committee considers the dialogue ongoing.
Case	<i>Gorji-Dinka, 1134/2002</i>
Views adopted on	17 March 2005
Issues and violations found	Right to vote and be elected; liberty of movement; arbitrary detention; inhuman treatment: segregation from convicted persons – articles 9, paragraph 1; 10, paragraphs 1 and 2 (a); 12, paragraph 1; and 25 (b) of the Covenant.
Remedy recommended	An effective remedy, including compensation and assurance of the enjoyment of his civil and political rights.
Due date for State party's response	18 July 2005
Date of State party's response	16 December 2009
State party's response	The State party submits that the Committee's Views were made without having received any information from the State party and thus based solely on information provided by the author. It acknowledges that it did not respond to the three reminders for information from the Secretariat without providing any explanation why.
Author's comments	None
Committee's decision	The Committee considers the dialogue ongoing.
State party	Canada
Case	<i>Dauphin, 1792/2008</i>
Views adopted on	28 July 2009
Issues and violations found	Arbitrary and unlawful interference with the family, protection of the family – articles 17 and 23, paragraph 1, of the Covenant.
Remedy recommended	Effective remedy, including by refraining from deporting him to Haiti.
Due date for State party's response	1 March 2010
Date of State party's response	8 October 2009
State party's response	The State party notes with satisfaction the Committee's findings that several of the author's claims are inadmissible. As to the findings of violations of articles 17 and 23, the State party submits that it cannot accept the Committee's reasoning or interpretation of these articles. It does agree with the reasoning set out in the individual opinions attached to the Views. For these reasons, it concludes that it is not in a position to implement this case and given the danger represented by Mr. Dauphin the State party deported him to Haiti on 5 October 2009.
Author's comments	None

Committee's decision	The Committee considers the dialogue ongoing.
State party	Colombia
Case	<i>Arhuacos, 612/1995</i>
Views adopted on	29 July 1997
Issues and violations found	Arbitrary detention, torture, disappearance and death – articles 7 and 9 of the Covenant in the case of the Villafañe brothers and of articles 6, 7 and 9 of the Covenant in the case of the three leaders Luis Napoleón Torres Crespo, Angel María Torres Arroyo and Antonio Hugues Chaparro Torres.
Remedy recommended	Effective remedy, which includes compensation for loss and injury and urges the State party to expedite the criminal proceedings for the prompt prosecution and trial of the persons responsible for the abduction, torture and death of Mr. Luis Napoleón Torres Crespo, Mr. Angel María Torres Arroyo and Mr. Antonio Hugues Chaparro Torres and of the persons responsible for the abduction and torture of the Villafañe brothers.
Due date for State party's response	26 November 1997
Date of State party's response	None
State party's response	None
Author's comments	On 10 December 2009, the author submitted that the State Party took proper measures regarding José Vicente and Amado Villafañe. (No further details are provided in this regard) However, demands from the families of Luis Napoleón Torres Crespo, Angel María Torres Arroyo and Antonio Hugues Chaparro Torres were dismissed. On 28 April 2009, the Committee of Ministers decided that the responsibility of State agents had not been proven in the death of the three people concerned. This conclusion was arrived at following an administrative judgment exonerating the agents in question. The author submitted that the State party, in failing to implement the Views, disregarded provisions of the national law, which stipulates the need for domestic instances to take into consideration actions from international organs (in this case the Human Rights Committee) when assessing cases. He also makes reference to provisions of the Vienna Convention regarding treaty law, particularly the " <i>pacta sunt servanda</i> " principle.
Committee's decision	The Committee considers the dialogue ongoing.
State party	Croatia
Case	<i>Vojnović, 1510/2006</i>
Views adopted on	30 March 2009
Issues and violations found	Unreasonable delay in proceedings for the determination of the author's specially protected tenancy, arbitrary decision not to

	hear witnesses, interference with the home – article 14, paragraph 1, in conjunction with article 2, paragraph 1; and article 17 also in conjunction with article 2, paragraph 1, of the Covenant.
Remedy recommended	An effective remedy, including adequate compensation.
Due date for State party's response	7 October 2009
Date of State party's response	8 February 2010
State party's response	<p>With respect to the violation of article 17, the State party informs the Committee that, by decision of 23 April 2009, the competent Ministry allocated an apartment in Zagreb to the author which corresponds fully to his pre-war accommodation, thus, restoring de facto his pre-war position in respect of his housing situation. According to the State party, his newly introduced status as a protected lessee and the rights stemming from it are in essence identical to the status he had as a former holder of specially protected tenancy rights, including the rights of his family members. In this way, the State party submits it has provided appropriate compensation as recommended by the Committee.</p> <p>While respecting the Committee's decision, the State party makes several remarks with respect to the findings therein. It objects to the statement that the mere fact that the author is a member of the Serb minority is an argument in favour of a conclusion that the process undertaken by the relevant Croatian authorities was arbitrary. This assumption has neither been supported nor proven and is outside the scope of the Optional Protocol. Despite the fact that the Committee considered the author's claims on behalf of his son inadmissible, it took precisely the same facts relating to the son's dismissal from work as decisive for establishing that the author and his wife left Croatia under duress. On the conclusion that the author's non-participation in one stage of the national proceedings was arbitrary, the State party submits that this fact was remedied in the national review proceedings where the author, his wife and witnesses were heard before the court and were represented by an attorney of their choice. It submits that the Committee incorrectly took the view that the author had informed the State party of the reasons why he left while it is obvious from the author's comments and the Committee's elaboration in previous paragraphs that the author did not inform the Government of Croatia but the Government of the Socialist Federal Republic of Yugoslavia about the reasons for his departure. On the issue of the failure to hear witnesses, the State party submits that they were not heard as they were not accessible to the court and their appearance would have implied additional unnecessary costs. It acknowledges that the proceedings were excessive and refers to the remedy of a constitutional complaint system which has been approved as effective by the European Court of Human Rights.</p>
Committee's decision	The Committee considers the dialogue ongoing.

State party	Democratic Republic of the Congo
Case	<i>Mundyo Bisyo et al., 933/2000</i>
Views adopted on	31 July 2003
Issues and violations found	Dismissal of 68 judges, right to liberty, independence of the judiciary – article 25 (c), article 14, paragraph 1, article 9 and article 2, paragraph 1.
Remedy recommended	An appropriate remedy, which should include, inter alia: (a) in the absence of a properly established disciplinary procedure against the authors, reinstatement in the public service and in their posts, with all the consequences that that implies, or, if necessary, in similar posts; and (b) compensation calculated on the basis of an amount equivalent to the salary they would have received during the period of non-reinstatement. The State party is also under an obligation to ensure that similar violations do not occur in future and, in particular, that a dismissal measure can be taken only in accordance with the provisions of the Covenant.
Due date for State party response	1 November 2003
Date of State party's response	The State party has not responded to any of the Views of the Committee to date.
State party's response	None
Author's comments	On 23 June 2009, Mr. Ntenda Didi Mutuala, one of the authors of the communication (there were 68 judges), submitted that the original decree No. 144 of 6 November 1998, which had related to the authors' dismissal, was denounced by a subsequent decree (following the Committee's decision), No. 03/37 of 23 November 2003. On the basis of this decree, the Minister of Justice took his decision of 12 February 2004, to reassign three judges, including the author of the letter, to their functions. The names of the other two judges are not provided by the author. The author submits however that he was reassigned to the same functions and grade, which he had been carrying out in 1998 at the time of the original decree, and which he had assumed in 1992. Thus, the author had around 12 years in total at the same grade by the time he was reassigned to his position by the Minister's decision of 12 February 2004. According to the author, a promotion is normally foreseen after three years on each grade, assuming his/her functions are carried out well. The author believes that he has so carried out his functions. In addition, he submits that despite the fact that he has requested compensation pursuant to the Committee's decision none has been forthcoming.
Committee's decision	The dialogue is ongoing.
State party	Germany
Case	<i>M.G., 1482/2006</i>

Views adopted on	23 July 2008
Issues and violations found	Interference to privacy, honour and reputation disproportionate and thus arbitrary – article 17, in conjunction with article 14, paragraph 1.
Remedy recommended	An effective remedy including compensation.
Due date for State party's response	27 February 2009
Date of State party's response	13 February 2009 and 2 October 2009
Date of author's comments	Numerous submissions (incomprehensible and often offensive) prior to that of 4 February 2010.
State party's response	<p>On 13 February 2009, the State party had provided an update on this case before the Ellwangen Regional Court (Landgericht) and stated that the composition of the Chamber has completely changed since November 2005. On the issue of compensation, it submitted that the author had not filed any claims for compensation with the federal Government. There had been a note requesting the payment of a clearly exaggerated sum for unsubstantiated costs from Jürgen Hass, who claimed to have been acting on the author's behalf, but who had not produced any power of attorney, has an extensive criminal record in Germany and is currently residing in Paraguay. His note was therefore disregarded. The Views of the Committee have been translated into German. The Federal Ministry of Justice has sent the translated Views together with a legal analysis — to the effect that the Views require the courts generally to issue orders for an examination of someone's capacity to take part in the proceedings only after an oral hearing — to the Ministries of Justice of the Länder, requesting them to inform the courts.</p> <p>The Länder have informed the Federal Ministry of Justice that the Views have been made known to all the Higher Regional Courts, who in turn will distribute them to the lower courts. The Federal Courts of Justice have been informed likewise. In addition, the Views of the Committee have been published in German on the Website of the Federal Ministry of Justice.</p> <p>On 2 October 2009, the State party stated that the Ellwangen Regional Court had scheduled an oral hearing on 5 March 2009, to which both parties were summoned. The Committee's Views were distributed and the parties were asked whether the disputed expert opinion which had been given without hearing the author could be used in the proceedings. The author applied for the appointment of a duty lawyer to represent her. Having been asked in accordance with article 78 (b) of the Code of Civil Procedure to show that she was unable to find a lawyer by herself she once again challenged all members of the Court for suspected bias. Thus, the hearing was cancelled. The challenges for bias were rejected by the competent chamber of the Court on 30 June 2009. The author filed a complaint against this decision to the Higher Regional Court who rejected the complaint on 16 September 2009. The files are now being</p>

sent back to the Ellwangen Regional Court for the scheduling of a new hearing.

Several other proceedings are pending and the judges concerned have declared that given the Committee's Views they regard it necessary to hear the author in person before deciding on the question of her capacity to take part in proceedings. Due to the fact that she is currently living in Paraguay and has on several instances refused to accept service of legal documents, these cases cannot proceed and have thus been suspended. In the State party's view it has thus implemented the Views.

Author's comments

On 4 February 2010, the author wrote to the Committee confirming that she is now living in Paraguay and included further unintelligible/incomprehensible information.

Committee's decision

The follow-up dialogue is ongoing.

State party

Greece

Case

Kalamiotis, 1486/2006

Views adopted on

24 July 2008

Issues and violations found

Torture, or cruel, inhuman or degrading treatment and punishment, obligation to investigate complaints maltreatment, effective remedy – article 2, paragraph 3, read together with article 7 of the Covenant.

Remedy recommended

Effective remedy and appropriate reparation.

Due date for State party's response

30 January 2009

Date of State party's response

19 January 2009 and 24 August 2009

State party's response

The State party submitted that the author may institute an action for compensation under article 105 of the Introductory Law to the Civil Code for damages suffered due to his ill-treatment. According to article 105, "The State shall be liable for compensation for illegal acts or omissions of organs of the State in the exercise of the public power entrusted to them, unless such acts or omissions violated a provision of general interest ..."

The State party submitted that its courts often award large amounts of compensation for such violations. In addition, the effectiveness and appropriateness of this type of remedy has been confirmed in the context of judgements of the European Court of Human Rights (ECHR), in respect of which the State party's Court of Cassation considered that the victim/s in question could institute a claim under articles 104 and 105 of this law for compensation pursuant to a finding in their favour by ECHR. According to the State party, in this regard the decisions of the Human Rights Committee are analogous to that of ECHR, and the only question to be considered by the courts with respect to such a claim would be the amount of compensation to be paid.

The State party also submitted that the Views would be published on the website of the Legal State Council and transmitted to the President, the Public Prosecutor of the Court of Cassation, and the Hellenic Police.

On 24 August 2009, the State party clarified that the delay in the publication of the Views was due to technical problems, as well as the updating of the website of the Legal Council of State. However, the Views were translated and disseminated to every competent authority of the State party before 2009. As to the suggested remedy by the State party to file a suit for civil damages, the State party notes that the Views did not hold that the author had been ill-treated but that there were deficiencies in the procedure of the ongoing inquiry. Thus, the civil liability of the State can only be founded on the judgement of a court, the latter of which will also consider the issue of the limitation period of the author's claim. Any time limit for a claim against the State only starts running from the time it can be pursued. The State party argues that no one can foresee the outcome of a domestic remedy or question its efficiency without giving the domestic courts the chance to consider a claim for compensation after the adoption of the Views.

Author's comments

On 30 March 2009, the authors submitted that despite what was promised by the State party, the Views have not yet been published. In the author's view, the State party has in effect rejected the Committee's Views and refers to the response on 22 September 2008 by the Minister of Justice to a question on the follow-up to this case in which she refuted the Committee's decision. He informed the Committee that there is no indication that any domestic investigation will be re-opened to ensure punishment of the police officers involved. In this context, he attached information sent from the State party to the Committee of Ministers of the Council of Europe concerning the execution of judgements of ECHR, in which it refers to the State party's intention to have the competent prosecutor re-examine the files of certain cases. In the author's view, the same procedure should be applied in his case.

As to the State party's claim that the author can seek compensation by filing a lawsuit, the author submitted that the limitation period for such claims is five years and thus expired on 31 December 2006; the courts are extremely slow at considering these type of cases, for which ECHR has found many cases against the State party; and in addition this is not the most appropriate procedure, as this administrative court is normally seized of cases which first demand a finding of liability of the State and then as to quantum of compensation. In the current case, it is merely a question of the amount of compensation to be awarded which the Legal Council of State has the authority to approve. As the State party has acknowledged that the Views are equivalent to the judgements of ECHR and constitute *res judicata* leaving only the question of the amount of compensation to be decided, the author submitted that the amounts awarded in similar Greek cases by

	ECHR can serve as a fair basis for his compensation through a similar decision of the Legal Council of State and the Minister of Economy and Finance.
Committee's decision	The follow-up dialogue is ongoing.
State party	Kyrgyzstan
Case	<i>Umetaliev and Tashtanbekova, 1275/2004</i>
Views adopted on	30 October 2008
Issues and violations found	Responsibility of State party for death of the victim and lack of a remedy – Eldiyar Umetaliev's rights under article 6, paragraph 1, and of the authors' rights under article 2, paragraph 3, read together with article 6, paragraph 1, of the Covenant.
Remedy recommended	An effective remedy in the form, inter alia, of an impartial investigation in the circumstances of their son's death, prosecution of those responsible and adequate compensation.
Due date for State party's response	14 May 2009
Date of State party's response	28 April and 11 September 2009
State party's response	<p>The State party provides information from the General Prosecutor's Office, the Ministry of Finance, of Internal Affairs and the Supreme Court. All of the information provided relates to events and decisions which occurred prior to the Committee's Views but to which the Committee were not made aware.</p> <p>The following information was provided:</p> <p>Mr. A. Umetaliev brought an action before the Aksyisk District Court against the State party for damages of 3,780,000 som and moral damages of 2,000,000 som for the death of his son, Mr. E. Umetaliev. On 13 July 2005, the Aksyisk District Court refused to satisfy the sum of 3,780,000 som but provided 1,000,000 som for moral damages.</p> <p>The author's claim before the Supreme Court under the supervisory review procedure was dismissed on 26 November 2004.</p> <p>The authors currently receive social allowances under the Law on State Allowances in the Kyrgyz Republic, which provides for social assistance to families who lost individuals who were their main source of income. Moreover, according to the law, such individuals receive additional social allowances that amount to triple the size of the "guaranteed minimal monthly consumption standard". Under the Law of the Kyrgyz Republic on State social aid for the family members of the descendants and victims of the events of 17–18 March 2002 in Aksyisk District of Zhalalabadsk Region of Kyrgyz Republic, which was adopted on 16 October 2002 (No. 143), additional social support is provided to the author's family.</p>

On 29 March 2008, the criminal case of Mr. E. Umetaliev was registered as a separate proceeding by the investigator and was forwarded to the Chief Investigation Department of the Ministry of Internal Affairs of Kyrgyzstan. On 22 April 2008, the case was forwarded to the Department of Internal Affairs in the Zhalalabadsk Region for further investigation. On 15 April 2009, the South Department of the Prosecutor General's Office entrusted this case to the Interregional Department of Ministry of Internal Affairs. The investigation is ongoing.

Proceedings were instituted against a number of officials of the republic. Mr. Dubanaev was tried by the Court Martial of the Bishkek Garrison, under article 304, part 4, 30–315, of the Criminal Code, but on 23 October 2007 was acquitted due to failure of evidence. In the same verdict, Kudaibergenov Z. was found guilty, under article 305, part 2, paragraph 5, of the Criminal Code, and Tokobaev K. under article 305, part 2, paragraph 5, and article 315 of the Criminal Code, and each of them were sentenced to five years of a suspended sentence with a probation period of two years. Moreover, Kudaibergenov was deprived from taking an executive position in the Prosecutor General's Office for the subsequent five years. On 20 May 2008, the Court reviewed the sentences of both Kudaibergenov Z. and Tokobaev K., reducing them to four years and the probation period to one year. (The State party does not provide an explanation of the reasons behind the convictions – articles only – but it would appear that article 304, part 4 relates to Abuse of Office that caused grave consequences, article 305, part 2 (5) — Excess of authority or official powers that caused grave consequences, and article 315 — Forgery in Office.)

Author's comments	None
Committee's decision	The follow-up dialogue is ongoing.
Cases	<i>Maksudov, Rahimov, Tashbaev and Piratov, 1461, 1462, 1476 and 1477/2006</i>
Views adopted on	16 July 2008
Issues and violations found	Arbitrary arrest and detention, failure to bring promptly before a judge, non-refoulement, assurances, death penalty and torture – article 9, paragraph 1; article 6, paragraph 2, and article 7, read alone and together with article 2.
Remedy recommended	An effective remedy, including adequate compensation. The State is requested to put in place effective measures for the monitoring of the situation of the authors of the communication. The State party is urged to provide the Committee with updated information, on a regular basis, of the authors' current situation.
Due date for State party's response	23 March 2009
Date of State party's response	12 January 2009

State party's response

The State party did not respond on the admissibility and merits of this communication. The State party responds on the Views as follows. It submits that none of the individuals extradited were sentenced to death and that the Committee's fear in this regard was unfounded. The fact that the warrant for Mr. Maksudov's detention was issued by Andijan provincial court on 29 May 2005 and that the lawfulness of his remand in custody was not reviewed by a court or a procurator, is explained as follows: Mr. Maksudov was taken into custody on 16 June 2005 and was handed over to the law enforcement authorities on 9 August 2006; however, questions relating to the lawfulness of detention in custody only had to be referred to the courts according to Kyrgyz legislation after 3 July 2007. Pursuant to the Minsk Convention on judicial assistance and legal relations in civil, family and criminal cases of 22 January 1993, it was possible to take a person into custody on the basis of a decision by a competent body of the requesting State; at that time, Kyrgyz criminal procedure law did not require detention orders by the competent bodies of a requesting State to be reviewed by a procurator. Thus, according to the State party, there were no breaches of the law in connection with the detention of the authors.

As for the Committee's doubts about the Kyrgyz authorities' ability to guarantee the safety in Uzbekistan of the authors after extradited, it should be noted that the provision of such guarantees would be regarded as an encroachment on Uzbekistan's sovereignty. Should the Committee desire further information about the health of the persons extradited, it should address an appropriate enquiry to the Office of the Procurator-General of the Republic of Uzbekistan. According to the State party, in extraditing the four authors to Uzbekistan, the Office of the Procurator-General of the Kyrgyz Republic strictly complied with its obligations under international treaties. Moreover, it should be noted that since the extradition of the authors, the Office has taken no further extraditions in connection with the Andijan events.

The administrative and financial division of the Supreme Court upheld (no date provided) the rulings of Bishkek inter-district court and the administrative and financial division of Bishkek municipal court on the appeals lodged by Messrs. Maksudov, Rakhimov, Tashbaev and Pirmatov against the decision of 26 July 2005 by the Migration Service Department of the Kyrgyz Ministry of Foreign Affairs to deny them refugee status. After considering the Migration Service Department's grounds for refusing the aforementioned Uzbek citizens refugee status, the administrative and financial division of the Supreme Court concluded that article 1, F. (b), of the 1951 Convention relating to the Status of Refugees had been lawfully and validly applied when considering their petitions. Under Kyrgyz civil procedural law, the decisions of the Supreme Court enter into force as soon as they are adopted, are final and are not subject to appeal.

Author's comments	None
Committee's decision	The dialogue is ongoing.
State party	Nepal
Case	<i>Sharma, 1469/2006</i>
Views adopted on	28 October 2008
Issues and violations found	Disappearance, failure to investigate – articles 7, 9, 10 and 2, paragraph 3, read together with article 7, 9 and 10 with regard to the author's husband; and of article 7, alone and read together with article 2, paragraph 3, with regard to the author herself.
Remedy recommended	An effective remedy, including a thorough and effective investigation into the disappearance and fate of the author's husband, his immediate release if he is still alive, adequate information resulting from its investigation, and adequate compensation for the author and her family for the violations suffered by the author's husband and by themselves. While the Covenant does not give individuals the right to demand of a State the criminal prosecution of another person, the Committee nevertheless considers the State party duty-bound not only to conduct thorough investigations into alleged violations of human rights, particularly enforced disappearances and acts of torture, but also to prosecute, try and punish those held responsible for such violations.
Due date for State party's response	28 April 2009
Date of State party's response	27 April 2009
State party's response	The State party submitted that Ms. Yasoda Sharma would be provided with the sum of Nr 200,000 (around 1,896.67 euros) as an immediate remedy. With respect to an investigation, the case of the alleged disappearance of Mr. Surya Prasad Sharma would be referred to the Independent Disappearance Commission to be constituted by the Government. A Bill has already been submitted to Parliament and once legislation has been enacted, the Commission will be constituted as a matter of priority.
Author's comments	On 30 June 2009, the author responded to the State party's submission of 27 April 2009. The author highlights that it has been more than seven years since Mr. Sharma disappeared and that the State party is under an obligation to conduct a prompt investigation into his disappearance and to promptly prosecute all those suspected of being involved. As to the Independent Disappearances Commission, the author argues that there is no clear timeline for the passing of the relevant legislation or for the establishment of the proposed Commission. Neither is it clear whether this Commission, if established, will actually examine the Sharma case specifically. In addition, such a Commission is by definition not a judicial body and does not therefore have the powers to impose the appropriate

punishment on those found responsible for Mr. Sharma's disappearance. Even if it does have the power to refer cases of disappearances for prosecution, there is no guarantee that a prosecution would take place or that it would be prompt. Thus, in the author's view the said Commission cannot be considered an adequate avenue for investigation and prosecution in this case. The criminal justice system is the most appropriate avenue.

As to the prosecution, the author highlights the State party's obligation to prosecute violations of human rights without undue delay. This obligation is clear when considering its contribution to deterring and preventing the recurrence of enforced disappearances in Nepal. In the author's view, in order to prevent such recurrences, the Government must immediately suspend from duty any suspects involved in this case. If they remain in their official capacity, there is a risk that they will be able to intimidate witnesses in any criminal investigation. The author also suggests that an investigation to identify the whereabouts of Mr. Sharma's remains should also be initiated immediately.

On the issue of compensation and the State party's submission that the Government has provided the author with "immediate relief" of Nr 200,000, the author states that, apart from the fact that Ms. Sharma has not yet received this amount, it would not amount to "adequate" compensation required by the Committee. The author argues that she is entitled to a substantial amount to cover all pecuniary and non-pecuniary damage suffered. For the purposes of calculation, the author suggests that the Government of Nepal contact Ms. Sharma to obtain estimates of all costs incurred. In the meantime, the author hopes that the State party will initiate a criminal investigation, immediately pay the Nr 200,000 already proposed as immediate relief and initiate communication with Ms. Sharma about the progress of the investigations and the amount of compensation outstanding.

Consultations with the State party

On 28 October 2009, the Special Rapporteur for follow-up on Views met with Mr. Bhattarai, the Ambassador, and Mr. Paudyal, First secretary, of the Permanent Mission. The Special Rapporteur referred to the State party's response in this case, including the information that a Disappearance Commission would be set up, and asked the representatives whether, given the limitations of such a Commission, "a factual investigation" could not be conducted immediately. The representatives responded that there were still reservations that the author had not exhausted domestic remedies and that this was just one of many similar cases which, for the sake of equality, would all have to be considered in the same way, i.e., through the Disappearance Commission and Truth and Reconciliation Commission which would be set up shortly. They stated that the legislation is before Parliament, the functioning of which is currently being obstructed, but that the enactment of legislation in this regard is assured. They could

give no deadline for its enactment.

On compensation, the representatives stated that the author had not accepted the unconditional preliminary amount proposed subject to review following investigation by the Disappearance Commission. Following a request by the Special Rapporteur, the representatives promised to forward a copy of the compensation proposal that was sent to the author as well as the way in which the amount was calculated. The representatives noted the Special Rapporteur's concerns and would report back to their headquarters. They highlighted throughout the discussion the fact that the State party is recovering from civil war and that the path to democracy is a very slow one.

Committee's decision

The Committee considers the dialogue ongoing.

State party

New Zealand

Case

Dean, 1512/2006

Views adopted on

17 March 2009

Issues and violations found

Article 9, paragraph 4.

Remedy recommended

Effective remedy

Due date for State party's response

27 October 2009

Date of State party's response

23 October 2009

State party's response

In its response to the Committee's Views in Communication No. 1090/2002 (*Rameka v. New Zealand*), the State party advised that it would make provision for prisoners sentenced to preventive detention to request parole consideration at any point after the expiry of the otherwise applicable finite sentence. While not taking issue with the Committee's finding of violation of article 9, paragraph 4 in this case, the Government notes that the Committee's understanding that Mr. Dean was not eligible for parole consideration for three years from 2002 to 2005 in fact concerned a shorter period of one year and seven months, from June 2002 to February 2004.

Mr. Dean has since appeared before the New Zealand Parole Board in June 2005, June 2006, November 2006, September 2007, March 2008, March 2009 and September 2009. Several other scheduled hearings during this period have been adjourned at the request of Mr. Dean and/or his counsel. Parole has been declined on each occasion on the basis that Mr Dean continued to pose an undue risk to the community and had chosen not to undertake necessary rehabilitation plans. At the most recent hearing in September 2009, he did not seek parole but requested a further hearing in February 2010, as he is pursuing specialized rehabilitative arrangements with the Principal Psychologist of his rehabilitation programme.

In conclusion, the State party submits that the systemic measures instituted in February 2004 ensure non-repetition of

	the violation. These measures have afforded Mr Dean an immediate opportunity to review his continued detention, which has been reviewed on a number of subsequent occasions, and remains under review. These measures constitute an appropriate remedy for the violation suffered.
Author's comments	None
Committee's decision	The Committee considers the dialogue ongoing.
State party	Norway
Case	<i>A.K.H.A., 1542/2007</i>
Views adopted on	17 July 2008
Issues and violations found	Review of conviction and sentence – article 14, paragraph 5.
Remedy recommended	Effective remedy, including the review of his appeal before the Court of Appeals and compensation.
Due date for State party's response	2 March 2009
Date of State party's response	27 February, 28 May, 2 July and 11 September 2009
State party's response	<p>On 27 February 2009, the State party responded that the Supreme Court had concluded that all the Court of Appeal's decisions on denial of leave to appeal shall include reasons for its decision and that the Criminal Procedure Act shall be amended accordingly. In addition, the Ministry of Justice paid a total of Nkr 194,100 to the plaintiff's counsel, which partly covers the counsel's work on the case before the Committee (Nkr 184,100) and partly translation expenses (Nkr 10,000). Following a request for additional compensation from the author for damages for non-economic loss, on 28 October 2008 the Attorney General informed the author that the claim for additional compensation cannot be settled until the author's application for leave to appeal has been tried by the courts once again. On 27 December 2008, the Norwegian Criminal Cases Review Commission decided to reopen the Appeals Selection Committee of the Supreme Court's decision of 19 July 2006 in the author's case.</p> <p>On 28 May 2009, the State party informed the Committee that on 26 January 2009, the Appeal Committee of the Supreme Court decided that the decisions of the Borgarting Appeal Court of 1 June 2006, to deny the appeal from the author in the criminal case against him, should be quashed, and that his appeal shall be tried again by one of the other courts of appeal, the Gulating Appeal Court. In the State party's view, the economic losses that the author claims to be caused "by the human rights violations" were not caused by the Borgarting Appeals Court's failure to give reasons for its denial of appeal, but rather by the fact that the author was convicted by the district court and has served his time in prison. Whether this conviction was correct or erroneous is still a pending issue, but will, in due course, be decided by the Gulating Appeal Court. If he is acquitted then he has been subject to unwarranted</p>

prosecution, at which point he will have the right to both pecuniary and non-pecuniary losses. If his conviction is confirmed, neither it nor his time in prison has been unwarranted. However, even so, he may file a claim for compensation for pecuniary and/or non-pecuniary losses pursuant to a special rule in the Criminal Procedure Act. The State party makes reference to the Committee's general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant for the proposition that remedies do not have to be in the form of pecuniary compensation.

On 2 July 2009, the State party provided new information to the effect that upon renewed review of the authors' appeal of 3 February 2006 and further submissions from counsel, the judgement of 11 January 2006 was set aside by the Gulating Appeal Court. It found that the district court's judgement left doubt as to whether the court had applied the correct standard of proof and furthermore pointed to certain procedural errors. The case was remitted for new trial to the Sarpsborg District Court.

On 11 September 2009, the State party submitted a letter dated 26 August 2009 from the Norwegian prosecution authority to the Sarpsborg District Court whereby the author's case was remitted for a new trial.

Author's comments

On 24 March 2009, the author had welcomed the measures taken so far by the State party but submitted that he had not been awarded full compensation in accordance with the Committee's decision. He argued that he should be entitled to compensation for the human rights violation in itself, irrespective of the outcome of his application for review.

On 2 June 2009, the author reiterated that the State party's decision to date to pay compensation only for legal expenses does not fulfil the Committee's requirement for "compensation" set out in its Views. The claims for compensation the author may make under the Criminal Procedure Act are tied to a different set of circumstances and do not relate to the violation of his rights under article 14 of the Covenant.

On 30 July 2009, the author reiterated inter alia that he has not received any compensation for pecuniary loss as a result of the violations of his rights and that the State party's suggestion that he claim compensation through the Criminal Procedure Act is inappropriate and unrelated to the violation of his rights under article 14 of the Covenant.

On 17 November 2009, the author confirmed that on 26 August 2009 he was indicted anew. On 9 October 2009, the prosecution authority denied the author's request to dismiss this indictment. He argues that for a variety of reasons and given that he had already served the sentence of the quashed conviction, little would be gained by forcing him to endure a

	new trial. The prosecution authority informed him of what sentence would be imposed if he gave them an unreserved confession, which the author argues he cannot do. He reiterates his arguments on failure to receive compensation.
Committee's decision	The follow-up dialogue is ongoing.
State party	Paraguay
Case	<i>Asensi, 1407/2005</i>
Views adopted on	27 March 2009
Issues and violations found	Protection of the family including minor children – articles 23 and 24, paragraph 1.
Remedy recommended	Effective remedy, including the facilitation of contact between the author and his daughters.
Due date for State party's response	6 October 2009
Date of State party's response	2 October 2009 and 21 May 2010
State party's response	<p>On 2 October 2009, the State party denied that it had violated the Covenant. It submitted that the dismissal of three international mandates from Spain, requiring the children to be returned to their father, was done in accordance with Paraguayan legal provisions, which comply with international law. The conclusion has always been that the girls should remain in Paraguay with their mother. In the light of the complex situation faced by illegal immigrants in Europe, including the refusal to grant a Spanish visa to Ms. Mendoza, Paraguayan authorities consider it logical for the girls to remain in Paraguay.</p> <p>The State party submits that the girls were born in Asunción, have Paraguayan citizenship and have lived most of their lives in Paraguay. Thus, their transfer to Spain would mean uprooting them from their natural environment. Regarding the pending trial in Spain against Ms. Mendoza for fleeing the country, due process guarantees have not been granted.</p> <p>Regarding the Committee's observations on access, the State party submits that Mr. Asensi has not filed a complaint under the Paraguayan jurisdiction yet, which would constitute the only legal way to establish direct contact with his daughters. Thus, it is inferred that legal remedies have not been exhausted. The author's claims on the poverty conditions in which the girls live have to be understood in the context of Paraguay's history and its place in the region. Comparing Spain and Paraguay's living standards would be an unfair exercise. Economic conditions cannot constitute obstacles to the girls remaining in the State party. The State party submitted that following Mr. Asensi's failure to comply with maintenance/alimony for his daughters, an arrest mandate has been issued against him. The girls are currently attending school. Following several assessments from local social agents, it's reported that the girls live in good conditions and have</p>

expressed their wish to remain with their mother, as several documents attached will prove.

On 21 May 2010, the State party provided new updated information to the Committee, following a note verbale from the Committee (see the follow-up progress report of the Human Rights Committee on individual communications, CCPR/C/98/3) requesting it to respond to the following, "Since the State party claims that its legislation allows the author to obtain visiting rights, the Committee requests the State party to provide detailed information on effective remedies still available to the author under such legislation."

Regarding the obligation to provide effective remedies to the author that could allow him to see his daughters, the State party reiterates that nothing stops the author from exhausting the legal avenues available in cases of this nature. However, it claims that the author's proceedings have slowed up due to his unwillingness to pursue the procedure. As a result of his inaction (more than six months) and in accordance with article 172 of the Code of Legal Procedure, the legal processes initially undertaken have now expired. The State party then summarizes the proceedings initiated by the author in Paraguay (see Committee's decision) and reiterates that the lack of rulings and decisions on the issues raised by Mr. Asensi have been due to his own negligence throughout the proceedings. Following the sentence No. 120 by the Supreme Court confirming the decision not to grant Mr. Asensi custody, there is no record of further legal proceedings, petitions or appeals having taken place.

The State party reiterates its suggestion of the establishment of a regime under which the author will have access to his daughters, in accordance with national legislation (Law 1680/2001, art. 95): legal arrangements will enforce the right of the child to remain in contact and see the members of his family with whom he does not live. Thus, the State party suggests that:

(a) It act as a mediator between the parties, in concordance with national legislation. Indeed, the Office of Mediation of the Judiciary Branch is available at no cost for the parties to resolve their dispute;

(b) Upon reaching an agreement, it can be confirmed by the Children's Judge. The State party notes that preliminary talks have already begun with Ms. Mendoza's lawyer, who will make this suggestion to his client;

(c) In the event one of the parties fails to show up at the mediation meetings, there is still the possibility of Mr. Asensi requesting the initiation of new proceedings, for which he could be represented by someone of his choice from the Paraguayan consulate in Madrid or Barcelona, preventing him from having to come to Paraguay himself;

(d) It also notes that he has all the legal recourses available to him, such as the visitation rights (art. 95), proceedings to suspend home custody (art. 70 to 81), among others.

The State party clarifies its position on several issues:

(a) Although it is committed to addressing the violations established by the Committee in regard to articles 23 and 24, it claims that Mr. Asensi's lawyer has a lack of will in finding a compromise that would allow the complainant to see his daughters under a legal regime;

(b) Regarding the legal proceedings against Ms. Mendoza in Spain, on the grounds of removal of minors, it notes that there is an extradition request from Spain against her. In this regard, the Supreme Court ruled on 7 April 2010 that, "having not complied with the pre-requisite of "double incrimination" according to both Spanish and Paraguayan Law, and in accordance with the extradition treaty, the request was denied". The most likely equivalent piece of Paraguayan legislation that would allow for the Spanish request to be considered is not acceptable because Ms. Mendoza is the mother and has custody over the girls;

(c) Regarding custody claims, the State party asserts that the decision has been made and that the complainant should understand that the Committee is not a fourth instance of appeal nor is it within its mandate to review the facts and evidences;

(d) As to the claim for compensation, the State party refuses to comply with his demands, as there was never any mention of financial reparation in the Committee's ruling.

The State party confirms its commitment to raise awareness in workshops organized by the Supreme Court to future judges on the importance of abiding by the Committee's rulings.

Author's comments

The Committee will also recall that the author refuted the information provided by the State party in its response to the Committee's Views. He claimed that it was untrue that his ex-wife was denied a visa and residence permit in Spain. Being his wife, she was entitled to live in Spain legally. However, due to her lack of interest, and even if it was a mere formality, she never completed the necessary paperwork in order to obtain such a permit.

His ex-wife had always refused to participate in any proceedings regarding the divorce and custody conducted in Spain. She also refused to comply with the decision of 27 March 2002 issued by a Paraguayan judge ordering that the children spend some time with their father. Furthermore, in 2002, the author and his ex-wife came before Judge J. Augusto Saldivar to agree on visiting arrangements. The author proposed to provide his daughters with all the necessary material support in kind and to be allowed to maintain regular

contact with them. However, this proposal was rejected by his ex-wife.

As to the State party's claim that the author was summoned to appear before a Paraguayan judge as a result of the proceedings initiated by his ex-wife for not paying alimony/maintenance, he claimed that he never received any notification and that no letters in that respect were sent to his domicile in Spain, where he lives permanently.

The Paraguayan authorities have constantly refused to implement the decisions of the Spanish courts regarding custody of the children. On the question of alimony raised in the State party's response, the divorce decision does not oblige the author to pay any, in view of the fact that he obtained the custody of his daughters. Despite that, he regularly sends money and parcels to them through his ex-wife's family or the Spanish Embassy in Paraguay. Medical and school fees were paid by the Spanish Consulate, in view of the fact that they have Spanish nationality and are affiliated to the Spanish social security scheme.

Committee's decision

The Committee considers the dialogue ongoing.

State party

Peru

Case

Poma Poma, 1457/2006

Views adopted on

27 March 2009

Issues and violations found

Right to enjoy own culture and lack of remedy – article 27 and article 2, paragraph 3 (a), read in conjunction with article 27.

Remedy recommended

An effective remedy and reparation measures that are commensurate with the harm sustained.

Due date for State party's response

6 January 2010

Date of State party's response

22 January 2010

State party's response

The State Party provides general information on the running of the wells in question. It states that, as a result of the dry season, characterized by intermittent rains, it has become mandatory to exploit the underground waters of the Ayro aquifer in order to satisfy the demand of the population in Tacna. Five wells are being exploited simultaneously to avoid shortages in water supply. Measures have been taken to preserve the Community bogs, and to distribute water evenly among the Peasant Community of Ancomarca. The State party submitted that a Commission has visited the highest part of the basin where the wells are located, verifying the proper hydraulic allocations of each well in conformity with administrative resolutions issued recently.

On 31 March 2009, a Law on Water Resources was adopted with the aim of regulating the use and exploitation of water resources in a sustainable way. This new legal framework has been explained across the country through several workshops,

prioritizing peasants' communities. Further complementary provisions of this law are currently being drafted to take into account feedback from civil society and rural communities. According to this law, access to water resources is a fundamental right and remains a priority even in times of shortage. The State shall take all measures to ensure this principle, and will do so by taking into account feedback from civil society. The State party shall respect the traditions of indigenous communities and their right to exploit the water resources in their lands. Thus, the State party submits that by these actions further problems like those featured in this case will not arise again.

Author's comments	None
Committee's decision	The follow-up dialogue is ongoing.
State party	Philippines
Case	<i>Lumanog and Santos, 1466/2006</i>
Views adopted on	20 March 2008
Issues and violations found	Undue delay with respect to review of conviction and sentence to higher tribunal – 14, paragraph 3 (c).
Remedy recommended	Effective remedy, including the prompt review of their appeal before the Court of Appeal and compensation for the undue delay.
Due date for State party response	10 October 2008
Date of State party's response	11 May 2009 and 24 November 2009
State party's response	<p>The State party explains what action has been taken to date since the case in question was brought before the Supreme Court. On 13 August 2008, following a request by the petitioners to declare unconstitutional the penalty of "<i>reclusión perpetua</i> without the benefit of parole", the third division of the court transferred this case to the Court En Banc. On 19 January 2009, this Court requested the parties to submit their respective memoranda and has been waiting for compliance with this resolution since then.</p> <p>On 24 November 2009, the State party informed the Committee that this case has been joined with other cases and thus will be decided jointly. With respect to the issue of compensation, the case will be reviewed and decided upon by the Court of Appeal, after which it may be appealed to the Supreme Court for a final judgement. The State party submits that it will comply with the final judgement of the Supreme Court.</p>
Author's comments	On 2 July 2009, the author submits that the State party has failed to publish the Views to date and has failed to address the issue of undue delay in the proceedings. It has given no indication so far of any review, refinement or improvement of those procedural rules for automatic intermediate review by the

Court of Appeal of cases where the penalty imposed is *recusión perpetua*, life imprisonment to death as embodied in the 2004 ruling in *People vs. Mateo*. As to the remedy, the State party has provided no information as to any measures it intends to take to prevent similar violations in the future with respect to undue delay at the appeal stage and there has been no compensation paid for the undue delay. This case remains before the Supreme Court.

On 16 November 2009, the authors submitted that their case, which has been ready for consideration by the Supreme Court since 5 May 2008, has now been delayed due to the same court's decision on 23 June 2009 to consider this case jointly with several others. As a result of this decision, upon which the authors had no opportunity to comment, the hearing of this case will be further delayed.

Committee's decision	The follow-up dialogue is ongoing.
Case	<i>Pimentel et al., 1320/2004</i>
Views adopted on	19 March 2007
Issues and violations found	Unreasonable length of time in civil proceedings, equality before the Courts – article 14, paragraph 1, in conjunction with article 2, paragraph 3.
Remedy recommended	Adequate remedy, including compensation and a prompt resolution of their case on the enforcement of the judgment of the United States of America in the State party.
Due date for State party response	3 July 2007
Date of State party's response	24 July 2008
State party's response	The State party informs the Committee that on 26 February 2008, the presiding judge of the Regional Trial Court issued an order setting the case for Judicial Dispute Resolution (JDR). Three JDR conferences have already taken place, however due to the confidentiality of the process no further information on the status of the process may be divulged.
Authors' comments	On 1 October 2007, the authors informed the Committee that the State party had failed to provide them with compensation and that the action to enforce the class judgement remained in the Regional Trial Court of Makati following remand of the case in March 2005. It was not until September 2007 that the court determined, per motion for consideration, that service of the complaint on the defendant estate in 1997 was proper. The authors requested the Committee to demand of the State party prompt resolution of the enforcement action and compensation. Following the jurisprudence of the European Court of Human Rights (inter alia <i>Triggiani v. Italy</i> , (1991) 197 Eur.Ct.H.R. (ser.A)) and other reasoning, including the fact that the class action is made up of 7,504 individuals, they suggest a figure of US\$ 413,512,296 in compensation.

On 22 August 2008, the authors responded to the State party's submission of 24 July 2008. They confirmed that they met with the presiding judge on several occasions to discuss settlement and that although they made earnest proposals the Marcos Estate showed no interest in doing so. By order of 4 August 2008, the JDR phase was terminated. According to the authors, the State party's delay in the enforcement proceedings, at the time of their submission extending 11 years, is part of a pattern and practice by the State party to ensure that the class never realizes any collection on its United States judgement, and provides other examples of this practice. The authors required the Committee to quantify the amount of compensation (and other relief), to which they claim the Committee has already held the class to be entitled. (The Order of 4 August 2008 states, "Considering that this case has been pending in the courts for 11 years already, it is imperative that trial on the merits commence without further delay." The records of the case have been sent back to the Regional Trial Court for "proper disposition".)

On 21 August 2009, the authors renewed their plea to the Committee to quantify the amount of compensation (and other relief) to which the Committee held that they were entitled. They highlight their views, inter alia, that: the State party has done nothing to advance this case; it has collected tens of millions of dollars in Marcos assets but has failed to distribute any to the victims; the provision of compensation is consistent with General Assembly resolution 60/147 on Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.; the delay in rendering relief to the 9,539 victims who benefit from the Committee's decision encourages the State party to continue to violate human rights.

Committee's decision

The follow-up dialogue is ongoing.

State party

Russian Federation

Case

Amirov, 1447/2006

Views adopted on

2 April 2009

Issues and violations found

Ill-treatment and failure to investigate – article 6 and article 7, read in conjunction with article 2, paragraph 3, of the Covenant, and a violation in respect of the author of article 7.

Remedy recommended

An effective remedy in the form, inter alia, of an impartial investigation in the circumstances of the death of the author's wife, prosecution of those responsible, and adequate compensation.

Due date for State party response

19 November 2009

Date of State party's response

10 September 2009

State party's response

The State party submitted that following the Committee's decision, the author's case was re-opened. The court considered that the decision to close the investigation had been unlawful as the statement of the victim's husband indicating where the victim was buried had not been verified and other acts which should have been carried out to determine how the victim had died had not been taken. On 13 July 2009, the Prosecutor of the Chechen Republic was instructed to take the Committee's decision into account and the General Prosecutor of the Federal Republic will ensure that the investigation is re-opened. In addition, it is stated that a claim made by the victim's husband that he has been ill-treated in 2004 while trying to establish the status of the investigation was sent to a district prosecutor in the Grozny district.

Author's comments

On 24 November 2009, the author deplored the fact that the State party did not submit copies of any documents it referred to in its submission, notably the decision of July 2009 to reopen the case. He was never informed of this decision despite the State's obligation to do so under article 46 of the Code of Criminal Procedure. On the issue of the exhumation of his wife's body, he submits that he was contacted around May/June 2009, but was merely asked if he objected to the exhumation. It remains unclear whether the authorities have in fact exhumed her body and he is critical about the investigative attempts to establish the cause of death without doing so.

The author also refers to shortcomings pointed out by the Committee in its Views, which were not addressed in the decision of 8 July 2009. He expresses doubts about the extent to which, if at all, any of the shortcomings of the domestic investigation, established in the decision of 8 July 2009, were remedies in the course of the new investigation. The author deplores the State party's failure to specify what kind of control the General Prosecutor's Office of the Russian Federation exercised in this case and also its failure to indicate what specific measures have been taken to prevent similar violations in the future and whether the Views have been made public. The author has received no information on the checks that were suppose to take place with respect to his allegations of ill-treatment in 2004 and has never been contacted in this regard.

For all these reasons, the author submits that he has not been provided with an effective remedy.

Consultations with the State party

On 26 October 2009, the Special Rapporteur for follow-up on Views, along with two human rights officers, met with a representative from the Russian Mission, Mr. Sergey Kondratiev.

The Rapporteur referred generally to the efforts made so far by the State party to implement the Views in the 10 cases against it, involving policy and legislative amendments. She highlighted however that the individuals concerned are entitled to a remedy, in accordance with article 2 of the Covenant and

to ensure the integrity of the individual complaints procedure. She suggested that in the majority of the cases under discussion the legal architecture has been put in place and that what remains is the provision of compensation to the authors. She also observed that returning cases, in which the Committee has made findings of violations, to court is not necessarily the solution if the courts themselves do not use international law as a guide to interpret domestic law. In addition, she pointed out that the acknowledgement of violations and payment of compensation would not necessarily lead to an avalanche of complaints and that the State party would be looked upon as having fulfilled its obligations in many of these cases if compensation were to be provided.

The mission representative thanked the Rapporteur for her very useful suggestions on how to follow up on these cases, insisted that the Russian judiciary have the utmost respect for international law and looks forward to receiving further advice on how best to implement these cases, which he will share with his capital.

Committee's decision

The follow-up dialogue is ongoing.

State party

Spain

Case

Alba Cabriada, 1101/2002

Views adopted on

1 November 2004

Issues and violations found

Right to review – article 14, paragraph 5.

Remedy recommended

An effective remedy. The author's conviction must be reviewed in accordance with article 14, paragraph 5, of the Covenant.

Due date for State party's response

1 May 2005

Date of State party's response

No response received

State party response

None

Author's submission

On 2 April 2010, the author informed the Committee that the State party had not proceeded to review his sentence of 10 years in line with the Committee's recommendation. Neither has the State party amended its criminal law to comply with the requirements of article 14, paragraph 5. He requests the Committee to encourage the State party to fulfil its obligations under article 2 of the Covenant.

Committee's decision

The Committee considers the dialogue ongoing.

Case

Lecraft, 1493/2006

Views adopted on

27 July 2009

Issues and violations found

Discrimination on the basis of racial profiling – article 26, read in conjunction with article 2, paragraph 3.

Remedy recommended

An effective remedy, including a public apology.

Due date for State party's response	1 February 2010
Date of State party's response	27 January 2010
State party's response	<p>The Committee will recall the State party's submission in which it indicated that it had taken the following measures as a result of the Committee's Views.</p> <p>The text of the Views had been included in the Information Bulletin of the Ministry of Justice dated 15 September 2009. This is a public journal for general distribution that can be consulted by anybody.</p> <p>The Views were sent to all main judicial bodies and organs related to them, including the General Council of the Judicature, the Constitutional Court, the Supreme Court, the General Attorney's Office and the Ministry of Interior.</p> <p>On 11 November 2009, the Minister of Foreign Affairs and other high officials at his Ministry met Ms. Lecraft and offered her apologies for the acts of which she was a victim.</p> <p>On 27 December 2009, the Deputy Minister of Justice wrote to Ms. Lecraft's representatives and explained the Ministry's policy regarding human rights training of police officers.</p> <p>On 15 January 2010, the Deputy Interior Minister for Security Affairs met Ms. Lecraft and offered her oral and written apologies on behalf of the Minister. He also explained the measures taken by the Ministry in order to ensure that police officers do not commit acts of racial discrimination.</p>
Author's comments	<p>On 23 April 2010, the author commented upon the State party's submission. She commended the limited action taken by the State party in its attempts to implement its Views but expressed the view that its actions are insufficient. She submits that the State party should take the following steps:</p> <p>(a) Issue the public apology that was specifically recommended by the Committee. She sets out the reasoning behind a public apology as opposed to one given behind closed doors, and suggests that this may be carried out by the posting of Minister Rubacalba's letter of apology on the website of the Ministry of the Interior, by making a public statement in an appropriate forum and by issuing a press release to newspapers and media outlets with a wide circulation;</p> <p>(b) The author provides detailed suggestions on steps that may be implemented to prevent repetition, such as detailed instructions for stop-and-search, specific training of police, and non-discrimination standards for immigration checks. The author has communicated on several occasions on such issues and received responses from the Ministry of the Interior on training courses that are being undertaken but is of the view that they are too general in nature;</p> <p>(c) The State party should properly consider the payment of damages as an appropriate remedy that demonstrates the vigorous reaction required where race</p>

discrimination has occurred. In a letter to the State party dated 6 November 29009, the author requested 30,000 euros for moral and psychological injury and a further 30,000 euros towards the legal costs she incurred in the proceedings before the national tribunals. Her request was subsequently rejected on the basis that she had lost her case before the Spanish courts. She now urges the State party to consider alternative ways of effecting redress such as a discretionary payment of compensation.

Committee's decision

The Committee considers the dialogue ongoing.

State party**Sri Lanka****Case**

Sanjeevan, 1436/2005

Views adopted on

8 July 2008

Issues and violations found

Failure to investigate, torture, death in custody – article 6; article 7; and article 2, paragraph 3 in conjunction with articles 6 and 7, of the Covenant.

Remedy recommended

An effective remedy, including initiation and pursuit of criminal proceedings and payment of appropriate compensation to the family of the victim.

Due date for State party's reply

9 January 2009

State party's response

None

Author's comments

On 21 September 2009, the author submitted that he had not received any response from the State party in connection with the Views and had received no offer of compensation. He encourages the Committee to engage with the State party to resolve this matter.

Committee's decision

The follow-up dialogue is ongoing.

State party**Tajikistan****Cases**

Sattorov, 1200/2003 and Idiev, 1276/2004

Views adopted on

30 March 2009, 31 March 2009

Issues and violations found

Death penalty, torture, compelled to confess guilt, no legal representation, arbitrary arrest and detention and equality of arms with respect to the calling of witnesses – article 7; article 9, paragraphs 1 and 2; article 14, paragraphs 3 (d), (e), and (g); and a violation of article 6, paragraph 2, read together with article 14, paragraph 3 (d), (e) and (g).

Torture and ill-treatment and confession through torture – articles 7, 14, 3 (g).

Remedy recommended

An effective remedy, including initiation and pursuit of criminal proceedings to establish responsibility for the ill-treatment of the author's son and a payment of adequate compensation.

	Effective remedy, including the payment of adequate compensation, initiation and pursuit of criminal proceedings to establish responsibility for the author's son's ill-treatment, and a retrial, with the guarantees enshrined in the Covenant or release, of the author's son.
Due date for State party's response	12 November 2009 for both cases
Date of State party's response	12 October 2009 for both cases
State party's response	The State party reiterates the information provided in its submission on admissibility and merits with respect to the facts and substances of both cases. It denies that it has violated any of the author's rights and considers that the national courts correctly evaluated the law and facts of this case.
Author's comments	None
Committee's decision	The follow-up dialogue is ongoing.
Cases	<i>Khuseynov, 1263/2004 and Butaev, 1264/2004</i>
Views adopted on	20 October 2008
Issues and violations found	Torture, confession under torture, effective legal representation, equality of arms – article 7, read together with article 14, paragraph 3 (g) and article 14, paragraph 3 (b), with respect to Messrs. Khuseynov and Butaev and a violation of article 14, paragraph 3 (e), with respect to Mr. Butaev.
Remedy recommended	An effective remedy, including adequate compensation.
Due date for State party's response	11 May 2009
Date of State party's response	13 March 2009
State party's response	The State party denies that it has violated any of the author's rights and considers that the national courts correctly evaluated the law and facts of this case.
Author's comments	None
Committee's decision	The follow-up dialogue is ongoing.
State party	Ukraine
Case	<i>Aliev, 781/1997</i>
Views adopted on	7 August 2003
Issues and violations found	Unfair trial, no right to legal representation – articles 14, paragraphs 1 and 3 (d).
Remedy recommended	Since the author was not duly represented by a lawyer during the first months of his arrest and during part of his trial, even though he risked being sentenced to death, consideration should be given to his early release.
Due date for State party's response	1 December 2003
Date of State party's response	17 August 2004

State party's response

The Committee will recall the State party's submission in which it stated that the author's case was examined by the General Prosecutor, who established that Mr. Aliev was properly convicted as charged on 11 April 1997 and sentenced to death. On 17 July 1997, the Supreme Court confirmed the conviction and sentence. The author's claim that he was denied access to counsel for a five-month period during the investigation was concocted. He was arrested on 28 August 1996 and was interrogated in the presence of his lawyer. The criminal investigation into the author's case was conducted with the participation of his lawyer, who was involved at all relevant stages, including during the trial. After the conviction, Mr. Aliev and his lawyer appealed to the Supreme Court. The State party claimed that the author was advised of the Supreme Court hearing but for unknown reasons he failed to appear. The case file materials refute the claims by Mr. Aliev that he was subjected to "unlawful means of investigation", or that any violations of criminal procedure law took place. There is no evidence to suggest otherwise, and Mr. Aliev made no such complaints at the time. It was only at his appeal that Mr. Aliev started to make claims about having been forced by the police to make a confession. In accordance with the amnesty on the death penalty in force, Mr. Aliev's sentence was commuted to life imprisonment. In the circumstances, the State party claims that there is no basis to alter the findings of the relevant judicial bodies.

Author's comments

On 10 April 2010, the author responded to the State party's submission. He reiterated information previously provided prior to consideration of his case by the Committee, including a detailed account of the facts of his case, and of the inconsistencies in the State party's account of those facts. As to follow-up, he confirms that the State party has done nothing to implement the Views and that he remains in prison.

Committee's decision

The Committee considers the dialogue ongoing.

State party**Uzbekistan****Cases**

- (1) *Isaeva and Karimov (1163/2203)*
- (2) *Salikh Muhammed (1382/2005)*
- (3) *Iskiyaev Yuri (1418/2005)*

Views adopted on

- (1) 20 March 2009 (2) 30 March 2009 (3) 20 March 2009

Issues and violations found

- (1) Torture, and ill-treatment for purposes of extraction confession – articles 7 and article 14, paragraph 3 (g).
- (2) Right to be tried in his presence and to defend himself in person or through legal assistance, adequate time and facilities for the preparation of his defence, defence through legal assistance of his own choosing, opportunity to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf –

	articles 14, paragraph 3 (a), (b), (d) and (e).
	(3) Torture and inhuman and degrading treatment – articles 7 and 10, paragraph 1.
Remedy recommended	(1) An effective remedy, including compensation and initiation and pursuit of criminal proceedings to establish responsibility for the author's son's ill-treatment, and his retrial. (2) Effective remedy, including adequate compensation. (3) Effective remedy, including initiation and pursuit of criminal proceedings to establish responsibility for the author's ill-treatment, and payment of appropriate compensation to the author. The Committee reiterates that the State party should review its legislation and practice to ensure that all persons enjoy both equality before the law and equal protection of the law.
Due date for State party's response	12 November 2009 – for all cases
Date of State party's response	16 November 2009
State party's response	The State party contests the Committee's findings in all of these cases and reiterates its version of the facts as provided in its submission on admissibility and merits. It explains that after a preliminary investigation and a careful examination of all materials relevant to the cases it considers that the national courts correctly evaluated the law and facts of these cases.
Author's comments	None
Committee's decision	The follow-up dialogue is ongoing.
State party	Zambia
Case	<i>Chongwe, 821/1998</i>
Views adopted on	25 October 2000
Issues and violations found	Articles 6, paragraph 1, and 9, paragraph 1 – Attempted murder of the chairman of the opposition alliance.
Remedy recommended	Adequate measures to protect the author's personal security and life from threats of any kind. The Committee urged the State party to carry out independent investigations of the shooting incident, and to expedite criminal proceedings against the persons responsible for the shooting. If the outcome of the criminal proceedings reveals that persons acting in an official capacity were responsible for the shooting and injuring of the author, the remedy should include damages to Mr. Chongwe.
Due date for State party response	8 February 2001
Date of State party's response	10 October and 14 November 2001, 28 February and 13 June 2002, 28 December 2005, 2 January 2009
State party's response	The State party has responded on 10 October and 14 November 2001. It contended that the Committee had not indicated the quantum of damages payable and provided copies of

correspondence between its Attorney-General and the author, in which the author was provided assurances that the State party would respect his right to life and invited him to return to its territory. As to the issue of compensation, the Attorney-General indicated to the author that this would be dealt with at the conclusion of further investigations into the incident, which had been hindered by the author's earlier refusal to cooperate.

By letter of 28 February 2002, the State party noted that the domestic courts could not have awarded the quantum of damages sought by the author, that he had fled the country for reasons unrelated to the incident in question, and that, while the Government saw no merit in launching a prosecution, it was open to the author to do so.

By note verbale of 13 June 2002, the State party reiterated its position that it was not bound by the Committee's decision as domestic remedies had not been exhausted. The author chose to leave the country of his own will, but remained at liberty to commence proceedings even in his absence. In any event, the new President had confirmed to the author that he was free to return. Indeed the State hoped that he would do so and then apply for legal redress. Mr. Kaunda, who was attacked at the same time as the author, is said to be a free citizen carrying on his life without any threat to his liberties.

On 28 December 2005, the State party stated that it had offered the author US\$ 60,000 on a without-prejudice basis. The author had rejected the offer, which is more than adequate under Zambian law, particularly in the light of the fact that Zambia is one of the 49 countries classified by the United Nations as least developed countries. In spite of the offer, the author is still at liberty to commence legal proceedings in the Zambian Courts over this matter. As an act of good faith, the Government of Zambia will waive the statute of limitations of his case and allow this matter to be heard in courts of law.

On 2 January 2009, the State party denied that there is any deliberate policy of discrimination against the author and submitted that the Attorney-General's Chambers was working towards an agreed sum with lawyers appointed by the author.

Author's response

The author had referred to the State party's failure to provide him with a remedy on 5 and 13 November 2001.

In March 2006 (letter undated), the author responded to the State party's submission. It appeared from this letter that he had returned to Zambia in 2003. He submitted that he did not intend to make any new claims in the Zambian courts, as he would have no confidence that a claim would be handled appropriately. To begin such a complaint nearly 10 years after the incident would be useless. It would be impossible to conduct such an investigation on his own and he would fear for his safety in doing so. In any event, he was not interested in finding the particular "minion of the Zambian Government" who tried to kill him. He submitted that the Government had

made no effort to help him and his family resettle from Australia back to Zambia and refers to the offer of compensation as “petty cash” which he is obliged to receive on a “like it or lump it basis”. He says that he has no intention of negotiating with the Government of Zambia on the basis of the State party’s response of 28 December 2005.

On 9 February 2009, the author submits that he filed a complaint before the Judicial Complaints Authority regarding discrimination against him by the Supreme Court. This relates to a hearing in 2008 and is unrelated to the case in question.

He also submits that he did indeed meet with the Attorney-General in April 2008 on the issue of compensation and subsequently followed up with a letter to the Attorney-General indicating how much he would be prepared to settle for in this regard. The receipt of this letter was not confirmed by the Attorney-General and no correspondence has been received from him by the author. However, a friend who assists the author received a letter from the Attorney-General on 27 November 2008 requesting him to provide a figure of how much compensation the author would settle for. According to the author, the Attorney-General is already aware of the amount requested, and the author implies that the Attorney-General is just attempting to delay the finalization of this matter.

Committee’s decision

The follow-up dialogue is ongoing.

Case

Chisanga, 1132/2002

Views adopted on

18 October 2005

Issues and violations found

Right to life, ineffective remedy on appeal and ineffective remedy with respect to commutation – articles 14, paragraph 5, together with articles 2; 7; 6, paragraph 2; and 6, paragraph 4, together with article 2.

Remedy recommended

To provide the author with a remedy, including as a necessary prerequisite in the particular circumstances, the commutation of the author’s death sentence.

Due date for State party’s response

9 February 2006

Date of State party’s response

17 January 2006, 17 November 2009

State party’s response

The Committee will recall that on 17 January 2006, the State party had provided its follow-up response, in which it argued extensively on the admissibility of the communication (see annual report, A/61/40). It also submitted that the President had declared publicly that he would not sign any death warrants during his term in office. No death sentence has been carried out since 1995, and there is a moratorium on the death penalty in Zambia.

On 17 November 2009, the State party clarified that on 29 July 2007, the author’s death sentence was commuted to life imprisonment under article 59 of the Constitution which relates

to the President's prerogative of mercy.

Author's comments

On 12 November 2008, the author's wife informed the Committee that in August her husband's death sentence had been commuted to life imprisonment. Both his wife and the author himself have been petitioning the office of the President from 2001 to 2007 requesting a pardon and ask the Committee for its assistance in this regard.

Committee's decision

The Committee decides that, given confirmation both from the author and the State party that the author's death sentence has been commuted to life imprisonment, the Committee does not consider it necessary to consider this matter any further under the follow-up procedure.

VII. Follow-up to concluding observations

203. In chapter VII of its annual report for 2003,¹⁶ the Committee described the framework that it has set out for providing for more effective follow-up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report,¹⁷ an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2010.

204. Over the period covered by the present annual report, Mr. Abdelfattah Amor acted as the Committee's Special Rapporteur for follow-up on concluding observations. At the Committee's ninety-seventh, ninety-eighth and ninety-ninth sessions, he presented progress reports to the Committee on intersessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State.

205. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.¹⁸ Over the reporting period, since 1 August 2009, 17 States parties (Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, Denmark, France, Georgia, Japan, Monaco, Spain, the former Yugoslav Republic of Macedonia, Sudan, Sweden, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland and Zambia), as well as the United Nations Interim Administration Mission in Kosovo (UNMIK), have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, 12 States parties (Australia, Botswana, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Namibia, Nicaragua, Panama, Rwanda, San Marino and Yemen) have failed to supply follow-up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the preparation of the next periodic report by the State party.¹⁹

206. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, the report does not cover those States parties with respect to which the Committee has completed its follow-up activities, including all States parties which were considered from the seventy-first session (March 2001) to the eighty-fifth session (October 2005).

207. The Committee emphasizes that certain States parties have failed to cooperate with it in the performance of its functions under Part IV of the Covenant, thereby violating their obligations (Equatorial Guinea, Gambia).

¹⁶ *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40*, vol. I (A/58/40 (vol. I)).

¹⁷ *Ibid.*, *Sixty-Fourth Session, Supplement No. 40*, vol. I (A/64/40 (vol. I)).

¹⁸ The table format was altered at the ninetieth session.

¹⁹ As the next periodic report has become due with respect to the following States parties, the Committee has terminated the follow-up procedure despite deficient information or the absence of a follow-up report: Austria, Brazil, Central African Republic, Democratic Republic of the Congo, Hong Kong (China), Mali, Namibia, Paraguay, Republic of Korea, Sri Lanka, Suriname and Yemen.

Eighty-fifth session (October 2005)

State party: Brazil

Report considered: Second periodic (due since 1998), submitted on 15 November 2004.

Information requested:

Para. 6: Accelerate demarcation of indigenous lands; provide effective civil and criminal remedies for deliberate trespass on such lands (arts. 1 and 27).

Para. 12: (a) Measures to eradicate extrajudicial killing, torture and other forms of ill-treatment and abuse by law enforcement officials; (b) prompt and impartial investigations by an independent body into reported violations of human rights by law enforcement officials; (c) prosecution of perpetrators and punishment proportionate to the seriousness of the crime; grant effective remedies and redress to victims; (d) utmost consideration to the recommendations of the United Nations Special Rapporteurs on the question of torture, on extrajudicial, summary or arbitrary executions, and on the independence of judges and lawyers contained in the reports on their visits to the State party (arts. 6 and 7).

Para. 16: Measures to improve the situation of detainees and prisoners; limiting police custody to one or two days following arrest; end the practice of remand detention in police stations; develop a system of bail pending trial; ensure prompt trials; implement alternative measures other than imprisonment; end the practice of detaining prisoners in prolonged confinement even after their sentences have expired; introducing an effective bail system; prompt trials (arts. 9 and 10).

Para. 18: Combat impunity by considering other methods of accountability for human rights crimes committed under the military dictatorship such as disqualifying perpetrators from certain public offices and establishing justice and truth inquiry processes; release to the public of all documents relevant to human rights abuses, including those currently withheld pursuant to Presidential Decree No. 4553 (art. 14).

Date information due: 3 November 2006

Date information received:

18 April 2008 Partial reply (response incomplete with regard to paras. 6, 12, 16 and 18).

Action taken:

Between December 2006 and September 2007, three reminders were sent. In his reminders of 29 June and 28 September 2007, the Special Rapporteur also requested a meeting with a representative of the State party.

18 October 2007 During the ninety-first session, the Special Rapporteur met with two representatives of the State party. The State party delegation committed itself to providing the requested follow-up information before the ninety-second session.

22 September 2008 A letter was sent to the State party to request additional information on paragraphs 6, 12, 16 and 18.

16 December 2008 A further reminder was sent.

6 May 2009 A reminder was sent to the State party.

7 October 2009 The Special Rapporteur requested a meeting with a representative of Brazil.

11 December 2009 A letter was sent inviting the State party to reply to all concluding

observations in its next periodic report due on 31 October 2009.

Recommended action: If no information is received, consultations should be scheduled for the ninety-seventh session.

Next report due: 31 October 2009

Eighty-sixth session (March 2006)

State party: Hong Kong (China)

Report considered: Second periodic (due since 2003), submitted on 14 January 2005.

Information requested:

Para. 9: Ensure that complaints against the police are investigated by an independent body whose decisions are binding on the authorities (art. 2).

Para. 13: Measures to prevent and prosecute harassment of media personnel; ensure that the media can operate independently and free from government intervention (art. 19).

Para. 15: Ensure that policies and practice regarding the right of abode fully take into consideration the right of families and children to protection (arts. 23 and 24).

Para. 18: Ensure that the Legislative Council is elected by universal and equal suffrage; ensure that all interpretations of the Basic Law, including on electoral and public affairs issues, are in compliance with the Covenant (arts. 2, 25 and 26).

Date information due: 1 April 2007

Date information received:

23 July 2007 Partial reply (responses incomplete with regard to paragraphs 9, 13, 15 and 18).

8 April 2009 Partial reply received (para. 9: cooperative but information incomplete/recommendations not implemented; para. 13: cooperative but information incomplete; paras. 15 and 18: recommendations not implemented).

Action taken:

29 June 2007 A reminder was sent.

11 June 2008 The Special Rapporteur requested a meeting with a representative of China.

16 July 2008 During the ninety-third session, the Special Rapporteur met with a representative of China, who stated that the issues identified by the Special Rapporteur as requiring further clarification will be transmitted to the Government and to the Hong Kong SAR authorities.

18 July 2008 An aide-memoire was sent to the Permanent Mission of China summarizing the issues identified by the Special Rapporteur as requiring further clarification.

9 December 2008 A reminder was sent.

30 July 2009 (sent late) A letter was sent to request additional information and to state that the follow-up procedure with respect to certain issues is considered completed due to non-implementation and to ask the State party to report on these issues in its next periodic report.

Recommended action: No further action recommended.

Next report due: 1 April 2010

Eighty-seventh session (July 2006)

State party: Central African Republic

Report considered: Second periodic (due since 1989), submitted on 3 July 2005.

Information requested:

Para. 11: Mobilize public opinion against female genital mutilation; criminalize female genital mutilation; ensure that perpetrators are brought to justice (arts. 3 and 7).

Para. 12: Ensure that all allegations of enforced disappearances, summary and arbitrary executions and torture and ill-treatment are investigated by an independent body and that perpetrators are prosecuted and appropriately punished; improve training for law enforcement personnel; compensation for victims; detailed information on complaints, the number of persons prosecuted and convicted, including current or former members of the Central Office for the Prevention of Banditry, and compensation paid to victims over the past three years (arts. 2, 6, 7 and 9).

Para. 13: Ensure that the death penalty is not extended to new crimes; abolition of the death penalty; accession to the Second Optional Protocol to the Covenant (arts. 2 and 6).

Date information due: 24 July 2007

Date information received: None received.

Action taken:

28 September 2007 A reminder was sent.

10 December 2007 A further reminder was sent.

20 February 2008 The Special Rapporteur requested a meeting with a representative of the State party.

18 March 2008 The Special Rapporteur requested a meeting with a representative of the State party.

1 April 2008 Consultations were held during the ninety-second session. The delegation committed itself to transmitting the Special Rapporteur's and the Committee's request to the Government. No responses were provided.

11 June 2008 A further reminder was sent by way of follow-up to the consultations which took place between the Special Rapporteur and the State party during the ninety-second session.

22 September 2008 A reminder was sent.

16 December 2008 The Special Rapporteur requested a meeting with a representative of the State party.

29 May 2009 A reminder was sent to the State party.

2 February 2010 The Special Rapporteur requested a meeting with a representative of the State party.

25 June 2010 The Special Rapporteur requested a meeting with a representative of the State

party.

Recommended action: A letter should be sent inviting the State party to reply to all concluding observations in its next periodic report.

Next report due: 1 August 2010

State party: United States of America

Report considered: Second and third periodic (due since 1998), submitted on 28 November 2005.

Information requested:

Para. 12: Immediate cessation of the practice of secret detention, closure of all secret detention facilities; grant the International Committee of the Red Cross prompt access to any person detained in connection with an armed conflict; ensure that all detainees benefit from the full protection of the law at all times (arts. 7 and 9).

Para. 13: Ensure that any revision of the Army Field Manual provides only for interrogation techniques compatible with the Covenant; ensure that interrogation techniques are binding on all United States government agencies and any others acting on its behalf; ensure that there are effective means to follow suit against abuses committed by agencies operating outside the military structure; sanctions against personnel who used or approved the use of interrogation techniques that are now prohibited; reparation for victims; information on any revisions of interrogation techniques approved by the Manual (art. 7).

Para. 14: Prompt and independent investigations into all allegations concerning suspicious deaths, torture and ill-treatment inflicted by United States personnel and contract employees in detention facilities in Guantánamo Bay, Afghanistan, Iraq and other overseas locations; prosecution and punishment of those responsible in accordance with the gravity of the crime; measures to prevent the recurrence of such behaviours, including training and clear guidance to United States personnel and contract employees; no reliance during legal proceedings on evidence obtained by means incompatible with article 7; information on reparation for victims (arts. 6 and 7).

Para. 16: Review by the State party of its restrictive interpretation of article 7 of the Covenant; ensure that individuals, including those detained by the State party outside its territory, are not returned to another country if there is a substantial risk of torture or ill-treatment; independent investigations into allegations of such occurrences; amendment of legislation and policies to ensure that no such situation will recur; appropriate remedies for victims; exercise of utmost care in the use of diplomatic assurances and adoption of clear and transparent procedures with adequate judicial mechanisms for review before individuals are deported and effective mechanisms to monitor the fate of those returned (art. 7).

Para. 20: Provide information on the implementation of the Supreme Court's decision in *Hamdan v. Rumsfeld* (art. 14).

Para. 26: Review of practices and policies to ensure the full implementation of the State party's obligation to protect life and of the prohibition of direct and indirect discrimination in matters related to disaster prevention and relief; increased efforts to ensure that the rights of the poor, in particular African-Americans, are fully taken into consideration in post-Hurricane Katrina reconstruction plans with regard to access to housing, education and health care; information on the results of the inquiries into the alleged failure to evacuate prisoners at the Parish prison, and allegations that New Orleans residents were not permitted by law enforcement officials to cross the Greater New Orleans Bridge to Gretna, Louisiana (arts. 6 and 26).

Date information due: 1 August 2007

Date information received:

1 November 2007 Partial reply (responses to paras. 12, 13, 14, 16 and 26 incomplete).

14 July 2009 Partial reply (para. 12: satisfactory in parts, incomplete in others; para. 13: satisfactory in parts, incomplete in others; paras. 14, 16 and 26: replies are incomplete).

Action taken:

28 September 2007 A reminder was sent.

11 June 2008 The Special Rapporteur requested a meeting with a representative of the State party.

10 July 2008 During the ninety-third session, the Special Rapporteur met with representatives of the State party, who indicated that the Special Rapporteur's request to receive additional information on outstanding issues under paragraphs 12, 13, 14 and 16 before the Committee's ninety-fifth session will be conveyed to the Government.

6 May 2009 A reminder was sent to the State party.

26 April 2010 A letter was sent inviting the State party to reply to all concluding observations in its next periodic report, due on 1 August 2010.

Recommended action: No further action recommended.

Next report due: 1 August 2010

Report considered: Report by UNMIK on the human rights situation in Kosovo, submitted on 2 February 2006.

Information requested:

Para. 12: Investigation of all outstanding cases of war crimes, crimes against humanity and ethnically motivated crimes committed before and after 1999; prosecution of perpetrators; compensation for victims; introduction of effective witness-protection programmes; full cooperation with International Criminal Tribunal for the former Yugoslavia prosecutors (arts. 2, para. 3; 6; and 7).

Para. 13: Effective investigation of all outstanding cases of disappearances and abductions; prosecution of perpetrators; ensure that relatives of disappeared and abducted persons have access to information about victims' fate and to adequate compensation (arts. 2, para. 3; 6; and 7).

Para. 18: Intensify efforts to ensure safe conditions for sustainable returns of displaced persons, in particular those belonging to minorities; ensure that they may recover their property, receive compensation for damage done and benefit from rental schemes for property temporarily administered by the Kosovo Property Agency (art. 12).

Date information due: 1 January 2007

Date information received:

11 March 2008 Partial reply (responses incomplete with regard to paras. 13 and 18).

7 November 2008 Partial reply (responses incomplete with regard to paras. 13 and 18).

12 November 2009 Information received (recommendations implemented in parts, not in others).

Action taken:

Between April and September 2007 Three reminders were sent.

10 December 2007 The Special Rapporteur requested a meeting with the Special Representative of the Secretary-General (SRSG) or a representative designated by the SRSG, to be convened during the ninety-second session.

11 June 2008 The Special Rapporteur requested a meeting with a representative of UNMIK.

22 July 2008 During the ninety-third session, the Special Rapporteur met with Mr. Roque Raymundo, Senior Human Rights Adviser to UNMIK, who provided additional written and oral information on paragraphs 12, 13 and 18 and undertook to submit further information on (a) cases where perpetrators of disappearances and abductions were tried and sentenced, access by relatives to information about the fate of victims, and measures taken to secure adequate resources for victim compensation schemes (para. 13); and (b) measures taken to implement the strategies and policies to ensure safe and sustainable returns, in particular for minority returnees, as well as to ensure that minority returnees benefit from the special rental scheme of the Kosovo Property Agency (para. 18). The meeting was also attended by a representative of the OHCHR Pristina Office.

3 June 2009 A letter was sent to request additional information.

27 August 2009 A reminder was sent.

Recommended action: While taking note of the cooperativeness of UNMIK, the Committee should send a letter in which it notes the measures taken but indicates that none of the recommendations has been fully implemented.

Next report due: ...

Eighty-eighth session (October 2006)

State party: Bosnia and Herzegovina

Report considered: Initial (due since 2003), submitted on 24 November 2005.

Information requested:

Para. 8: Reopening of the public debate and talks on constitutional reform with a view to adopting an electoral system that guarantees equal enjoyment of the rights under article 25 of the Covenant to all citizens, irrespective of ethnicity (arts. 2, 25 and 26).

Para. 14: Investigation of all unresolved cases of missing persons; ensure that the Institute for Missing Persons becomes fully operational in accordance with the Constitutional Court's decision of 13 August 2005; ensure that the central database of missing persons is finalized and accurate; ensure that the Fund for Support to Families of Missing Persons is secured and that payments to families commence as soon as possible (arts. 2, para. 3; 6; and 7).

Para. 19: Improvement of material and hygiene conditions in detention facilities, prisons and mental health institutions in both Entities; adequate treatment of mental health patients; transfer of all patients from Zenica Prison Forensic Psychiatric Annex; ensure that Sokolac Psychiatric Hospital meets international standards (arts. 7 and 10).

Para. 23: Review of relocation plan for the Roma settlement at Butmir; alternative solutions to prevent pollution of water supply; ensure that any relocation is carried out in a

non-discriminatory manner and in compliance with international human rights standards (arts. 2, 17 and 26).

Date information due: 1 November 2007

Date information received:

21 December 2007 Partial reply (responses incomplete with regard to paras. 8, 14, 19 and 23).

1 November 2008 Partial reply (responses incomplete with regard to paras. 8, 14, 19 and 23).

4 March 2009 Partial reply (responses incomplete with regard to paras. 8, 14, 19 and 23).

14 December 2009 Supplementary follow-up report received.

Action taken:

17 January 2008 A reminder was sent.

22 September 2008 The Special Rapporteur requested a meeting with a representative of the State party.

31 October 2008 During the ninety-fourth session, the Special Rapporteur met with a representative of the State party, who informed him that the State party's replies to the Committee's additional follow-up questions have been prepared and will be submitted as soon as the Government has approved them.

29 May 2009 A letter was sent to request additional information.

27 August 2009 A reminder was sent.

11 December 2009 A reminder was sent.

Recommended action: The additional replies of the State party should be sent for translation and considered at a later session.

Next report due: 1 November 2010

State party: Honduras

Report considered: Initial (due since 1998), submitted on 21 February 2005

Information requested:

Para. 9: Investigations into all cases of extrajudicial executions of children; prosecution of those responsible; compensation for relatives of victims; establishment of an independent mechanism, such as a children's ombudsman; training for officials dealing with children; public awareness-raising campaigns (arts. 6 and 24).

Para. 10: Monitoring of all weapons belonging to the police; human rights training for the police in accordance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; investigations into allegations of excessive use of force; prosecution of those responsible; compensation for victims or their relatives (arts. 6 and 7).

Para. 11: Identification of the causes of the growing numbers of street children; programmes to address those causes; provision of shelter to street children; identification of, compensation for and assistance to victims of sexual abuse; prosecution of those responsible (arts. 7, 8 and 24).

Para. 19: Ensure the full exercise by members of indigenous communities of the right to enjoy their own culture; settlement of problems related to ancestral indigenous lands (art. 27).

Date information due: 1 November 2007

Date information received:

7 January 2007 Information on paragraph 18 (art. 16), which the Committee did not identify as a priority in its concluding observations.

15 October 2008 Partial reply (responses incomplete with regard to paras. 9, 10, 11 and 19).

Action taken:

17 January 2008 A reminder was sent.

11 June 2008 A further reminder was sent.

22 September 2008 The Special Rapporteur requested a meeting with a representative of the State party.

10 December 2008 A letter was sent to request additional information.

6 May 2009 A reminder was sent to the State party.

27 August 2009 A further reminder was sent.

2 February 2010 The Special Rapporteur requested a meeting with a representative of the State party.

25 June 2010 The Special Rapporteur requested a meeting with a representative of the State party.

Recommended action: A reminder should be sent requesting a meeting with a representative of the State party.

Next report due: 31 October 2010

State party: Republic of Korea

Report considered: Third periodic (due since 2003), submitted on 10 February 2005.

Information requested:

Para. 12: Ensure that migrant workers may enjoy the rights under the Covenant without discrimination, including equal access to social services and educational facilities, as well as the right to form trade unions; provision of adequate forms of redress (arts. 2, 22 and 26).

Para. 13: Prevent all forms of ill-treatment by law enforcement officials in all places of detention, including mental health hospitals; establish independent investigative bodies; introduce independent inspections of facilities and videotaping of interrogations; prosecution and appropriate punishment of perpetrators; effective remedies for victims; discontinuation of harsh and cruel measures of disciplinary confinement, in particular, the use of manacles, chains and face masks, and the "stacking" of 30-day periods of isolation (arts. 7 and 9).

Para. 18: Ensure the compatibility of article 7 of the National Security Law, and sentences imposed thereunder, with the requirements of the Covenant (art. 19).

Date information due: 1 November 2007

Date information received:

25 February 2008 Partial reply (responses to paragraphs 12 and 13 incomplete; response to paragraph 18 unsatisfactory).

Action taken:

17 January 2008 A reminder was sent.

11 June 2008 The Special Rapporteur requested a meeting with a representative of the State party.

21 July 2008 During the ninety-third session, the Special Rapporteur met with a representative of the State party, who indicated that additional information on any outstanding issues will be provided in the fourth periodic report.

22 July 2008 An aide-memoire was sent to the State party summarizing the issues identified by the Special Rapporteur as requiring further clarification.

6 May 2009 A reminder was sent to the State party.

27 August 2009 A further reminder was sent.

Recommended action: Given that the State party has sent a letter stating its intention to include additional information in its next report due on 2 November 2010, the follow-up procedure with respect to the third periodic report should be considered completed.

Next report due: 2 November 2010

State party: Ukraine

Report considered: Sixth periodic (on time), submitted on 1 November 2005.

Information requested:

Para. 7: Ensure the safety and proper treatment of all persons held in custody by the police; measures to guarantee freedom from torture and ill-treatment; establishment of an independent police complaints mechanism; video-surveillance of interrogations of criminal suspects; independent inspection of detention facilities (art. 6).

Para. 11: Guarantee the right of detainees to be treated humanely and with respect for their dignity; reduce prison overcrowding including by using alternative sanctions; provide hygienic facilities; ensure access to health care and adequate food (art. 10).

Para. 14: Protection of freedom of expression; investigation and prosecution of attacks on journalists (arts. 6 and 19).

Para. 16: Protection of all members of ethnic, religious or linguistic minorities against violence and discrimination; provision of robust remedies against these problems (arts. 20 and 26).

Date information due: 1 December 2007

Date information received:

19 May 2008 Partial reply (responses incomplete with regard to paras. 7, 11, 14 and 16).

28 August 2009 Supplementary follow-up report received (para. 7: some recommendations not implemented, some replies incomplete; para. 11: replies satisfactory in parts, incomplete in others; para. 14: replies incomplete; para. 16: replies satisfactory in parts, incomplete in others).

Action taken:

17 January 2008 A reminder was sent.

16 December 2008 A letter was sent to request additional information.

6 May 2009 A reminder was sent to the State party.

26 April 2010 A letter was sent indicating that the procedure was complete with regard to the issues concerning which the information supplied by the State party was considered to be largely satisfactory: provision of hygienic facilities and adequate food in detention facilities (para. 11); and claims for restitution of Muslim property (para. 16). The letter also included a request for additional information on certain questions: investigation of deaths in detention (para. 7); relieving prison overcrowding (para. 11); use of alternative sanctions to reduce the prison population (para. 11); protection of freedom of opinion and expression (para. 14); and availability of remedies for discrimination based on the victim's ethnic, linguistic or religious identity (para. 16). Lastly, it highlighted the points concerning which the Committee considered that its recommendations had not been implemented: establishment of an independent police complaints mechanism (para. 7); and the introduction of a system for videotaping the interrogation of criminal suspects as a safeguard (para. 7).

Recommended action: A reminder should be sent.

Next report due: 2 November 2011

Eighty-ninth session (March 2007)

State party: Barbados

Report considered: Third periodic (due since 1991), submitted on 18 July 2006.

Information requested:

Para. 9: Consider the abolition of the death penalty and accession to the Second Optional Protocol to the Covenant; remove prescription of mandatory death sentences from relevant laws and ensure that such laws are compatible with article 6 of the Covenant (art. 6).

Para. 12: Eliminate corporal punishment as a legitimate sanction and discourage its use in schools; measures towards the abolition of corporal punishment (arts. 7 and 24).

Para. 13: Decriminalization of sexual acts between adults of the same sex, protection of homosexuals from harassment, discrimination and violence (art. 26).

Date information due: 1 April 2008

Date information received:

31 March 2009 Partial reply received (para. 9: largely satisfactory in parts, recommendations not implemented in part; para. 12: recommendations not implemented; para. 13: recommendations not implemented and information incomplete).

Action taken:

11 June 2008 A reminder was sent.

22 September 2008 A further reminder was sent.

16 December 2008 The Special Rapporteur requested a meeting with a representative of the State party.

31 March 2009 During the ninety-fifth session, the Special Rapporteur met with the Ambassador of the State party, who provided him with the follow-up reply.

29 July 2009 (sent late) A letter was sent to request additional information and to state that

the follow-up procedure with respect to certain issues is considered completed due to non-implementation and to ask the State party to report on these issues in its next periodic report.

23 April 2010 A reminder was sent.

Recommended action: If no information is received, a further reminder should be sent.

Next report due: 29 March 2011

State party: Chile

Report considered: Fifth periodic (due since 2002), submitted on 8 February 2006.

Information requested:

Para. 9: Ensure that serious human rights violations committed during the dictatorship are punished; ensuring that those suspected of being responsible for such acts are in fact prosecuted; scrutinize the suitability to hold public office of persons who have served sentences for such acts; publication of all the documentation collected by the National Commission on Political Prisoners and Torture (CNPPT) that may help to identify those responsible for extrajudicial executions, forced disappearances and torture (arts. 2, 6 and 7).

Para. 19: (a) Ensure that negotiations with indigenous communities lead to a solution that respects their land rights; expedite procedures to recognize such ancestral lands; (b) Amendment of Act No. 18,314 to bring it in line with article 27 of the Covenant; review of any sectoral legislation that may contravene the rights spelled out in the Covenant; (c) Consultation of indigenous communities before granting licences for the economic exploitation of disputed lands; ensure that such exploitation will not violate the rights recognized in the Covenant (arts. 1 and 27).

Date information due: 1 April 2008

Date information received:

21 and 31 October 2008 Partial reply (responses incomplete with regard to paras. 9 and 19).

28 May 2010 Supplementary follow-up report received.

Action taken:

11 June 2008 A reminder was sent.

22 September 2008 A further reminder was sent.

10 December 2008 A letter was sent to request additional information.

22 June 2009 The Special Rapporteur requested a meeting with a representative of the State party.

28 July 2009 The Special Rapporteur held a meeting with representatives of the State party during which some aspects in relation to paragraphs 9 and 19 were discussed. The Ambassador also informed the Special Rapporteur that the State party's replies to the Committee's additional follow-up questions were currently being prepared and would be submitted as soon as possible.

11 December 2009 A reminder was sent.

23 April 2010 A further reminder was sent.

Recommended action: The additional replies of the State party have been sent for

translation and should be considered at a later session.

Next report due: 27 March 2012

State party: Madagascar

Report considered: Third periodic (due since 1992) submitted on 24 May 2005.

Information requested:

Para. 7: Ensure the resumption of the work of the National Human Rights Commission, in accordance with the Paris Principles; provision of adequate resources for the Commission to fulfil its role effectively, fully and regularly (art. 2).

Para. 24: Ensure the proper functioning and adequate funding of the judiciary; immediate release of detainees whose case files are missing (arts. 9 and 14).

Para. 25: Ensure that any case registered may be heard without excessive delay (arts. 9 and 14).

Date information due: 1 April 2008

Date information received:

3 March 2009 Partial reply (responses incomplete with regard to paras. 7, 24, 25).

Action taken:

11 June 2008 A reminder was sent.

22 September 2008 A further reminder was sent.

16 December 2008 The Special Rapporteur requested a meeting with a representative of the State party.

29 May 2009 A letter was sent to request additional information.

3 September 2009 A reminder was sent.

11 December 2009 A reminder was sent.

25 June 2010 The Special Rapporteur requested a meeting with a representative of the State party.

Recommended action: A reminder should be sent.

Next report due: 23 March 2011

Ninetieth session (July 2007)

State party: Czech Republic

Report considered: Second periodic (due since 1 August 2005), submitted on 24 May 2006.

Information requested:

Para. 9: Measures to eradicate all forms of police ill-treatment, in particular: (a) establishment of an independent mechanism for the investigation of complaints about actions of law enforcement officials; (b) initiation of disciplinary and criminal proceedings against alleged perpetrators, and compensation for victims; and (c) police training on the criminal nature of excessive use of force (arts. 2, 7, 9 and 26).

Para. 14: Measures to prevent unnecessary psychiatric confinement; ensure that all persons without full legal capacity are placed under guardianship representing and defending their wishes and interests; effective judicial review of the lawfulness of the admission and detention in health institutions of each person (arts. 9 and 16).

Para. 16: Measures to combat discrimination against Roma (arts. 2, 26 and 27).

Date information due: 1 August 2008

Date information received:

18 August 2008 Partial reply (response incomplete with regard to paras. 9, 14 and 16).

22 March 2010 Supplementary follow-up report received.

Action taken:

11 June 2008 A reminder was sent.

10 December 2008 A letter was sent to request additional information.

6 May 2009 A reminder was sent to the State party.

6 October 2009 A further reminder was sent.

February 2010 The Special Rapporteur requested a meeting with a representative of the State party.

Recommended action: The additional replies of the State party should be sent for translation and considered at a later session.

Next report due: 1 August 2011

State party: Sudan

Report considered: Third periodic (due since 7 November 2001), submitted on 28 June 2006.

Information requested:

Para 9:

(a) Take measures to ensure that State agents and militia under State control put an immediate end to human rights violations;

(b) Ensure that State bodies and agents afford protection to victims of serious violations committed by third parties;

(c) Take measures, including cooperation with the International Criminal Court, to ensure that all human rights violations are investigated, and that those responsible, including State agents and militia members, are prosecuted at national or international level;

(d) Ensure that no financial support or material is channelled to militias that engage in ethnic cleansing or the deliberate targeting of civilians;

(e) Abolish all immunity in the new legislation governing the police, armed forces and national security forces;

(f) Ensure that no amnesty is granted to anyone believed to have committed serious crimes;

(g) Ensure appropriate reparation for victims of serious human rights violations (arts. 2, 3, 6, 7 and 12).

Para. 11:

(a) Ensure that victims of serious human rights violations have access to effective remedies, including compensation;

(b) Provide the human and financial resources required for the efficient functioning of the Sudanese legal system, particularly the special courts and tribunals established to try crimes committed in the Sudan (arts. 2, 6 and 7).

Para. 17: Put an end to all recruitment and use of child soldiers; ensure that disarmament, demobilization and reintegration commissions are adequately staffed and funded; take measures to speed up the establishment of a civil register and to ensure that all births are registered throughout the country (arts. 8 and 24).

Date information due: 1 August 2008

Date information received:

19 October 2009 Follow-up report received; the annexes have not been received, however, despite repeated requests by the secretariat.

Action taken:

22 September 2008 A reminder was sent.

19 December 2008 A further reminder was sent.

22 June 2009 The Special Rapporteur requested a meeting with a representative of the State party.

7 October 2009 The Special Rapporteur requested a meeting with a representative of the Sudan.

26 February 2010 A note verbale requesting the annexes was sent.

Recommended action: The report will be considered at the 100th session of the Committee.

Next report due: 26 July 2010

State party: Zambia

Report considered: Third periodic (due since 30 June 1998), submitted on 16 December 2005.

Information requested:

Para. 10: Measures to increase the resources and powers granted to the Zambian Human Rights Commission (art. 2).

Para. 12: Measures to bring article 23 of the Constitution in line with articles 2, 3 and 26 of the Covenant.

Para. 13: Measures to bring customary laws and practices in line with the Covenant, particularly with regard to women's rights (arts. 2 and 3).

Para. 23: Development of alternative measures to imprisonment; ensure trials without unreasonable delay; measures to improve conditions and reduce overcrowding in prisons and detention facilities (arts. 7, 9 and 10).

Date information due: 1 August 2008

Date information received:

9 December 2009 Follow-up report received (para. 10: no reply; paras. 12, 13 and 23:

replies incomplete).

Action taken:

Between September 2008 and May 2009 Three reminders were sent.

7 October 2009 The Special Rapporteur requested a meeting with a representative of Zambia.

28 October 2009 The Special Rapporteur met with a representative of the State party and discussed some points relating to the information requested. The representative of the State party informed the Special Rapporteur that the replies of the State party to the Committee's follow-up questions are currently being prepared and will be submitted as soon as possible (November 2009).

26 April 2010 A letter was sent requesting additional, more specific information on certain questions.

Recommended action: A reminder should be sent.

Next report due: 20 July 2011

Ninety-first session (October 2007)

State party: Georgia

Report considered: Third periodic (due since 1 April 2006), submitted on 1 August 2006.

Information requested:

Para. 8: Compilation of statistical data on incidents of domestic violence; investigation of complaints related to domestic violence and institution of criminal proceedings against perpetrators; protection of victims of domestic violence (arts. 3, 23 and 26).

Para. 9: Prompt and impartial investigation of complaints about excessive use of force by law enforcement officers; initiation of criminal investigations against perpetrators; training for law enforcement officers; provision of compensation to victims (art. 6).

Para. 11: Measures to improve the conditions of persons deprived of their liberty, especially measures to put an end to prison overcrowding (art. 10).

Date information due: 1 November 2008

Date information received:

13 January 2009 Partial reply (response incomplete with regard to paras. 8, 9 and 11).

28 October 2009 Additional information submitted (para. 8: replies satisfactory in parts, incomplete in others; para. 9: replies satisfactory in parts, incomplete in others; para. 11: replies satisfactory in parts, incomplete in others).

Action taken:

16 December 2008 A reminder was sent.

29 May 2009 A letter was sent to request additional information.

27 August 2009 A reminder was sent.

Recommended action: While taking note of the cooperativeness of the State party, the Committee should send a letter requesting additional, more specific information on a

number of questions: investigations into complaints related to domestic violence and other acts of violence against women (para. 8); protection of victims of domestic violence, including by establishing a sufficient number of shelters (para. 8); impartial investigations into complaints about the excessive use of force by law enforcement officials (para. 9); prosecution of the perpetrators of such acts (para. 9); and steps to end prison overcrowding (para. 11).

Next report due: 1 November 2011

State party: Libyan Arab Jamahiriya

Report considered: Fourth periodic (due since 1 October 2002), submitted on 6 December 2005.

Information requested:

Para. 10: Adoption of legislative and other measures to combat violence against women (arts. 3, 7 and 26).

Para. 21: Adoption of the new penal code within a reasonable time frame (art. 14).

Para. 23: Review of legislation, including the Publication Act of 1972, containing limitations on the right to freedom of opinion and expression (arts. 18, 19, 21, 22 and 25).

Date information due: 30 October 2008

Date information received:

24 July 2009 Partial reply (para. 10: recommendation partly not implemented, reply partly incomplete; para. 21: recommendation partly not implemented (amendments to draft penal code); para. 23: recommendation partly not implemented, reply partly incomplete (compatibility of draft laws with the Covenant)).

Action taken:

16 December 2008 A reminder was sent.

9 June 2009 A reminder was sent to the State party.

4 January 2010 A letter was sent to request additional information.

23 April 2010 A reminder was sent along with a request to meet with a representative of the State party.

Recommended action: If no information is received, consultations should be held at the 100th session.

Next report due: 30 October 2010

State party: Austria

Report considered: Fourth periodic (due since 1 October 2002), submitted on 21 July 2006.

Information requested:

Para. 11: Prompt, independent, and impartial investigation of cases of death and abuse in police custody; introduction of mandatory human rights training for police, judges and law enforcement officers (arts. 6, 7 and 10).

Para. 12: Adequate medical supervision and treatment of detainees awaiting deportation who are on hunger strike; investigation of the case of Geoffrey A., and information on the outcome of investigations in this case and in the case of Yankuba Ceesay (arts. 6 and 10).

Para. 16: Ensure that restrictions on the contact between an arrested or detained person and counsel are not left to the sole discretion of the police (art. 9).

Para. 17: Ensure that asylum-seekers who are detained pending deportation are held in centres specifically designed for that purpose, preferably in open stations, with access to qualified legal counselling and adequate medical services (arts. 10 and 13).

Date information due: 30 October 2008

Date information received:

15 October 2008 Partial reply (responses incomplete with regard to paras. 11, 12, 16 and 17).

22 July 2009 Supplementary follow-up report received (in the main largely satisfactory).

Action taken:

12 December 2008 A letter was sent to request additional information.

29 May 2009 A reminder was sent to the State party.

14 December 2009 A letter was sent stating that the follow-up procedure is considered completed.

Recommended action: No further action recommended.

Next report due: 30 October 2012

State party: Algeria

Report considered: Third periodic (due since 1 June 2000), submitted on 22 September 2006.

Information requested:

Para. 11: Ensure that all places of detention are under the authority of the civil prison administration and the public prosecutor's office; create a national register of detention centres and detained persons; regular visits by an independent national organ to all places where persons are deprived of their liberty (arts. 2 and 9).

Para. 12: Ensure that victims of disappearances and/or their families have access to effective remedies, including compensation; ensure that all persons secretly detained are brought before a judge without delay; investigate all cases of disappearances, inform the families of victims about the results of such investigations, and publish the final report of the ad hoc National Commission on Disappearances (arts. 2, 6, 7, 9, 10 and 16).

Para. 15: Ensure that all allegations of torture and cruel treatment are investigated by an independent body and that perpetrators are punished; improve training for public officials on the rights of arrested persons and detainees (arts. 2, 6 and 7).

Date information due: 1 November 2008

Date information received:

7 November 2007 In a memorandum addressed to the Special Rapporteur, issued under symbol CCPR/C/DZA/CO/3/Add.1, the State party explained its position on the concluding observations and gave partial replies on paragraphs 11, 12 and 15.

14 January and 12 October 2009 Letter addressed to the Special Rapporteur (the State party repeated its position, as explained in the memorandum of 7 November 2007, and again requested that that memorandum should be issued as an annex to the annual report of the Committee).

27 July 2010 Communication addressed to the Special Rapporteur informing him of the availability of representatives of the State party to meet with him at the ninety-ninth session of the Committee.

Action taken:

16 December 2008 A reminder was sent.

29 May 2009 A letter was sent to request additional information.

27 August 2009 A reminder was sent.

11 December 2009 A reminder was sent. Moreover, the Special Rapporteur requested a meeting with a representative of the State party.

25 June 2010 The Special Rapporteur requested a meeting with a representative of the State party.

28 July 2010 The Special Rapporteur requested a meeting with a representative of the State party at the 100th session of the Committee.

Recommended action: Talks will be held at the Committee's next session.

Next report due: 1 November 2011

State party: Costa Rica

Report considered: Fifth periodic (due since 30 April 2004), submitted on 30 May 2006.

Information requested:

Para. 9: Measures to put an end to overcrowding in detention centres (art. 10).

Para. 12: Measures to combat trafficking of women and children (arts. 2 and 24).

Date information due: 1 November 2008

Date information received:

17 March 2009 Partial reply received (cooperative but incomplete information).

17 November 2009 Information received (para. 9: response incomplete; para. 12: information largely satisfactory).

Action taken:

16 December 2008 A reminder was sent.

30 July 2009 (*sent late*) A letter was sent to request additional and more specific information.

Recommended action: While taking note of the cooperativeness of the State party, the Committee should send a letter requesting additional information on certain questions: improving conditions in detention centres and measures to solve the problem of prison overcrowding (para. 9). The letter should also highlight the points concerning which the Committee considers that its recommendations have been implemented: measures to combat trafficking of women and children and sexual exploitation (para. 12).

Next report due: 1 November 2012

Ninety-second session (March 2008)

State party: Tunisia

Report considered: Fifth periodic (due since 4 February 1998), submitted on 14 December 2006.

Information requested:

Para. 11: Investigation of all allegations of torture and cruel, inhuman or degrading treatment or punishment by an independent authority; prosecution and punishment of perpetrators and their hierarchical superiors; compensation for victims; improvement of training of public officials; statistical data on complaints about torture (arts. 2 and 7).

Para. 14: Commutation of all death sentences; consider abolishing the death penalty and ratifying the second Optional Protocol to the Covenant (arts. 2, 6 and 7).

Para. 20: Measures to put an end to acts of intimidation and harassment of human rights organizations and defenders; investigation of reports about such acts; ensure compatibility with articles 19, 21 and 22 of the Covenant of any restrictions imposed on the right to peaceful assembly and demonstration (arts. 9, 19, 21 and 22).

Para. 21: Ensure that independent human rights associations are registered and that they are provided with effective and prompt recourse against any rejection of the applications for registration (arts. 21 and 22).

Date information due: 1 April 2009

Date information received:

16 March 2009 Partial reply (para. 11: cooperative but information incomplete; para. 14: recommendations not implemented; paras. 20–21: receipt acknowledged but non-specific information).

2 March 2010 Supplementary follow-up report received.

Action taken:

30 July 2009 (sent late) A letter was sent to request additional information and to state that the follow-up procedure with respect to certain issues is considered completed due to non-implementation and to ask the State party to report on these issues in its next periodic report.

Recommended action: While taking note of the cooperativeness of the State party, the Committee should send a letter requesting additional information on certain questions: complaints of torture submitted to, and registered by, the authorities; number of compensation awards (para. 11); steps taken to protect the peaceful activities of human rights organizations and defenders, and information on investigations into allegations of intimidation (para. 20); and information on the registration of human rights associations (para. 21). The letter should also highlight the points on which the Committee considers that its recommendations have been implemented: training of law enforcement officials (para. 11).

Next report due: 31 March 2012

State party: Botswana

Report considered: Initial (due since 8 December 2001), submitted on 13 October 2006.

Information requested:

Para. 12: Raise awareness of the precedence of constitutional law over customary laws and practices and of the right to request the transfer of a case and to appeal customary courts' decisions to constitutional law courts (arts. 2 and 3).

Para. 13: Ensure that the death penalty is only imposed for the most serious crimes; move towards abolition of the death penalty; detailed information on the number of convictions for murder, courts' findings of mitigating circumstances, and the number of death sentences imposed by the courts and of persons executed per year; ensure that families are informed in advance of the date of execution of family members and that the body is returned to them for burial (art. 6).

Para. 14: Withdrawal of reservations to articles 7 and 12 (arts. 7 and 12).

Para. 17: Ensure that persons on remand are not kept in custody for an unreasonable period of time; ensure that conditions of detention are compatible with the United Nations Standard Minimum Rules for the Treatment of Prisoners; immediate action to reduce the prison population; increased use of alternative measures to imprisonment; enhance access to prisoners by family members (arts. 7, 9 and 10).

Date information due: 1 April 2009

Date information received: None received.

Action taken:

8 September 2009 A reminder was sent.

11 December 2009 A reminder was sent.

Recommended action: A request for a meeting with a representative of the State party should be sent.

Next report due: 31 March 2012

State party: The former Yugoslav Republic of Macedonia

Report considered: Second periodic (due since 1 June 2000), submitted on 12 October 2006.

Information requested:

Para. 12: Ensure that the Law on Amnesty is not applied to the most serious human rights violations, crimes against humanity and war crimes; thorough investigation of such crimes and prosecution and punishment of perpetrators; compensation for victims and their families (arts. 2, 6 and 7).

Para. 14: Consider undertaking a new and comprehensive investigation of the allegations made by Mr. Khaled al-Masri, seeking his cooperation and taking into account all available evidence; provide adequate compensation in case a violation is found; review of practices and procedures aimed at preventing unlawful renditions (arts. 2, 7, 9 and 10).

Para. 15: Find immediate and durable solutions for all internally displaced persons in consultation with them and in accordance with the Guiding Principles on Internal Displacement (art. 12).

Date information due: 1 April 2009

Date information received:

31 August 2009 Follow-up report received (paras. 12 and 15: replies incomplete; para. 14:

recommendation not implemented in part; reply lacking in part).

Action taken:

27 August 2009 A reminder was sent.

26 April 2010 A letter was sent in which the Committee requested additional information on certain questions: measures taken to ensure that the most serious human rights violations, crimes against humanity and war crimes are thoroughly investigated (para. 12); review its practices and procedures with a view to preventing the illegal rendition of prisoners (para. 14). The letter also highlighted the points concerning which the Committee considered that its recommendations had not been implemented: a new and comprehensive investigation into the allegations made by Khaled al-Masri. In addition, the State party was invited to keep the Committee apprised of any new development in respect of displaced persons.

Recommended action: A reminder should be sent.

Next report due: 1 April 2012

State party: Panama

Report considered: Third periodic (due since 31 March 1992), submitted on 9 February 2007.

Information requested:

Para. 11: Measures to reduce overcrowding in detention facilities and to ensure that prison conditions are in compliance with article 10 of the Covenant and with the United Nations Standard Minimum Rules for the Treatment of Prisoners (art. 10).

Para. 14: Adopt legislation that will allow refugees to enjoy the rights under the Covenant; ensure compliance with the non-refoulement obligation (arts. 2, 6, 7 and 9).

Para. 18: Implementation of the law on domestic violence; ensure a sufficient number of shelters and police protection for victims; prosecution and punishment of perpetrators; provide statistical data on ongoing cases for domestic violence and their outcomes (arts. 3 and 7).

Date information due: 1 April 2009

Date information received: None received.

Action taken:

Reminders were sent on 27 August 2009, 11 December 2009 and 23 April 2010.

Recommended action: A request for a meeting with a representative of the State party should be sent.

Next report due: 31 March 2012

Ninety-third session (July 2008)

State party: France

Report considered: Fourth periodic (due 31 December 2000), submitted on 13 February 2007.

Information requested:

Para. 12: Collect and report adequate statistical data, disaggregated on the basis of racial, ethnic and national origin, and to meet the reporting guidelines of the Committee (arts. 2, 25, 26 and 27).

Para. 18: Review the detention policy in regard to undocumented foreign nationals and asylum-seekers, including unaccompanied children; reduce overcrowding and improve living conditions in detention centres, especially those in the Overseas Departments and Territories (arts. 7, 10 and 13).

Para. 20: Ensure that the return of foreign nationals, including asylum-seekers, is assessed through a fair process that effectively excludes the real risk that any person will face serious human rights violations upon his return; properly inform and assure undocumented foreign nationals and asylum-seekers of their rights, including the right to apply for asylum, with access to free legal aid; ensure that all individuals subject to deportation orders have an adequate period to prepare an asylum application, with guaranteed access to translators, and a right of appeal with suspensive effect; recognize that the more systematic the practice of torture or cruel, inhuman or degrading treatment, the less likely it will be that a real risk of treatment incompatible with the Covenant can be avoided by diplomatic assurances, however stringent any agreed follow-up procedure may be; exercise the utmost care in the use of such assurances and adopt clear and transparent procedures allowing review by adequate judicial mechanisms before individuals are deported, as well as effective means to monitor the fate of the affected individuals (arts. 7 and 13).

Date information due: 31 July 2009

Date information received:

20 July 2009 Follow-up report received (in the main largely satisfactory; para. 18: responses incomplete in part; para. 20: responses incomplete in part).

9 July 2010 Additional follow-up report received.

Action taken:

11 January 2010 A letter was sent requesting additional information and stating that the follow-up procedure with respect to certain issues is considered completed.

Recommended action: The additional replies of the State party should be considered at a later session.

Next report due: 1 August 2012

State party: San Marino

Report considered: Second periodic, submitted on 31 October 2006.

Information requested:

Para. 6: Establish an effective independent monitoring mechanism for implementation of Covenant rights, which is fully in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) adopted by the General Assembly in resolution 48/134 (art. 2).

Para. 7: Adopt a comprehensive anti-discrimination legal framework which expressly indicates all those grounds of discrimination that are presently subsumed under the notion of "personal status" (grounds of discrimination such as sexual orientation, race, colour, language, nationality and national or ethnic origin) (arts. 2 and 26).

Date information due: 1 August 2009

No information received.

Action taken:

14 December 2009 A reminder was sent.

23 April 2010 A further reminder was sent.

Recommended action: A further reminder should be sent.

Next report due: 31 July 2013

State party: Ireland

Report considered: Third periodic (due 31 July 2005), submitted on 23 February 2008.

Information requested:

Para. 11: Introduce a definition of “terrorist acts” in its domestic legislation, limited to offences which can justifiably be equated with terrorism and its serious consequences; monitor how and how often terrorist acts have been investigated and prosecuted, including with regard to the length of pretrial detention and access to a lawyer; exercise the utmost care in relying on official assurances; establish a regime for the control of suspicious flights and ensure that all allegations of so-called renditions are publicly investigated (arts. 7, 9 and 14).

Para. 15: Increase efforts to improve the conditions of all persons deprived of liberty before trial and after conviction, fulfilling all requirements outlined in the Standard Minimum Rules for the Treatment of Prisoners; in particular, address the issue of overcrowding and the “slopping-out” of human waste; detain remand prisoners in separate facilities and promote alternatives to imprisonment; submit detailed statistical data to the Committee showing progress since the adoption of the present recommendation, including on concrete promotion and implementation of alternative measures to detention (art. 10).

Para. 22: Increase efforts to ensure that non-denominational primary education is widely available in all regions of the State party, in view of the increasingly diverse and multi-ethnic composition of the population of the State party (arts. 2, 18, 24 and 26).

Date information due: 1 August 2009

Date information received:

31 July 2009 Information submitted (in the main largely satisfactory; para. 11: responses incomplete in part).

Action taken:

4 January 2010 A letter was sent requesting additional information: monitor how and how often terrorist acts have been investigated and prosecuted (para. 11); exercise the utmost care in relying on official assurances (para. 11); mandate of the Committee on Aspects of International Human Rights, which will examine the legal framework and how systems of monitoring traffic through Irish airports might be improved (para. 11); and prison overcrowding (para. 15). The letter also stated that the follow-up procedure with respect to certain issues is considered completed: improve the conditions of all persons deprived of liberty (para. 15); and ensure that non-denominational primary education is available (para. 22).

Recommended action: A reminder should be sent.

Next report due: 31 July 2012

State party: United Kingdom of Great Britain and Northern Ireland

Report considered: Sixth periodic (due on 1 November 2006), submitted on 1 November 2006.

Information requested:

Para. 9: Conduct, as a matter of particular urgency, independent and impartial inquiries in order to give an account of the circumstances surrounding violations of the right to life in Northern Ireland (art. 9).

Para. 12: Ensure that all individuals, including persons suspected of terrorism, are not returned to another country if there are substantial reasons for fearing that they would be subjected to torture or cruel, inhuman or degrading treatment or punishment; recognize that the more systematic the practice of torture or cruel, inhuman or degrading treatment, the less likely it will be that a real risk of such treatment can be avoided by diplomatic assurances, however stringent any agreed follow-up procedure may be; exercise the utmost care in the use of such assurances and adopt clear and transparent procedures allowing review by adequate judicial mechanisms before individuals are deported, as well as effective means to monitor the fate of the affected individuals (art. 7).

Para. 14: State clearly that the Covenant applies to all individuals who are subject to its jurisdiction or control; conduct prompt and independent investigations into all allegations concerning suspicious deaths, torture or cruel, inhuman or degrading treatment or punishment inflicted by its personnel (including commanders), in detention facilities in Afghanistan and Iraq; ensure that those responsible are prosecuted and punished in accordance with the gravity of the crime; adopt all necessary measures to prevent the recurrence of such incidents, in particular by providing adequate training and clear guidance to its personnel (including commanders) and contract employees, about their respective obligations and responsibilities; provide information on the measures taken to ensure respect of the right to reparation for the victims (arts. 2, 6, 7 and 10).

Para. 15: Ensure that any terrorist suspect arrested is promptly informed of any charge against him or her and tried within a reasonable time or released (arts. 9 and 14).

Date information due: 1 August 2009

Date information received:

7 August 2009 Follow-up report received (para. 9: replies incomplete; para. 12: no replies to some questions; partly not implemented; para. 14: recommendations implemented in part; replies satisfactory in part and incomplete in part; para. 15: replies satisfactory in part and incomplete in part).

Action taken:

26 April 2010 A letter was sent indicating that the procedure was complete with regard to the issues concerning which the information supplied by the State party was considered to be largely satisfactory: application of the Covenant to all individuals who are subject to its jurisdiction or control (para. 14). The letter included a request for additional information on certain questions: destruction of documents and delays in the "Billy Wright" inquiry (para. 9); independence of inquiries (para. 9); investigations into allegations concerning suspicious deaths, torture or cruel, inhuman or degrading treatment or punishment in detention facilities in Afghanistan and Iraq (para. 14); and measures taken to ensure respect for victims' right to reparation (para. 14). In addition, the Committee invited the State party to keep it informed of any news on the appeals before the Belfast courts on the use of extended periods of detention (para. 15).

Recommended action: A reminder should be sent, including a request for additional information on certain questions: diplomatic assurances (para. 12).

Next report due: 31 July 2012

Ninety-fourth session (October 2008)

State party: Nicaragua

Report considered: Third periodic (due on 11 June 1997), submitted on 20 June 2007.

Information requested:

Para. 12: Take immediate steps to put a halt to killings of women and, in particular: (a) conduct investigations and punish their attackers; (b) allow the victims of gender violence effective access to justice; (c) provide police protection for victims, and set up shelters; (d) maintain and promote opportunities for direct participation by women, both nationally and locally, in decision-taking on matters related in particular to violence against women, and ensure that women participate and are represented in civil society; (e) take steps to prevent and warn against gender violence, for example by providing training for police officers, particularly those in the police units for women (arts. 3 and 7).

Para. 13: Bring its legislation on abortion into line with the provisions of the Covenant; take steps to help women avoid unwanted pregnancies so that they do not need to resort to illegal or unsafe abortions which may endanger their lives, or seek abortions abroad; avoid penalizing medical professionals in the conduct of their professional duties (arts. 6 and 7).

Para. 17: Step up its efforts to improve conditions for all persons deprived of their liberty, complying with all the requirements of the Standard Minimum Rules for the Treatment of Prisoners; tackle overcrowding as a matter of priority; supply figures to illustrate the progress made since the approval of this recommendation (art. 10).

Para. 19: Take the necessary action to put a stop to alleged instances of systematic persecution and death threats, particularly against the defenders of women's rights, and ensure that those responsible are duly punished; guarantee organizations of human rights defenders the right to freedom of expression and association in the conduct of their activities (arts. 19 and 22).

Date information due: 31 October 2009

No information received.

Action taken:

23 April 2010 A reminder was sent.

Recommended action: A further reminder should be sent.

Next report due: 29 October 2012

State party: Monaco

Report considered: Second periodic (due on 1 August 2006), submitted on 4 March 2007.

Information requested:

Para. 9: Adopt specific legislation on domestic violence; step up public information campaigns, inform women of their rights, and provide victims with material and

psychological support; the police should be given specific training on the subject (art. 3).

Date information due: 31 October 2009

Date information received:

26 March 2010 Follow-up report received (responses largely satisfactory).

Recommended action: While taking note of the cooperativeness of the State party, the Committee should send a letter indicating that the procedure is complete with regard to the issues concerning which the information supplied by the State party was considered to be largely satisfactory. In addition, the State party should be invited to keep the Committee apprised of any new development in respect of the bill designed to combat and prevent specific forms of violence and the order to be issued with a view to improving the training of judges and other officials.

Next report due: 28 October 2013

State party: Denmark

Report considered: Fifth periodic (due on 31 October 2005), submitted on 23 July 2007.

Information requested:

Para. 8: Continue its efforts to eliminate violence against women, including domestic violence, by means of, inter alia, information campaigns on the criminal nature of this phenomenon and the allocation of sufficient financial resources to prevent such violence and provide protection and material support to victims (arts. 3, 7 and 26).

Para. 11: Review its legislation and practice in relation to solitary confinement during pretrial detention, with a view to ensuring that such a measure is used only in exceptional circumstances and for a limited period of time (arts. 7, 9 and 10).

Date information due: 31 October 2009

Date information received:

4 November 2009 Follow-up report received (para. 8: replies incomplete; para. 11: largely satisfactory).

Action taken:

26 April 2010 A letter was sent indicating that the procedure was complete with regard to the issues concerning which the information supplied by the State party was considered to be largely satisfactory: review of legislation on solitary confinement during pretrial detention (para. 11). The letter included a request for additional information on certain questions: measures aimed at eliminating violence against women (para. 8).

Recommended action: A reminder should be sent.

Next report due: 31 October 2013

State party: Japan

Report considered: Fifth periodic (due in October 2002), submitted on 20 December 2006.

Information requested:

Para. 17: Introduce a mandatory system of review in capital cases and ensure the suspensive effect of requests for retrial or pardon in such cases; limits may be placed on the number of requests for pardon in order to prevent abuse of the suspension; ensure the strict confidentiality of all meetings between death row inmates and their lawyers concerning retrial (arts. 6 and 14).

Para. 18: Abolish the substitute detention system or ensure that it is fully compliant with all guarantees contained in article 14 of the Covenant; ensure that all suspects are guaranteed the right of confidential access to a lawyer, including during the interrogation process, and to legal aid from the moment of arrest and irrespective of the nature of their alleged crime, and to all police records related to their case, as well as to medical treatment; introduce a pre-indictment bail system (arts. 7, 9, 10 and 14).

Para. 19: Adopt legislation prescribing strict time limits for the interrogation of suspects and sanctions for non-compliance, ensure the systematic use of video-recording devices during the entire duration of interrogations and guarantee the right of all suspects to have counsel present during interrogations; acknowledge that the role of the police during criminal investigations is to collect evidence for the trial rather than establishing the truth, ensure that silence by suspects is not considered inculpatory, and encourage courts to rely on modern scientific evidence rather than on confessions made during police interrogations (arts. 7, 9 and 14).

Para. 21: Relax the rule under which inmates on death row are placed in solitary confinement, ensure that solitary confinement remains an exceptional measure of limited duration, introduce a maximum time limit and require the prior physical and mental examination of an inmate for confinement in protection cells and discontinue the practice of segregating certain inmates in “accommodating blocks” without clearly defined criteria or possibilities of appeal (arts. 7 and 10).

Date information due: 31 October 2009

Date information received:

21 December 2009 Follow-up report received (para. 17: recommendations partly not implemented, replies partly incomplete; para. 18: replies incomplete; para. 19: recommendations partly implemented; para. 21: recommendations partly not implemented, replies partly satisfactory).

Recommended action: While taking note of the cooperativeness of the State party, the Committee should send a letter requesting additional information on certain questions: confidentiality of meetings between death-row inmates and their lawyers (para. 17); the substitute detention system (para. 18); the right of confidential access to a lawyer and the right of access to legal aid/the evidence against them (para. 18); pre-indictment bail system (para. 18); and the role of the police (para. 19). The letter should also highlight the points concerning which the Committee considers that its recommendations have not been implemented: mandatory system of review and the suspensive effect of requests for retrial or pardon (para. 17); legislation prescribing strict time limits for the interrogation of suspects (para. 19); and the rule under which death-row inmates are placed in solitary confinement (para. 21). In addition, with regard to “accommodating blocks”, the letter should take note of the undertaking given by the State party, which should be invited to keep the Committee apprised of any efforts to improve the treatment of prisoners.

Next report due: 29 October 2011

State party: Spain

Report considered: Fifth periodic (due on 28 April 1999), submitted on 11 December 2007.

Information requested:

Para. 13: Speed up the process of adopting a national mechanism for the prevention of torture in accordance with the Optional Protocol to the Convention against Torture and

Other Cruel, Inhuman or Degrading Treatment or Punishment (art. 7).

Para. 15: Limit the length of police custody and pretrial detention, in a manner compatible with article 9; end the practice of setting the length of pretrial detention according to the length of the sentence incurred (art. 9).

Para. 16: Ensure that the decision-making process in matters concerning the detention and expulsion of foreigners complies fully with the procedure set out by law, and that humanitarian reasons can always be invoked in asylum proceedings; ensure that the new asylum law is in full conformity with the Covenant (art. 13).

Date information due: 31 October 2009

Date information received:

16 June 2010 Follow-up report received.

Action taken:

23 April 2010 A reminder was sent.

Recommended action: The additional replies of the State party should be sent for translation and considered at a later session.

Next report due: 1 November 2012

State party: Sweden

Report considered: Sixth periodic report (due 1 April 2007) submitted on 20 July 2007.

Information requested:

Para. 10:

(a) Increase efforts to inform persons with disabilities about their rights, means of protecting them and remedies available to them if their rights are violated;

(b) Provide updated information on the impact of awareness-raising programmes. Indicate how the access of persons with disabilities to social services and goods is ensured in practice at the level of municipalities as well as other levels. Supply detailed information on the implementation of the State party's disability policy in its next periodic report;

(c) Take effective measures to increase the employment rate for persons with disabilities, including those with a reduced work capacity (arts. 2, 3 and 7).

Para. 13: Take effective measures to ensure that fundamental legal safeguards are guaranteed in practice to all persons held in custody, in particular the right to have access to a medical doctor, and to promptly inform a close relative or a third party concerning their arrest. Ensure that the information leaflet on fundamental safeguards is made available at all places where persons are deprived of their liberty (arts. 6, 7, 9 and 10).

Para. 16: Ensure that no individuals, including persons suspected of terrorism, are exposed to the danger of torture or cruel, inhuman or degrading treatment or punishment. Recognize that the more systematic the practice of torture or cruel, inhuman or degrading treatment, the less likely it will be that a real risk of such treatment can be avoided by diplomatic assurances, however stringent any agreed follow-up procedure may be. Exercise the utmost care in the use of such assurances and adopt clear and transparent procedures allowing review by adequate judicial mechanisms before individuals are deported, as well as effective means to monitor the fate of the individuals concerned (art. 7).

Para. 17: Permit detention of asylum-seekers only in exceptional circumstances and limit the length of such detentions; avoid placing asylum-seekers in remand prisons. Consider

placement alternatives for asylum-seekers and ensure that asylum-seekers are not deported before a final decision concerning their applications has been taken. Ensure that asylum-seekers have the right to access adequate information in order to respond to arguments and evidence utilized in their case (arts. 13 and 14).

Date information due: 1 April 2010

Date information received:

18 March 2010 Follow-up report received (paras. 10–13: response largely satisfactory; para. 16: response incomplete; para. 17: responses incomplete in parts, recommendations not implemented in parts, no response on certain points).

Recommended action: While taking note of the cooperativeness of the State party, the Committee should send a letter indicating that the procedure is complete with regard to the issues concerning which the information supplied by the State party was considered to be largely satisfactory: rights of persons with disabilities (para. 10); and fundamental legal safeguards for persons held in custody (para. 13). The letter should also include a request for additional information on certain issues: diplomatic assurances (para. 16); detention and placement of asylum-seekers, and access to information (para. 17). Lastly, it should highlight the points concerning which the Committee considers that its recommendations have not been implemented: limit the length of detention of asylum-seekers (para. 17).

Next report due: 1 April 2014

State party: Rwanda

Report considered: Third periodic (due in 1992), submitted on 12 September 2007.

Information requested:

Para. 12: Ensure that all allegations of enforced disappearances and summary or arbitrary executions are investigated by an independent authority and that those responsible for such acts are prosecuted and duly punished. Grant an effective remedy, including adequate compensation, to the victims or their families, in accordance with article 2 of the Covenant (arts. 6, 7 and 9).

Para. 13: Take steps to ensure that the cases of the large number of persons, including women and children, reported to have been killed from 1994 onwards in the course of operations by the Rwandan Patriotic Army are investigated by an independent authority and that those responsible are prosecuted and duly punished (art. 6).

Para 14: Put an end to the sentence of solitary confinement and ensure that persons sentenced to life imprisonment benefit from the safeguards of the United Nations Standard Minimum Rules for the Treatment of Prisoners (art. 7).

Para. 17:

(a) Ensure that all tribunals and courts in Rwanda operate in accordance with the principles set out in article 14 of the Covenant and paragraph 24 of the Committee's general comment No. 32 (2007), on the right to equality before courts and tribunals and to a fair trial, which provides that courts based on customary law cannot hand down binding judgements recognized by the State, unless the following requirements are met: proceedings before such courts are limited to minor civil and criminal matters and meet the basic requirements of fair trial and other relevant guarantees of the Covenant;

(b) Validate the judgements of these courts by State courts in light of the guarantees set out in the Covenant and allow them to be challenged in a procedure meeting the requirements of article 14 of the Covenant.

Date information due: 1 April 2010

No information received.

Recommended action: A reminder should be sent.

Next report due: 1 April 2013

State party: Australia

Report considered: Fifth periodic (due on 31 July 2005), submitted on 7 August 2007.

Information requested:

Para. 11: Ensure that counter-terrorism legislation and practices are in full conformity with the Covenant. Address the vagueness of the definition of a terrorist act in the Criminal Code Act 1995, in order to ensure that its application is limited to offences that are indisputably terrorist offences:

(a) Guarantee the right to be presumed innocent by avoiding reversing the burden of proof;

(b) Ensure that the notion of “exceptional circumstances” does not create an automatic obstacle to release bail;

(c) Envisage abrogating the provisions that provide the Australian Security Intelligence Organization (ASIO) with the power to detain people without access to a lawyer and in conditions of secrecy for up to seven-day renewable periods (arts. 2, 9 and 14).

Para. 14: Redesign Northern Territory Emergency Response measures in direct consultation with the indigenous peoples concerned, in order to ensure that they are consistent with the 1995 Racial Discrimination Act and the Covenant (arts. 2, 24, 26 and 27).

Para. 17: Strengthen efforts towards the elimination of violence against women, especially perpetrated against indigenous women. Implement the National Plan of Action to Reduce Violence against Women and Their Children, as well as the recommendations of the 2008 Family Violence and Homeless report (arts. 2, 3, 7 and 26).

Para. 23:

(a) Consider abolishing the remaining elements of the mandatory immigration detention policy;

(b) Implement the recommendations made by the Human Rights and Equality Commission in its Immigration Detention Report of 2008;

(c) Consider closing down the Christmas Island detention centre;

(d) Enact in legislation a comprehensive immigration framework in compliance with the Covenant (arts. 9 and 14).

Date information due: 1 April 2010

No information received.

Recommended action: A reminder should be sent.

Next report due: 1 April 2013

Annexes

Annex I

States parties to the International Covenant on Civil and Political Rights and to the Optional Protocols, and States which have made the declaration under article 41 of the Covenant as at 31 July 2010

A. States parties to the International Covenant on Civil and Political Rights (165*)

<i>State party</i>	<i>Date of receipt of the instrument of ratification</i>	<i>Date of entry into force</i>
Afghanistan	24 January 1983 ^a	24 April 1983
Albania	4 October 1991 ^a	4 January 1992
Algeria	12 September 1989	12 December 1989
Andorra	22 September 2006	22 December 2006
Angola	10 January 1992 ^a	10 April 1992
Argentina	8 August 1986	8 November 1986
Armenia	23 June 1993 ^a	^b
Australia	13 August 1980	13 November 1980
Austria	10 September 1978	10 December 1978
Azerbaijan	13 August 1992 ^a	^b
Bahamas	23 December 2008	23 March 2009
Bahrain	20 September 2006 ^a	20 December 2006
Bangladesh	6 September 2000 ^a	6 December 2000
Barbados	5 January 1973 ^a	23 March 1976
Belarus	12 November 1973	23 March 1976
Belgium	21 April 1983	21 July 1983
Belize	10 June 1996 ^a	10 September 1996
Benin	12 March 1992 ^a	12 June 1992
Bolivia (Plurinational State of)	12 August 1982 ^a	12 November 1982
Bosnia and Herzegovina	1 September 1993 ^c	6 March 1992

<i>State party</i>	<i>Date of receipt of the instrument of ratification</i>	<i>Date of entry into force</i>
Botswana	8 September 2000	8 December 2000
Brazil	24 January 1992 ^a	24 April 1992
Bulgaria	21 September 1970	23 March 1976
Burkina Faso	4 January 1999 ^a	4 April 1999
Burundi	9 May 1990 ^a	9 August 1990
Cambodia	26 May 1992 ^a	26 August 1992
Cameroon	27 June 1984 ^a	27 September 1984
Canada	19 May 1976 ^a	19 August 1976
Cape Verde	6 August 1993 ^a	6 November 1993
Central African Republic	8 May 1981 ^a	8 August 1981
Chad	9 June 1995 ^a	9 September 1995
Chile	10 February 1972	23 March 1976
Colombia	29 October 1969	23 March 1976
Congo	5 October 1983 ^a	5 January 1984
Costa Rica	29 November 1968	23 March 1976
Côte d'Ivoire	26 March 1992 ^a	26 June 1992
Croatia	12 October 1992 ^c	8 October 1991
Cyprus	2 April 1969	23 March 1976
Czech Republic	22 February 1993 ^c	1 January 1993
Democratic People's Republic of Korea	14 September 1981 ^a	14 December 1981
Democratic Republic of the Congo	1 November 1976 ^a	1 February 1977
Denmark	6 January 1972	23 March 1976
Djibouti	5 November 2002 ^a	5 February 2003
Dominica	17 June 1993 ^a	17 September 1993
Dominican Republic	4 January 1978 ^a	4 April 1978
Ecuador	6 March 1969	23 March 1976
Egypt	14 January 1982	14 April 1982
El Salvador	30 November 1979	29 February 1980
Equatorial Guinea	25 September 1987 ^a	25 December 1987

<i>State party</i>	<i>Date of receipt of the instrument of ratification</i>	<i>Date of entry into force</i>
Eritrea	22 January 2002 ^a	22 April 2002
Estonia	21 October 1991 ^a	21 January 1992
Ethiopia	11 June 1993 ^a	11 September 1993
Finland	19 August 1975	23 March 1976
France	4 November 1980 ^a	4 February 1981
Gabon	21 January 1983 ^a	21 April 1983
Gambia	22 March 1979 ^a	22 June 1979
Georgia	3 May 1994 ^a	^b
Germany	17 December 1973	23 March 1976
Ghana	7 September 2000	7 December 2000
Greece	5 May 1997 ^a	5 August 1997
Grenada	6 September 1991 ^a	6 December 1991
Guatemala	5 May 1992 ^a	5 August 1992
Guinea	24 January 1978	24 April 1978
Guyana	15 February 1977	15 May 1977
Haiti	6 February 1991 ^a	6 May 1991
Honduras	25 August 1997	25 November 1997
Hungary	17 January 1974	23 March 1976
Iceland	22 August 1979	22 November 1979
India	10 April 1979 ^a	10 July 1979
Indonesia	23 February 2006 ^a	23 May 2006
Iran (Islamic Republic of)	24 June 1975	23 March 1976
Iraq	25 January 1971	23 March 1976
Ireland	8 December 1989	8 March 1990
Israel	3 October 1991	3 January 1992
Italy	15 September 1978	15 December 1978
Jamaica	3 October 1975	23 March 1976
Japan	21 June 1979	21 September 1979
Jordan	28 May 1975	23 March 1976
Kazakhstan ^d	24 January 2006	

<i>State party</i>	<i>Date of receipt of the instrument of ratification</i>	<i>Date of entry into force</i>
Kenya	1 May 1972 ^a	23 March 1976
Kuwait	21 May 1996 ^a	21 August 1996
Kyrgyzstan	7 October 1994 ^a	^b
Lao People's Democratic Republic	25 September 2009	25 December 2009
Latvia	14 April 1992 ^a	14 July 1992
Lebanon	3 November 1972 ^a	23 March 1976
Lesotho	9 September 1992 ^a	9 December 1992
Liberia	22 September 2004	22 December 2004
Libyan Arab Jamahiriya	15 May 1970 ^a	23 March 1976
Liechtenstein	10 December 1998 ^a	10 March 1999
Lithuania	20 November 1991 ^a	20 February 1992
Luxembourg	18 August 1983	18 November 1983
Madagascar	21 June 1971	23 March 1976
Malawi	22 December 1993 ^a	22 March 1994
Maldives	19 September 2006 ^a	19 December 2006
Mali	16 July 1974 ^a	23 March 1976
Malta	13 September 1990 ^a	13 December 1990
Mauritania	17 November 2004 ^a	17 February 2005
Mauritius	12 December 1973 ^a	23 March 1976
Mexico	23 March 1981 ^a	23 June 1981
Monaco	28 August 1997	28 November 1997
Mongolia	18 November 1974	23 March 1976
Montenegro ^c		3 June 2006
Morocco	3 May 1979	3 August 1979
Mozambique	21 July 1993 ^a	21 October 1993
Namibia	28 November 1994 ^a	28 February 1995
Nepal	14 May 1991 ^a	14 August 1991
Netherlands	11 December 1978	11 March 1979
New Zealand	28 December 1978	28 March 1979
Nicaragua	12 March 1980 ^a	12 June 1980

<i>State party</i>	<i>Date of receipt of the instrument of ratification</i>	<i>Date of entry into force</i>
Niger	7 March 1986 ^a	7 June 1986
Nigeria	29 July 1993 ^a	29 October 1993
Norway	13 September 1972	23 March 1976
Pakistan	23 June 2010	23 September 2010
Panama	8 March 1977	8 June 1977
Papua New Guinea	21 July 2008 ^a	21 October 2008
Paraguay	10 June 1992 ^a	10 September 1992
Peru	28 April 1978	28 July 1978
Philippines	23 October 1986	23 January 1987
Poland	18 March 1977	18 June 1977
Portugal	15 June 1978	15 September 1978
Republic of Korea	10 April 1990 ^a	10 July 1990
Republic of Moldova	26 January 1993 ^a	^b
Romania	9 December 1974	23 March 1976
Russian Federation	16 October 1973	23 March 1976
Rwanda	16 April 1975 ^a	23 March 1976
Saint Vincent and the Grenadines	9 November 1981 ^a	9 February 1982
Samoa	15 February 2008 ^a	15 May 2008
San Marino	18 October 1985 ^a	18 January 1986
Senegal	13 February 1978	13 May 1978
Serbia ^f	12 March 2001	^c
Seychelles	5 May 1992 ^a	5 August 1992
Sierra Leone	23 August 1996 ^a	23 November 1996
Slovakia	28 May 1993 ^c	1 January 1993
Slovenia	6 July 1992 ^c	25 June 1991
Somalia	24 January 1990 ^a	24 April 1990
South Africa	10 December 1998	10 March 1999
Spain	27 April 1977	27 July 1977
Sri Lanka	11 June 1980 ^a	11 September 1980
Sudan	18 March 1986 ^a	18 June 1986

<i>State party</i>	<i>Date of receipt of the instrument of ratification</i>	<i>Date of entry into force</i>
Suriname	28 December 1976 ^a	28 March 1977
Swaziland	26 March 2004 ^a	26 June 2004
Sweden	6 December 1971	23 March 1976
Switzerland	18 June 1992 ^a	18 September 1992
Syrian Arab Republic	21 April 1969 ^a	23 March 1976
Tajikistan	4 January 1999 ^a	^b
Thailand	29 October 1996 ^a	29 January 1997
The former Yugoslav Republic of Macedonia	18 January 1994 ^c	18 September 1991
Timor-Leste	18 September 2003 ^a	18 December 2003
Togo	24 May 1984 ^a	24 August 1984
Trinidad and Tobago	21 December 1978 ^a	21 March 1979
Tunisia	18 March 1969	23 March 1976
Turkey	23 September 2003	23 December 2003
Turkmenistan	1 May 1997 ^a	^b
Uganda	21 June 1995 ^a	21 September 1995
Ukraine	12 November 1973	23 March 1976
United Kingdom of Great Britain and Northern Ireland	20 May 1976	20 August 1976
United Republic of Tanzania	11 June 1976 ^a	11 September 1976
United States of America	8 June 1992	8 September 1992
Uruguay	1 April 1970	23 March 1976
Uzbekistan	28 September 1995 ^a	^b
Vanuatu	21 November 2008	21 February 2009
Venezuela (Bolivarian Republic of)	10 May 1978	10 August 1978
Viet Nam	24 September 1982 ^a	24 December 1982
Yemen	9 February 1987 ^a	9 May 1987
Zambia	10 April 1984 ^a	10 July 1984
Zimbabwe	13 May 1991 ^a	13 August 1991

Note: In addition to the States parties listed above, the Covenant continues to apply in the Hong Kong Special Administrative Region and the Macao Special Administrative Region of China.^g

* The number of States parties will become 166 by 25 September 2010 following the entry into force of the Covenant for Pakistan, which deposited its instrument of ratification on 25 June 2010. (According to article 49, paragraph 2, of the Covenant: "For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.")

B. States parties to the Optional Protocol (113)

<i>State party</i>	<i>Date of receipt of the instrument of ratification</i>	<i>Date of entry into force</i>
Albania	4 October 2007 ^a	4 January 2008
Algeria	12 September 1989 ^a	12 December 1989
Andorra	22 September 2006	22 December 2006
Angola	10 January 1992 ^a	10 April 1992
Argentina	8 August 1986 ^a	8 November 1986
Armenia	23 June 1993 ^a	23 September 1993
Australia	25 September 1991 ^a	25 December 1991
Austria	10 December 1987	10 March 1988
Azerbaijan	27 November 2001 ^a	27 February 2002
Barbados	5 January 1973 ^a	23 March 1976
Belarus	30 September 1992 ^a	30 December 1992
Belgium	17 May 1994 ^a	17 August 1994
Benin	12 March 1992 ^a	12 June 1992
Bolivia (Plurinational State of)	12 August 1982 ^a	12 November 1982
Bosnia and Herzegovina	1 March 1995	1 June 1995
Brazil	25 September 2009 ^a	25 December 2009
Bulgaria	26 March 1992 ^a	26 June 1992
Burkina Faso	4 January 1999 ^a	4 April 1999
Cameroon	27 June 1984 ^a	27 September 1984
Canada	19 May 1976 ^a	19 August 1976
Cape Verde	19 May 2000 ^a	19 August 2000
Central African Republic	8 May 1981 ^a	8 August 1981
Chad	9 June 1995 ^a	9 September 1995
Chile	27 May 1992 ^a	28 August 1992

<i>State party</i>	<i>Date of receipt of the instrument of ratification</i>	<i>Date of entry into force</i>
Colombia	29 October 1969	23 March 1976
Congo	5 October 1983 ^a	5 January 1984
Costa Rica	29 November 1968	23 March 1976
Côte d'Ivoire	5 March 1997	5 June 1997
Croatia	12 October 1995 ^a	
Cyprus	15 April 1992	15 July 1992
Czech Republic	22 February 1993 ^c	1 January 1993
Democratic Republic of the Congo	1 November 1976 ^a	1 February 1977
Denmark	6 January 1972	23 March 1976
Djibouti	5 November 2002 ^a	5 February 2003
Dominican Republic	4 January 1978 ^a	4 April 1978
Ecuador	6 March 1969	23 March 1976
El Salvador	6 June 1995	6 September 1995
Equatorial Guinea	25 September 1987 ^a	25 December 1987
Estonia	21 October 1991 ^a	21 January 1992
Finland	19 August 1975	23 March 1976
France	17 February 1984 ^a	17 May 1984
Gambia	9 June 1988 ^a	9 September 1988
Georgia	3 May 1994 ^a	3 August 1994
Germany	25 August 1993 ^a	25 November 1993
Ghana	7 September 2000	7 December 2000
Greece	5 May 1997 ^a	5 August 1997
Guatemala	28 November 2000 ^a	28 February 2001
Guinea	17 June 1993	17 September 1993
Guyana ^h	10 May 1993 ^a	10 August 1993
Honduras	7 June 2005	7 September 2005
Hungary	7 September 1988 ^a	7 December 1988
Iceland	22 August 1979 ^a	22 November 1979
Ireland	8 December 1989 ^a	8 March 1990
Italy	15 September 1978	15 December 1978

<i>State party</i>	<i>Date of receipt of the instrument of ratification</i>	<i>Date of entry into force</i>
Kazakhstan	30 June 2009	30 September 2009
Kyrgyzstan	7 October 1994 ^a	7 January 1995
Latvia	22 June 1994 ^a	22 September 1994
Lesotho	6 September 2000 ^a	6 December 2000
Libyan Arab Jamahiriya	16 May 1989 ^a	16 August 1989
Liechtenstein	10 December 1998 ^a	10 March 1999
Lithuania	20 November 1991 ^a	20 February 1992
Luxembourg	18 August 1983 ^a	18 November 1983
Madagascar	21 June 1971	23 March 1976
Malawi	11 June 1996 ^a	11 September 1996
Maldives	19 September 2006 ^a	19 December 2006
Mali	24 October 2001 ^a	24 January 2002
Malta	13 September 1990 ^a	13 December 1990
Mauritius	12 December 1973 ^a	23 March 1976
Mexico	15 March 2002 ^a	15 June 2002
Mongolia	16 April 1991 ^a	16 July 1991
Montenegro ^c		23 October 2006
Namibia	28 November 1994 ^a	28 February 1995
Nepal	14 May 1991 ^a	14 August 1991
Netherlands	11 December 1978	11 March 1979
New Zealand	26 May 1989 ^a	26 August 1989
Nicaragua	12 March 1980 ^a	12 June 1980
Niger	7 March 1986 ^a	7 June 1986
Norway	13 September 1972	23 March 1976
Panama	8 March 1977	8 June 1977
Paraguay	10 January 1995 ^a	10 April 1995
Peru	3 October 1980	3 January 1981
Philippines	22 August 1989	22 November 1989
Poland	7 November 1991 ^a	7 February 1992
Portugal	3 May 1983	3 August 1983

<i>State party</i>	<i>Date of receipt of the instrument of ratification</i>	<i>Date of entry into force</i>
Republic of Korea	10 April 1990 ^a	10 July 1990
Republic of Moldova	23 January 2008	23 April 2008
Romania	20 July 1993 ^a	20 October 1993
Russian Federation	1 October 1991 ^a	1 January 1992
Saint Vincent and the Grenadines	9 November 1981 ^a	9 February 1982
San Marino	18 October 1985 ^a	18 January 1986
Senegal	13 February 1978	13 May 1978
Serbia ^f	6 September 2001	6 December 2001
Seychelles	5 May 1992 ^a	5 August 1992
Sierra Leone	23 August 1996 ^a	23 November 1996
Slovakia	28 May 1993 ^c	1 January 1993
Slovenia	16 July 1993 ^a	16 October 1993
Somalia	24 January 1990 ^a	24 April 1990
South Africa	28 August 2002 ^a	28 November 2002
Spain	25 January 1985 ^a	25 April 1985
Sri Lanka	3 October 1997 ^a	3 January 1998
Suriname	28 December 1976 ^a	28 March 1977
Sweden	6 December 1971	23 March 1976
Tajikistan	4 January 1999 ^a	4 April 1999
The former Yugoslav Republic of Macedonia	12 December 1994 ^c	12 March 1995
Togo	30 March 1988 ^a	30 June 1988
Turkey	24 November 2006	24 February 2007
Turkmenistan ^b	1 May 1997 ^a	1 August 1997
Uganda	14 November 1995 ^a	14 February 1996
Ukraine	25 July 1991 ^a	25 October 1991
Uruguay	1 April 1970	23 March 1976
Uzbekistan	28 September 1995 ^a	28 December 1995
Venezuela (Bolivarian Republic of)	10 May 1978	10 August 1978
Zambia	10 April 1984 ^a	10 July 1984

Note: Jamaica denounced the Optional Protocol on 23 October 1997, with effect from 23 January 1998. Trinidad and Tobago denounced the Optional Protocol on 26 May 1998 and re-acceded on the same day, subject to a reservation, with effect from 26 August 1998. Following the Committee's decision in case No. 845/1999 (*Kennedy v. Trinidad and Tobago*) of 2 November 1999, declaring the reservation invalid, Trinidad and Tobago again denounced the Optional Protocol on 27 March 2000, with effect from 27 June 2000.

C. States parties to the Second Optional Protocol, aiming at the abolition of the death penalty (72)

<i>State party</i>	<i>Date of receipt of the instrument of ratification</i>	<i>Date of entry into force</i>
Albania	17 October 2007 ^a	17 December 2007
Andorra	22 September 2006	22 December 2006
Argentina	2 September 2008	2 December 2008
Australia	2 October 1990 ^a	11 July 1991
Austria	2 March 1993	2 June 1993
Azerbaijan	22 January 1999 ^a	22 April 1999
Belgium	8 December 1998	8 March 1999
Bosnia and Herzegovina	16 March 2001	16 June 2001
Brazil	25 September 2009 ^a	25 December 2009
Bulgaria	10 August 1999	10 November 1999
Canada	25 November 2005 ^a	25 February 2006
Cape Verde	19 May 2000 ^a	19 August 2000
Chile	26 September 2008	26 December 2008
Colombia	5 August 1997 ^a	5 November 1997
Costa Rica	5 June 1998	5 September 1998
Croatia	12 October 1995 ^a	12 January 1996
Cyprus	10 September 1999 ^a	10 December 1999
Czech Republic	15 June 2004 ^a	15 September 2004
Denmark	24 February 1994	24 May 1994
Djibouti	5 November 2002 ^a	5 February 2003
Ecuador	23 February 1993 ^a	23 May 1993
Estonia	30 January 2004 ^a	30 April 2004
Finland	4 April 1991	11 July 1991
France	2 October 2007 ^a	2 January 2008

<i>State party</i>	<i>Date of receipt of the instrument of ratification</i>	<i>Date of entry into force</i>
Georgia	22 March 1999 ^a	22 June 1999
Germany	18 August 1992	18 November 1992
Greece	5 May 1997 ^a	5 August 1997
Honduras	1 April 2008	1 July 2008
Hungary	24 February 1994 ^a	24 May 1994
Iceland	2 April 1991	2 July 1991
Ireland	18 June 1993 ^a	18 September 1993
Italy	14 February 1995	14 May 1995
Liberia	16 September 2005 ^a	16 December 2005
Liechtenstein	10 December 1998 ^a	10 March 1999
Lithuania	27 March 2002	26 June 2002
Luxembourg	12 February 1992	12 May 1992
Malta	29 December 1994 ^a	29 March 1995
Mexico	26 September 2007 ^a	26 December 2007
Monaco	28 March 2000 ^a	28 June 2000
Montenegro ^c		23 October 2006
Mozambique	21 July 1993 ^a	21 October 1993
Namibia	28 November 1994 ^a	28 February 1995
Nepal	4 March 1998 ^a	4 June 1998
Netherlands	26 March 1991	26 June 1991
New Zealand	22 February 1990	22 May 1990
Nicaragua	21 February 2009	21 May 2009
Norway	5 September 1991	5 December 1991
Panama	21 January 1993 ^a	21 April 1993
Paraguay	18 August 2003	18 November 2003
Philippines	20 November 2007	20 February 2008
Portugal	17 October 1990	17 January 1990
Republic of Moldova	20 September 2006 ^a	20 December 2006
Romania	27 February 1991	27 May 1991
Rwanda	15 December 2008 ^a	15 March 2009

<i>State party</i>	<i>Date of receipt of the instrument of ratification</i>	<i>Date of entry into force</i>
San Marino	17 August 2004	17 November 2004
Serbia ^f	6 September 2001 ^a	6 December 2001
Seychelles	15 December 1994 ^a	15 March 1995
Slovakia	22 June 1999	22 September 1999
Slovenia	10 March 1994	10 June 1994
South Africa	28 August 2002 ^a	28 November 2002
Spain	11 April 1991	11 July 1991
Sweden	11 May 1990	11 July 1991
Switzerland	16 June 1994 ^a	16 September 1994
The former Yugoslav Republic of Macedonia	26 January 1995 ^a	26 April 1995
Timor-Leste	18 September 2003 ^a	18 December 2003
Turkey	2 March 2006	2 June 2006
Turkmenistan	11 January 2000 ^a	11 April 2000
Ukraine	25 July 2007 ^a	25 October 2007
United Kingdom of Great Britain and Northern Ireland	10 December 1999	10 March 2000
Uruguay	21 January 1993	21 April 1993
Uzbekistan	23 December 2008 ^a	23 March 2009
Venezuela (Bolivarian Republic of)	22 February 1993	22 May 1993

D. States which have made the declaration under article 41 of the Covenant (48)

<i>State party</i>	<i>Valid from</i>	<i>Valid until</i>
Algeria	12 September 1989	Indefinitely
Argentina	8 August 1986	Indefinitely
Australia	28 January 1993	Indefinitely
Austria	10 September 1978	Indefinitely
Belarus	30 September 1992	Indefinitely
Belgium	5 March 1987	Indefinitely
Bosnia and Herzegovina	6 March 1992	Indefinitely

<i>State party</i>	<i>Valid from</i>	<i>Valid until</i>
Bulgaria	12 May 1993	Indefinitely
Canada	29 October 1979	Indefinitely
Chile	11 March 1990	Indefinitely
Congo	7 July 1989	Indefinitely
Croatia	12 October 1995	Indefinitely
Czech Republic	1 January 1993	Indefinitely
Denmark	19 April 1983	Indefinitely
Ecuador	24 August 1984	Indefinitely
Finland	19 August 1975	Indefinitely
Gambia	9 June 1988	Indefinitely
Germany	27 December 2001	Indefinitely
Ghana	7 September 2000	Indefinitely
Guyana	10 May 1992	Indefinitely
Hungary	7 September 1988	Indefinitely
Iceland	22 August 1979	Indefinitely
Ireland	8 December 1989	Indefinitely
Italy	15 September 1978	Indefinitely
Liechtenstein	10 March 1999	Indefinitely
Luxembourg	18 August 1983	Indefinitely
Malta	13 September 1990	Indefinitely
Netherlands	11 December 1978	Indefinitely
New Zealand	28 December 1978	Indefinitely
Norway	31 August 1972	Indefinitely
Peru	9 April 1984	Indefinitely
Philippines	23 October 1986	Indefinitely
Poland	25 September 1990	Indefinitely
Republic of Korea	10 April 1990	Indefinitely
Russian Federation	1 October 1991	Indefinitely
Senegal	5 January 1981	Indefinitely
Slovakia	1 January 1993	Indefinitely

<i>State party</i>	<i>Valid from</i>	<i>Valid until</i>
Slovenia	6 July 1992	Indefinitely
South Africa	10 March 1999	Indefinitely
Spain	11 March 1998	Indefinitely
Sri Lanka	11 June 1980	Indefinitely
Sweden	26 November 1971	Indefinitely
Switzerland	16 April 2010	16 April 2015
Tunisia	24 June 1993	Indefinitely
Ukraine	28 July 1992	Indefinitely
United Kingdom of Great Britain and Northern Ireland	20 May 1976	Indefinitely
United States of America	8 September 1992	Indefinitely
Zimbabwe	20 August 1991	Indefinitely

Notes

^a Accession.

^b In the opinion of the Committee, the date of entry into force is that on which the State became independent.

^c Succession.

^d Prior to the receipt by the Secretary-General of the United Nations of the instrument of ratification, the Committee's position was the following: although a declaration of succession had not been received, persons within the territory of the State which constituted a part of a former State party to the Covenant continued to be entitled to the guarantees provided in the Covenant, in accordance with the Committee's established jurisprudence (see *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 40*, vol. I (A/49/40 (vol. I)), paras. 48 and 49).

^e Montenegro was admitted to membership in the United Nations by General Assembly resolution 60/264 of 28 June 2006. On 23 October 2006, the Secretary-General received a letter dated 10 October 2006 from the Government of Montenegro, together with a list of multilateral treaties deposited with the Secretary-General, informing the Secretary-General that:

- The Government of the Republic of Montenegro had decided to succeed to the treaties to which the State Union of Serbia and Montenegro had been a party or signatory
- The Government of the Republic of Montenegro was succeeding to the treaties listed in the attached annex and formally undertook to fulfil the conditions set out therein as from 3 June 2006, the date on which the Republic of Montenegro had assumed responsibility for its international relations and the Parliament of Montenegro had adopted the Declaration of Independence
- The Government of the Republic of Montenegro maintained the reservations, declarations and objections, as set out in the annex to the instrument, that had been made by Serbia and Montenegro before the Republic of Montenegro assumed responsibility for its international relations

^f The Socialist Federal Republic of Yugoslavia ratified the Covenant on 2 June 1971, which entered into force for that State on 23 March 1976. The successor State (the Federal Republic of Yugoslavia) was admitted to membership in the United Nations by General Assembly resolution 55/12 of 1 November 2000. By virtue of a subsequent declaration by the Yugoslav Government, the Federal

Republic of Yugoslavia acceded to the Covenant with effect from 12 March 2001. In accordance with the established practice of the Committee, persons subject to the jurisdiction of a State which had been part of a former State party to the Covenant continue to be entitled to the guarantees set out in the Covenant. Following the adoption of the Constitutional Charter of Serbia and Montenegro by the Assembly of the Federal Republic of Yugoslavia on 4 February 2003, the name of the Federal Republic of Yugoslavia became “Serbia and Montenegro”. The Republic of Serbia succeeded the State Union of Serbia and Montenegro as a Member of the United Nations, including all organs and bodies of the United Nations system, on the basis of article 60 of the Constitutional Charter of Serbia and Montenegro, to which the Declaration of Independence adopted by the National Assembly of Montenegro on 3 June 2006 gave effect. On 19 June 2006, the Secretary-General received a communication dated 16 June 2006 from the Minister for Foreign Affairs of the Republic of Serbia informing him that: (a) the Republic of Serbia would continue to exercise its rights and honour its commitments under international treaties concluded by Serbia and Montenegro; (b) the Republic of Serbia should be considered a party to all international agreements in force, instead of Serbia and Montenegro; and (c) the Government of the Republic of Serbia would henceforth perform the functions formerly performed by the Council of Ministers of Serbia and Montenegro as a depositary for the corresponding multilateral treaties. The Republic of Montenegro was admitted to membership in the United Nations by General Assembly resolution 60/264 of 28 June 2006.

^g For information on the application of the Covenant in the Hong Kong Special Administrative Region of China, see *Official Records of the General Assembly, Fifty-first Session, Supplement No. 40* (A/51/40), chap. V, sect. B, paras. 78–85. For information on the application of the Covenant in the Macau Special Administrative Region, *ibid.*, *Fifty-fifth Session, Supplement No. 40* (A/55/40), chap. IV.

^h Guyana denounced the Optional Protocol on 5 January 1999 and re-acceded on the same day, subject to a reservation, with effect from 5 April 1999. Guyana’s reservation elicited objections from six States parties to the Optional Protocol.

Annex II

Membership and officers of the Human Rights Committee, 2009–2010

A. Membership of the Human Rights Committee

Ninety-seventh session

Mr. Abdelfattah AMOR*	Tunisia
Mr. Prafullachandra Natwarlal BHAGWATI*	India
Mr. Lazahri BOUZID**	Algeria
Ms. Christine CHANET*	France
Mr. Ahmed Amin FATHALLA**	Egypt
Mr. Yuji IWASAWA*	Japan
Ms. Helen KELLER*	Switzerland
Mr. Rajsoomer LALLAH**	Mauritius
Ms. Zonke Zanele MAJODINA*	South Africa
Ms. Iulia Antoanella MOTOC*	Romania
Mr. Michael O'FLAHERTY**	Ireland
Mr. José Luis PÉREZ SANCHEZ-CERRO*	Peru
Mr. Rafael RIVAS POSADA**	Colombia
Sir Nigel RODLEY**	United Kingdom of Great Britain and Northern Ireland
Mr. Fabián Omar SALVIOLI**	Argentina
Mr. Krister THELIN**	Sweden
Ms. Ruth WEDGWOOD*	United States of America

Ninety-eighth and ninety-ninth sessions

Mr. Abdelfattah AMOR*	Tunisia
Mr. Prafullachandra Natwarlal BHAGWATI	India
Mr. Lazahri BOUZID**	Algeria
Ms. Christine CHANET*	France
Mr. Mahjoub EL HAIBA**	Morocco
Mr. Ahmed Amin FATHALLA**	Egypt

* Term expires on 31 December 2010.

** Term expires on 31 December 2012.

Mr. Yuji IWASAWA*	Japan
Ms. Helen KELLER*	Switzerland
Mr. Rajsoomer LALLAH**	Mauritius
Ms. Zonke Zanele MAJODINA*	South Africa
Ms. Iulia Antoanella MOTOC*	Romania
Mr. Michael O'FLAHERTY**	Ireland
Mr. José Luis PÉREZ SANCHEZ-CERRO*	Peru
Mr. Rafael RIVAS POSADA**	Colombia
Sir Nigel RODLEY**	United Kingdom of Great Britain and Northern Ireland
Mr. Fabián Omar SALVIOLI**	Argentina
Mr. Krister THELIN**	Sweden
Ms. Ruth WEDGWOOD*	United States of America

B. Officers

The officers of the Committee, elected for a term of two years at the 2598th meeting, on 16 March 2009 (ninety-fifth session), are the following:

Chairperson:	Mr. Yuji Iwasawa
Vice-Chairpersons:	Ms. Zonke Zanele Majodina
	Sir Nigel Rodley
	Mr. José-Luis Pérez Sanchez-Cerro
Rapporteur:	Ms. Iulia Antoanella Motoc

Annex III

Submission of reports and additional information by States parties under article 40 of the Covenant (as at 31 July 2010)

<i>State party</i>	<i>Type of report</i>	<i>Date due</i>	<i>Date of submission</i>
Afghanistan	Second	23 April 1989	25 October 1991 ^a
Albania	Second	1 November 2008	Not yet received
Algeria	Fourth	1 November 2011	Not yet due
Angola	Initial/Special	9 April 1993/ 31 January 1994	22 February 2010
Argentina	Fifth	30 March 2014	Not yet due
Armenia	Second	1 October 2001	27 April 2010
Australia	Sixth	1 April 2013	Not yet due
Austria	Fifth	30 October 2012	Not yet due
Azerbaijan	Fourth	1 August 2013	Not yet due
Bahrain	Initial	20 December 2007	Not yet received
Bangladesh	Initial	6 December 2001	Not yet received
Barbados	Fourth	29 March 2011	Not yet due
Belarus	Fifth	7 November 2001	Not yet received
Belgium	Fifth	1 August 2008	28 January 2009
Belize	Initial	9 September 1997	Not yet received
Benin	Second	1 November 2008	Not yet received
Bolivia (Plurinational State of)	Third	31 December 1999	Not yet received
Bosnia and Herzegovina	Second	1 November 2010	Not yet due
Botswana	Second	31 March 2012	Not yet due
Brazil	Third	31 October 2009	Not yet received
Bulgaria	Third	31 December 1994	31 July 2009
Burkina Faso	Initial	3 April 2000	Not yet received
Burundi	Second	8 August 1996	Not yet received
Cambodia	Second	31 July 2002	Not yet received
Cameroon	Fifth	30 July 2013	Not yet due

<i>State party</i>	<i>Type of report</i>	<i>Date due</i>	<i>Date of submission</i>
Canada	Sixth	31 October 2010	Not yet due
Cape Verde	Initial	5 November 1994	Not yet received
Central African Republic	Third	1 August 2010	Not yet due
Chad	Second	31 July 2012	Not yet due
Chile	Sixth	27 March 2012	Not yet due
Colombia	Seventh	1 April 2014	Not yet due
Congo	Third	31 March 2003	Not yet received
Costa Rica	Sixth	1 November 2012	Not yet due
Côte d'Ivoire	Initial	25 June 1993	Not yet received
Croatia	Third	30 October 2013	Not yet due
Cyprus	Fourth	1 June 2002	Not yet received
Czech Republic	Third	1 August 2011	Not yet due
Democratic People's Republic of Korea	Third	1 January 2004	Not yet received
Democratic Republic of the Congo	Fourth	1 April 2009	Not yet received
Denmark	Sixth	31 October 2013	Not yet due
Djibouti	Initial	5 February 2004	Not yet received
Dominica	Initial	16 September 1994	Not yet received
Dominican Republic	Fifth	1 April 2005	12 November 2009
Ecuador	Sixth	30 October 2013	Not yet due
Egypt	Fourth	1 November 2004	Not yet received
El Salvador	Fourth	1 August 2007	13 January 2009
Equatorial Guinea	Initial	24 December 1988	Not yet received ^b
Eritrea	Initial	22 April 2003	Not yet received
Estonia	Fourth	30 July 2015	Not yet due
Ethiopia	Initial	10 September 1994	27 July 2009
Finland	Sixth	1 November 2009	Not yet received
France	Fifth	31 July 2012	Not yet due
Gabon	Third	31 October 2003	Not yet received
Gambia	Second	21 June 1985	Not yet received ^b

<i>State party</i>	<i>Type of report</i>	<i>Date due</i>	<i>Date of submission</i>
Georgia	Fourth	1 November 2011	Not yet due
Germany	Sixth	1 April 2009	Not yet received
Ghana	Initial	8 February 2001	Not yet received
Greece	Second	1 April 2009	Not yet received
Grenada	Initial	6 September 1991	Not yet received ^b
Guatemala	Third	1 August 2005	20 October 2009
Guinea	Third	30 September 1994	Not yet received
Guyana	Third	31 March 2003	Not yet received
Haiti	Initial	30 December 1996	Not yet received
Honduras	Second	31 October 2010	Not yet due
Hong Kong Special Administrative Region (China) ^c	Third (China)	1 January 2010	Not yet due
Hungary	Fifth	1 April 2007	15 March 2009
Iceland	Fifth	1 April 2010	30 April 2010
India	Fourth	31 December 2001	Not yet received
Indonesia	Initial	23 May 2007	Not yet received
Iran (Islamic Republic of)	Third	31 December 1994	27 October 2009
Iraq	Fifth	4 April 2000	Not yet received
Ireland	Fourth	31 July 2012	Not yet due
Israel	Fourth	30 July 2013	Not yet due
Italy	Sixth	31 October 2009	Not yet received
Jamaica	Third	7 November 2001	20 July 2009
Japan	Sixth	29 October 2011	Not yet due
Jordan	Fourth	21 January 1997	12 March 2009
Kazakhstan	Initial	24 April 2007	27 July 2009
Kenya	Third	1 April 2008	Not yet received
Kuwait	Second	31 July 2004	18 August 2009
Kyrgyzstan	Second	31 July 2004	Not yet received
Lao People's Democratic Republic	Initial	25 December 2010	Not yet due
Latvia	Third	1 November 2008	Not yet received

<i>State party</i>	<i>Type of report</i>	<i>Date due</i>	<i>Date of submission</i>
Lebanon	Third	31 December 1999	Not yet received
Lesotho	Second	30 April 2002	Not yet received
Liberia	Initial	22 December 2005	Not yet received
Libyan Arab Jamahiriya	Fifth	30 October 2010	Not yet due
Liechtenstein	Second	1 September 2009	Not yet received
Lithuania	Third	1 April 2009	Not yet received
Luxembourg	Fourth	1 April 2008	Not yet received
Macau Special Administrative Region (China) ^c	Initial (China)	31 October 2001	Not yet received
Madagascar	Fourth	23 March 2011	Not yet due
Malawi	Initial	21 March 1995	Not yet received
Maldives	Initial	19 December 2007	17 February 2010
Mali	Third	1 April 2005	Not yet received
Malta	Second	12 December 1996	Not yet received
Mauritania	Initial	17 February 2006	Not yet received
Mauritius	Fifth	1 April 2010	Not yet received
Mexico	Sixth	30 March 2014	Not yet due
Monaco	Third	28 October 2013	Not yet due
Mongolia	Fifth	31 March 2003	22 June 2009
Montenegro ^d	Initial	23 October 2007	Not yet received
Morocco	Sixth	1 November 2008	Not yet received
Mozambique	Initial	20 October 1994	Not yet received
Namibia	Second	1 August 2008	Not yet received
Nepal	Second	13 August 1997	Not yet received
Netherlands (including Antilles and Aruba)	Fifth	31 July 2014	Not yet due
New Zealand	Sixth	30 March 2015	Not yet due
Nicaragua	Fourth	29 October 2012	Not yet due
Niger	Second	31 March 1994	Not yet received
Nigeria	Second	28 October 1999	Not yet received
Norway	Sixth	1 October 2009	25 November 2009

<i>State party</i>	<i>Type of report</i>	<i>Date due</i>	<i>Date of submission</i>
Panama	Fourth	31 March 2012	Not yet due
Papua New Guinea	Initial	21 October 2009	Not yet received
Paraguay	Third	31 October 2008	Not yet received
Peru	Fifth	31 October 2003	Not yet received
Philippines	Fourth	1 November 2006	21 June 2010
Poland	Sixth	1 November 2008	15 January 2009
Portugal	Fourth	1 August 2008	Not yet received
Republic of Korea	Fourth	2 November 2010	Not yet due
Republic of Moldova	Third	30 October 2013	Not yet due
Romania	Fifth	28 April 1999	Not yet received
Russian Federation	Seventh	1 November 2012	Not yet due
Rwanda	Fourth	10 April 2013	Not yet due
Saint Vincent and the Grenadines	Second	31 October 1991	Not yet received ^b
Samoa	Initial	15 May 2009	Not yet received
San Marino	Third	31 July 2013	Not yet due
Senegal	Fifth	4 April 2000	Not yet received
Serbia	Second	1 August 2008	30 April 2009
Seychelles	Initial	4 August 1993	Not yet received
Sierra Leone	Initial	22 November 1997	Not yet received
Slovakia	Third	1 August 2007	26 June 2009
Slovenia	Third	1 August 2010	Not yet due
Somalia	Initial	23 April 1991	Not yet received
South Africa	Initial	9 March 2000	Not yet received
Spain	Sixth	1 November 2012	Not yet due
Sri Lanka	Fifth	1 November 2007	Not yet received
Sudan	Fourth	26 July 2010	Not yet received
Suriname	Third	1 April 2008	Not yet received
Swaziland	Initial	27 June 2005	Not yet received
Sweden	Seventh	1 April 2014	Not yet due
Switzerland	Fourth	1 November 2015	Not yet due

<i>State party</i>	<i>Type of report</i>	<i>Date due</i>	<i>Date of submission</i>
Syrian Arab Republic	Fourth	1 August 2009	Not yet received
Tajikistan	Second	31 July 2008	Not yet received
Thailand	Second	1 August 2009	Not yet received
The former Yugoslav Republic of Macedonia	Third	1 April 2012	Not yet due
Timor-Leste	Initial	19 December 2004	Not yet received
Togo	Fourth	1 November 2004	10 July 2009
Trinidad and Tobago	Fifth	31 October 2003	Not yet received
Tunisia	Sixth	31 March 2012	Not yet due
Turkey	Initial	16 December 2004	Not yet received
Turkmenistan	Initial	31 July 1998	4 January 2010
Uganda	Second	1 April 2008	Not yet received
Ukraine	Seventh	2 November 2011	Not yet due
United Kingdom of Great Britain and Northern Ireland	Seventh	31 July 2012	Not yet due
United Kingdom of Great Britain and Northern Ireland (Overseas Territories)	Seventh	31 July 2012	Not yet due
United Republic of Tanzania	Fifth	1 August 2013	Not yet due
United States of America	Fourth	1 August 2010	Not yet due
Uruguay	Fifth	21 March 2003	Not yet received
Uzbekistan	Fourth	30 March 2013	Not yet due
Vanuatu	Initial	21 February 2010	Not yet received
Venezuela (Bolivarian Republic of)	Fourth	1 April 2005	Not yet received
Viet Nam	Third	1 August 2004	Not yet received
Yemen	Fifth	1 July 2009	14 December 2009
Zambia	Fourth	20 July 2011	Not yet due
Zimbabwe	Second	1 June 2002	Not yet received

Notes

^a At its fifty fifth session, the Committee requested the Government of Afghanistan to submit information updating its report before 15 May 1996 for consideration at the fifty seventh session. No additional information was received. At its sixty seventh session, the Committee invited Afghanistan to present its report at the sixty eighth session. The State party asked that the consideration of its report be postponed. At its seventy third session, the Committee decided to postpone consideration of the situation in Afghanistan, pending consolidation of the new Government.

^b The Committee considered the situation of civil and political rights in the Gambia at its seventy fifth session, in the absence of a report and a delegation. Provisional concluding observations were sent to the State party. At the end of the eighty first session, the Committee decided that the observations would be made public.

The Committee considered the situation of civil and political rights in Equatorial Guinea, at its seventy ninth session, in the absence of a report and a State party delegation. Provisional concluding observations were sent to the State party. At the end of the eighty first session, the Committee decided that the observations would be made public.

The Committee considered the situation of civil and political rights in Saint Vincent and the Grenadines, at its eighty sixth session, in the absence of a report but in the presence of a delegation. Provisional concluding observations were sent to the State party, with a request that it submit its second periodic report by 1 April 2007. A reminder was sent on 12 April 2007. Saint Vincent and the Grenadines undertook, by letter dated 5 July 2007, to submit a report within one month. At the end of the ninety-second session and in view of the non-submission of a report from the State party, the Committee decided that the observations would be made public.

The Committee considered the situation of civil and political rights in Grenada, at its ninetieth session, in the absence of a report and a State party delegation. Provisional concluding observations were sent to the State party, with a request to submit its initial report by 31 December 2008.

^c Although China is not itself a party to the Covenant, the Government of China has honoured the obligations under article 40 with respect to the Hong Kong and the Macao Special Administrative Regions, which were previously under British and Portuguese administration, respectively.

^d Montenegro was admitted to membership in the United Nations by General Assembly resolution 60/264 of 28 June 2006. On 23 October 2006, the Secretary General received a letter, dated 10 October 2006, from the Government of Montenegro, together with a list of multilateral treaties deposited with the Secretary-General, informing him that:

- The Government of the Republic of Montenegro had decided to succeed to the treaties to which the State Union of Serbia and Montenegro had been a party or a signatory
- The Government of the Republic of Montenegro was succeeding to the treaties listed in the attached annex and formally undertook to fulfil the conditions set out therein as from 3 June 2006, the date on which the Republic of Montenegro had assumed responsibility for its international relations and the Parliament of Montenegro had adopted the Declaration of Independence
- The Government of the Republic of Montenegro maintained the reservations, declarations and objections, as set out in the annex to the instrument, which had been made by Serbia and Montenegro before the Republic of Montenegro assumed responsibility for its international relations

Annex IV

Status of reports and situations considered during the period under review, and of reports still pending before the Committee

A. Initial reports

<i>State party</i>	<i>Date due</i>	<i>Date of submission</i>	<i>Status</i>	<i>Reference documents</i>
Ethiopia	10 September 1994	28 July 2009	Scheduled for consideration at a later session.	CCPR/C/ETH/1
Kazakhstan	24 April 2007	27 July 2009	Scheduled for consideration at a later session.	CCPR/C/KAZ/1
Turkmenistan	31 July 1998	4 January 2010	In translation. Scheduled for consideration at a later session.	CCPR/C/TKM/1
Maldives	19 December 2007	17 February 2010	In translation. Scheduled for consideration at a later session.	CCPR/C/MDV/1
Angola	9 April 1993	22 February 2010	In translation. Scheduled for consideration at a later session.	CCPR/C/AGO/1

B. Second periodic reports

<i>State party</i>	<i>Date due</i>	<i>Date of submission</i>	<i>Status</i>	<i>Reference documents</i>
Republic of Moldova	1 August 2004	5 October 2007	Considered at the ninety-seventh session.	CCPR/C/MDA/2 CCPR/C/MDA/Q/2 CCPR/C/MDA/CO/2
Croatia	1 April 2005	28 November 2007	Considered at the ninety-seventh session.	CCPR/C/HRV/2 CCPR/C/HRV/Q/2 CCPR/C/HRV/CO/2
Serbia	1 August 2008	30 April 2009	Scheduled for consideration at a later session.	CCPR/C/SRB/2

<i>State party</i>	<i>Date due</i>	<i>Date of submission</i>	<i>Status</i>	<i>Reference documents</i>
Armenia	1 October 2001	27 April 2010	In translation. Scheduled for consideration at a later session.	CCPR/C/ARM/2
Kuwait	31 July 2004	18 August 2009	In translation. Scheduled for consideration at a later session.	CCPR/C/KWT/2

C. Third periodic reports

<i>State party</i>	<i>Date due</i>	<i>Date of submission</i>	<i>Status</i>	<i>Reference documents</i>
Switzerland	1 November 2006	12 October 2007	Considered at the ninety-seventh session	CCPR/C/CHE/3 CCPR/C/CHE/Q/3 CCPR/C/CHE/CO/3
Uzbekistan	1 April 2008	31 March 2008	Considered at the ninety-eighth session.	CCPR/C/UZB/3 CCPR/C/UZB/Q/3 CCPR/C/UZB/CO/3
Israel	1 August 2007	25 July 2008	Considered at the ninety-ninth session.	CCPR/C/ISR/3 CCPR/C/ISR/Q/3 CCPR/C/ISR/CO/3
Estonia	1 April 2007	10 December 2008	Considered at the ninety-ninth session.	CCPR/C/EST/3 CCPR/C/EST/Q/3 CCPR/C/EST/CO/3
Slovakia	1 August 2007	26 June 2009	Scheduled for consideration at a later session.	CCPR/C/SVK/3 CCPR/C/SVK/Q/3
Jamaica	7 November 2001	20 July 2009	In translation. Scheduled for consideration at a later session.	CCPR/C/JAM/3
Bulgaria	31 December 2004	31 July 2009	In translation. Scheduled for consideration at a later session.	CCPR/C/BGR/3

<i>State party</i>	<i>Date due</i>	<i>Date of submission</i>	<i>Status</i>	<i>Reference documents</i>
Guatemala	1 August 2005	20 October 2009	In translation. Scheduled for consideration at a later session	CCPR/C/GTM/3
Iran (Islamic Republic of)	31 December 2004	27 October 2009	In translation. Scheduled for consideration at a later session	CCPR/C/IRN/3

D. Fourth periodic reports

<i>State party</i>	<i>Date due</i>	<i>Date of submission</i>	<i>Status</i>	<i>Reference documents</i>
Argentina	31 October 2005	17 December 2007	Considered at the ninety-eighth session.	CCPR/C/ARG/4 CCPR/C/ARG/Q/4 CCPR/C/ARG/CO/4
Cameroon	31 October 2003	25 November 2008	Considered at the ninety-ninth session.	CCPR/C/CMR/4 CCPR/C/CMR/Q/4 CCPR/C/CMR/CO/4
Jordan	21 January 1997	12 March 2009	Scheduled for consideration at a later session.	CCPR/C/JOR/3 and Corr.1 CCPR/C/JOR/Q/4
Togo	1 November 2004	10 July 2009	Scheduled for consideration at a later session.	CCPR/C/TGO/4 CCPR/C/TGO/Q/4
Philippines	1 November 2006	21 June 2010	In translation. Scheduled for consideration at a later session.	CCPR/C/PHL/4

E. Fifth periodic reports

<i>State party</i>	<i>Date due</i>	<i>Date of submission</i>	<i>Status</i>	<i>Reference documents</i>
Ecuador	1 June 2001	22 December 2007	Considered at the ninety-seventh session.	CCPR/C/ECU/5 CCPR/C/ECU/Q/5 CCPR/C/ECU/CO/5
New Zealand	1 August 2007	24 December 2007	Considered at the ninety-eighth session.	CCPR/C/NZL/5 CCPR/C/NZL/Q/5 CCPR/C/NZL/CO/5

<i>State party</i>	<i>Date due</i>	<i>Date of submission</i>	<i>Status</i>	<i>Reference documents</i>
Mexico	30 July 2002	17 July 2008	Considered at the ninety-eighth session.	CCPR/C/MEX/5 CCPR/C/MEX/Q/5 CCPR/C/MEX/CO/5
Belgium	1 August 2008	28 January 2009	Scheduled for consideration at later session.	CCPR/C/BEL/5 CCPR/C/BEL/Q/5
Hungary	1 April 2007	15 March 2009	Scheduled for consideration at a later session.	CCPR/C/HUN/5 CCPR/C/HUN/Q/5
Mongolia	31 March 2003	22 June 2009	Scheduled for consideration at a later session.	CCPR/C/MNG/5 CCPR/C/MNG/Q/5
Dominican Republic	1 April 2005	12 November 2009	In translation. Scheduled for consideration at a later session.	CCPR/C/DOM/5
Yemen	1 July 2009	14 December 2009	In translation. Scheduled for consideration at a later session.	CCPR/C/YEM/5
Iceland	1 April 2010	30 April 2010	In translation. Scheduled for consideration at a later session.	CCPR/C/ICE/5

F. Sixth periodic reports

<i>State party</i>	<i>Date due</i>	<i>Date of submission</i>	<i>Status</i>	<i>Reference documents</i>
Russian Federation	1 November 2007	20 December 2007	Considered at the ninety-seventh session.	CCPR/C/RUS/6 CCPR/C/RUS/Q/6 CCPR/C/RUS/CO/6 and Corr.1
Colombia	1 April 2008	10 December 2008	Considered at the ninety-ninth session.	CCPR/C/COL/6 CCPR/C/COL/Q/6 CCPR/C/COL/CO/6
El Salvador	1 August 2007	13 January 2009	Scheduled for consideration at a later session.	CCPR/C/SLV/6 CCPR/C/SLV/Q/6

<i>State party</i>	<i>Date due</i>	<i>Date of submission</i>	<i>Status</i>	<i>Reference documents</i>
Poland	1 November 2008	15 January 2009	Scheduled for consideration at a later session.	CCPR/C/POL/6 CCPR/C/POL/Q/6
Norway	1 October 2009	25 November 2009	In translation. Scheduled for consideration at a later session	CCPR/C/NOR/6
