State party	
	ALGERIA
Case	**Medjnoune, 1297/2004**
Views adopted on	14 July 2006
Issues and violations found	Arbitrary and unlawful arrest and detention, incommunicado detention, trial undue delay, failure to inform him of charges against him ▌ articles 7, 9, paragraphs 1, 2 and 3, and 14, paragraph 3 (a) and (c).
Remedy recommended	An effective remedy, which includes bringing 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 Malik 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 Malik Medjnoune for the violations.
Due date for State party response	27 October 2006
State party response	None
Author's comments	On 27 February 2008, the author submitted that the State party had not implemented the Views. In 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 person who can request the president of the criminal court to list a case for hearing.
Committee's Decision	The Committee considers the dialogue ongoing.
State party	**AUSTRIA**
Case	**Lederbauer, 1454/2006**
Views adopted on	23 July 2007
Issues and violations found	Delay in proceedings relating to disciplinary complaint ▌ article 14, paragraph 1.
Remedy recommended	An effective remedy, including appropriate compensation.
Due date for State party response	11 December 2007
Date of reply	3 December 2007
State party response	The State party states that the Views were published in the original English version as well as in an unofficial German translation on the website of the Austrian Federal Chancellery. Subsequent to an exchange of views held with all authorities involved in the case, it was decided to invite the complainant to a meeting with Austrian Government representatives. The meeting was to take place before the end of 2007 and the State party states that it will inform the Committee of any new developments in due course.
Committee's Decision	The Committee considers the dialogue ongoing.
State party	**AUSTRALIA**
Case	**Winata, 930/2000**
Views adopted on	26 July 2001
Issues and violations found	Removal of the authors from the country constituted arbitrary interference with family life. Articles 17, 23, paragraph 1, 24, paragraph 1.
Remedy recommended	Effective remedy, including refraining from removing the authors from Australia before they have had an opportunity to have their application for parent visas examined, with due consideration given to the protection required by Barry Winata's status as a minor.
Due date for State party response	October 2001
Date of reply	Several responses provided from December 2001; last one dated 15 October 2007
State party response	Mr. Winata and Ms. Li are in contact with the Department of Immigration and Citizenship of the Australian Government and are currently residing lawfully in the community on Bridging E visas. Barry Winata, their son now aged 19, is an Australian citizen. Further dialogue on the matter "is not considered to be fruitful" by the State party.
Author's comments	Not yet received.

Committee's Decision	The Committee considers that no further dialogue is necessary on this case and decided that this case should not be considered any further under the followllup procedure.
Case	**Young, 941/2000**
Views adopted on	6 August 2003
Issues and violations found	Discrimination on grounds of sexual orientation in provision of social security benefits, article 26.
Remedy recommended	Effective remedy, including the reconsideration of his pension application without discrimination based on his sex or sexual orientation, if necessary through an amendment of the law.
Due date for State party response	1 December 2003
Date of reply	October 2006 and 15 October 2007
State party response	The State party recalls its previous refusal to accept the Committee's findings and recommendations. It states that "further dialogue on this matter would not be fruitful and declines the offer to provide more information".
Author's comments	Not yet received.
Committee's Decision	The Committee regrets the State party's refusal to accept the Views and recommendations. It considers the dialogue ongoing.
Case	**Shafiq, 1324/2004**
Views adopted on	31 October 2006
Issues and violations found	Arbitrariness of mandatory immigration detention for a period of over seven years; denial of right to have his detention reviewed by a court. Article 9, paragraphs 1 and 4.
Remedy recommended	Effective remedy, including release and appropriate compensation.
Due date for State party response	February 2007
Date of reply	25 May 2007, 15 October 2007
State party response	During the ninetieth session the Committee decided: "while welcoming the author's release from detention, the Committee regrets the State party's refusal to accept the Views, notes that no compensation has been provided, and considers the dialogue ongoing". In October 2007, the State party reported that Mr. Shafiq's visa status remained unchanged since the information provided earlier, i.e. he remains in the community on a Removal pending bridging visa. "Further dialogue on the matter will not be fruitful", according to the State party.
Author's comments	Not yet received.
Committee's Decision	The Committee regrets the State party's refusal to accept the Views. It considers the dialogue ongoing.
Case	**Dudko, 1347/2005**
Views adopted on	23 July 2007
Issues and violations found	Absence of unrepresented defendant during appeal l article 14, paragraph 1.
Remedy recommended	Effective remedy.
Due date for State party response	13 November 2007
Date of reply	27 May 2008
State party response	On 27 May 2008, the State party informed the Committee of new rules of court adopted by the High Court in 2004, which took effect from 1 January 2005. In recognition of the nature of special leave applications, these rules give primary emphasis to written arguments. If an applicant for special leave to appeal is not represented by a legal practitioner that applicant must present his or her argument to the Court in the form of a draft notice of appeal and written case. These documents are considered by two justices who decide either that the papers should be served on the respondent or that the application should be dismissed without calling on the respondent to answer. Any application for special leave that has been served on the respondent (whether represented by a lawyer or not) may be decided without listing the application for hearing. Most applications for special leave are now decided by the Court without oral hearing. If the application reveals that the Court may be assisted by oral argument, the application will be listed for hearing. In that event, if one of the parties is not represented by counsel, the Court will generally seek to arrange for counsel to appear for the party concerned without charging a fee. According to the State party, these changes reduce the likelihood of a situation such as the author's arising again. The State party also reaffirms that the outcome of the author's case was not affected by her absence or the absence of counsel appearing on her behalf.

Author's response	None
Committee's Decision	The Committee considers the dialogue ongoing.
Case	**D. & E., 1050/2002**
Views adopted on	11 July 2006
Issues and violations found	Arbitrary detention of asylum‑seekers, including children – article 9, paragraph 1.
Remedy recommended	An effective remedy, including appropriate compensation.
Due date for State party response	
Date of reply	July 2007
State party response	The State party informed the Committee that it does not accept its view that there has been a violation of article 9, paragraph 1 of the Covenant and reiterates its submission that the detention was reasonable and necessary. It does not accept the Committee's view that it should pay compensation to the authors. It reiterates its arguments provided on the merits as well as recent decisions of the High Court, which upheld the validity of sections 189, 196 and 198 of the Migration Act. The authors were granted Bridging visas E (subclass 051) in January 2004. They were released from detention on 22 January 2004, as they satisfied one of the criteria under regulation 2.20 of the Migration Regulations 1994. They were granted Global Special Humanitarian visas as a result of Ministerial intervention on 13 March 2006. The State party informs the Committee of subsequent changes to its Migration Amendment (Detention Arrangement) Act 2005, which amended the Migration Act 1958 with effect from 29 June 2005. (See the State party's response to Saed Shams, Kooresh Atvan, Shahin Shahrooei, Payam Saadat, Behrouz Ramezani, Behzad Boostani, Meharn Behrooz, and Amin Houvedar Sefed, 1255/2004, 1256/2004, 1259/2004, 1260/2004, 1266/2004, 1268/2004, 1270/2004, 1288/2004, below for details.)
Author's response	None
Case	**Saed Shams, Kooresh Atvan, Shahin Shahrooei, Payam Saadat, Behrouz Ramezani, Behzad Boostani, Meharn Behrooz, and Amin Houvedar Sefed, 1255/2004, 1256/2004, 1259/2004, 1260/2004, 1266/2004, 1268/2004, 1270/2004, 1288/2004**
Views adopted on	20 July 2007
Issues and violations found	Arbitrary detention and review of lawfulness – article 9, paragraphs 1 and 4, and article 2, paragraph 3.
Remedy recommended	An effective remedy should include adequate compensation for the length of the detention to which each of the authors was subjected.
Due date for State party response	11 December 2007
Date of reply	25 June 2008
State party response	The State party informs the Committee that Messrs. Atvan, Behrooz, Boostani, Ramezani, Saadat, and Shams have been granted permanent Protection visas, which allow them to remain in Australia indefinitely. As noted in the Committee's views, Mr Shahrooei and Mr Sefed had been granted permanent Protection visas before the Committee adopted its views. Mr Houvedar Sefed was granted Australian citizenship on 10 October 2007. As to the violation of article 9, paragraph 1, the State party acknowledges its obligation under the Covenant not to subject any person to arbitrary detention, and further acknowledges that there are some circumstances in which the lawful and permissible detention of a person may become arbitrary if there are no longer any grounds to justify it. The State party will retain the system of mandatory detention (along with tough anti‑people smuggling measures) to ensure the orderly processing of migration to the country. However, it is committed to reviewing the conditions, period and forms of managing detention. In 2005 the State party's Government announced a number of changes to both the law and the handling of matters relating to people in immigration detention and the processing of Protection visa applications. These changes include: (1) That where detention of an unlawful non‑citizen family (with children) is required under the Migration Act 1958 (Migration Act), detention should be under alternative arrangements (that is, in the community under residence determination arrangements [now known as community detention] at a specified place in accordance with conditions that address their individual circumstances), where and as soon as possible, rather than under traditional detention; (2) All primary Protection visa applications are to be decided by the Department of Immigration and Citizenship (DIAC) within 90 days of application lodgement; (3) All reviews by the Refugee Review Tribunal are to be finalized within 90 days of the date the Tribunal receives the relevant files from DIAC; (4) Regular reporting to Parliament on cases exceeding these time limits is required; (5) Where a person has been in detention for two years or more there will automatically be a requirement that every six months a report on that person be furnished by DIAC to the Commonwealth Ombudsman. The Ombudsman's assessment of each report, including recommendations on whether the person should be released from detention, will be tabled in Parliament; (6) The provision in the Migration Act of an additional non‑compellable power for the Minister for Immigration and Citizenship to specify alternative arrangements for a person's detention and conditions to apply to that person and to act personally, to grant a visa to a person in detention; and the amendment of the Migration Regulations 1994 to create a new bridging visa to enable the release of persons in immigration detention into the community whose removal from Australia is not reasonably practicable at the current time. A Removal pending bridging visa may be granted using the Minister for Immigration and Citizenship's non‑delegable, non‑compellable public interest power to grant a visa to a person in immigration detention. These legislative changes necessary to give effect to the reforms were contained in the Migration Amendment (Detention Arrangements) Act

2005 and the Migration and Ombudsman Legislation Amendment Act 2005.The State party has also introduced Detention Review Managers (DRMs), who independently review the initial decision to detain a person and continue to review the cases of people in immigration detention on an ongoing basis to ensure their detention remains lawful and reasonable. Since its election on 24 November 2007, the State party has ended the "Pacific Strategy", under which unauthorized boat arrivals who raised protection claims were assessed at offshore processing centres in Nauru and Manus Province, Papua New Guinea. In February 2008, the last asylumseekers to be processed in an offshore centre were granted humanitarian visas and resettled in Australia. All future unauthorized boat arrivals who raise refugee claims will be taken to Christmas Island, an Australian territory, where their claims will be processed under existing refugee status assessment arrangements. The Minister for Immigration and Citizenship has completed a review of the cases of persons who have been in immigration detention for more than two years. The review, conducted personally by the Minister, sought to apply a range of measures to progress, if not resolve, the immigration status of these detainees. A number were granted visas as a result of the review, enabling their release from immigration detention. Others were removed from immigration detention centres and placed in community detention. The Minister's review was underpinned by the principle that indefinite detention is not acceptable. This demonstrates the State party's commitment to promptly resolve the immigration status of all persons. The State party will only detain persons in immigration detention centres as a last resort and will only do so for the shortest practicable time.

As to the violation of article 9 (4), the State party argues that there can be no doubt that the term "lawfulness" refers to the Australian domestic legal system, and was not intended to mean "lawful at international law" or "not arbitrary". It does not accept it owes the authors compensation under article 2 (3).

Author's response	The State party's submission was sent to the authors on 27 June 2008, with a deadline of two months for comments.
Committee's Decision	The Committee considers the dialogue ongoing.
State party	**BELARUS**
Case	**Belyatsky Aleksander, 1296/2004**
Views adopted on	24 July 2007
Issues and violations found	Dissolution of NGO – article 22, paragraph 2.
Remedy recommended	Appropriate remedy, including the reregistration of *Viasna* and compensation.
Due date for State party response	30 November 2007
Date of reply	20 November 2007
State party response	On 20 November 2007, the State party contested the Views and submitted that article 22 of its Constitution proclaims the principle of equality before the law and equal protection of the rights and legitimate interests of everyone without discrimination. Article 52 requires everyone within the territory of the State party to abide by its Constitution and laws and to respect national traditions. Under article 45, paragraphs 1 and 2, of the Belarus Civil Code, legal entities can have civil rights conforming to the objectives of their statutory activities, as well as to the subject matter of the activities if it is stipulated by the statutes; and carry obligations relating to these activities. The rights of legal entities can only be restricted under the procedure established by law. Article 57 of the Civil Code establishes general provisions on the dissolution of legal entities Article 57, paragraph 2, of the Civil Code envisages a procedure for dissolution of a legal entity by court order when it is engaged in unlicensed activities or the activities are prohibited by law or when it has committed repeated or gross breaches of the law. Therefore, in order for a court to take a decision on the dissolution of a legal entity, it is sufficient to establish that a single gross breach of the law took place. Administration of justice in Belarus follows the same interpretation of article 57, paragraph 2, of the Civil Code. The Committee's Views in the case on the dissolution of *Viasna*, however, erroneously refers to the "repeated gross breaches of the law". Article 110 of the Constitution guarantees the principle of independence of the judiciary. The task of evaluating whether the breach of the law in question was gross is attributed to the courts, which they do at their own discretion, based on the comprehensive, complete and objective examination of all the facts, and proof and are guided in it only by law. The State party reiterated that the decision on *Viasna*'s dissolution was taken by the Belarus Supreme Court on 28 October 2003, as it did not comply with the established procedure of sending its observers to the meetings of the electoral commission and to the polling stations. This information was described in the written warning issued to *Viasna* by the Ministry of Justice on 28 August 2001 (this warning was not appealed) and in the ruling of the Central Electoral Commission on Elections and Conduct of Republican Referendums of 8 September 2001. This ruling was based on the inspections conducted by the Ministry of Justice and the Belarus Prosecutor's Office. On 4 March 2008,the author submits that the State party did not take any measures to give effect to the Committee's Views. Namely, *Viasna* has not been reregistered, compensation has not been paid and the Views have not been published in the Staterun massmedia.The author strongly objects to the State party's assertion that article 57 of the Civil Code was correctly applied by the Supreme Court in considering a civil case on the dissolution of *Viasna*. He reiterates that under article 117 of the Civil Code, the legal regime applicable to public associations is subject to a *lex specialis* . Article 57 of the Civil Code does not contain any provision to the effect that it is applicable even when *lex specialis* exists. The Law "On Public Associations" contains a list of grounds for the dissolution of a public association; and the Belarus Constitution provides for an exhaustive list of restrictions of the right to freedom of association. Article 5 of the Constitution prohibits the creation and activities of political parties and other public associations that aim at changing the constitutional order by force, or conduct propaganda of war, ethnic, religious, or racial hatred. Under article 23 of the Constitution, restriction

	of personal rights and liberties shall be permitted only in cases specified in law, in the interest of national security, public order, the protection of the morals and health of the population, as well as rights and liberties of other persons. The author, therefore, reiterates his initial claim that the State party has unlawfully restricted his right to freedom of association by taking a decision on the dissolution of *Viasna*.
Author's response	The author also reiterates his initial claim that *Viasna* was dissolved by the Supreme Court for the same activities, as those described in the Ministry of Justice's written warning of 28 August 2001, and for which *Viasna* has already been reprimanded. In turn, this written warning served as a basis for the ruling of the Central Electoral Commission on Elections and Conduct of Republican Referendums of 8 September 2001. In its follow-up submission of 19 November 2007, the State party conceded that *Viasna* was dissolved by the Supreme Court for the same activities (breach of electoral laws before and during the 2001 Presidential election), for which it has already been reprimanded in the Ministry of Justice's written warning. The author notes that in the State party's earlier submissions of 5 January 2001, it denied that *Viasna* was penalized twice for identical activities. The State party stated then that the Ministry of Justice's written warning of 28 August 2001 was issued in response to *Viasna*'s violation of record keeping and not because of the violation of electoral laws. The author submits that the State party failed to advance any plausible arguments as to whether the grounds on which *Viasna* was dissolved were compatible with any of the criteria listed in article 22, paragraph 2, of the Covenant. Therefore, the author is of the opinion that his rights under article 22, paragraph 1, have been violated, and that the dissolution of *Viasna* was disproportionate, especially in the light of the introduction in 2006 of criminal sanctions for activities carried out by an unregistered or dissolved association.
Committee's Decision	The Committee reiterates its Decision made during the ninety-second session of the Committee. It noted that the State party had reiterated information provided prior to consideration of the case by the Committee, and had argued that the court's decisions were in compliance with domestic law but had not responded on the Committee's findings that the application of the law had been found to be contrary to the rights protected under the Covenant. The Committee observed that the State party had not responded to its concerns and regretted its refusal to accept the Committee's Views. It considers the dialogue ongoing.
Case	**Bondarenko and Lyashkevich, 886/1999 and 887/1999**
Views adopted on	3 April 2003
Issues and violations found	Secrecy of date of execution of family member and place of burial of victims – article 7.
Remedy recommended	An effective remedy, including information on the location where the sons of the authors are buried, and compensation for the anguish suffered by the family.
Due date for State party response	23 July 2003
Date of reply	26 June 2007 (the State party had replied on 1 November 2006) On 1 November 2006, the State party argued interalia that neither the Convention nor in any other international legal act defines the meanings of other cruel, inhumane, or degrading treatment or punishment and that torture or other cruel acts are criminalized in its Criminal Code (articles 128 (2) and (3), and article 394). It stated that the death penalty is applied in Belarus only in relation to a limited number of particularly cruel crimes, accompanied by premeditated deprivation of life under aggravating circumstances and may not be imposed on individuals who have not attained the age of 18, or against women and men that are over 65 at the moment of commission of the crime. A death sentence may be substituted by life imprisonment. Pursuant to article 175 of the Criminal Execution Code, CEC, a death sentence that has become executory can only be carried out after the receipt of official confirmation that all supervisory appeals have been rejected and that the individual was not granted a pardon. Death sentences are carried out by firing squad in private. The execution of several individuals is carried out separately, in the absence of the other convicted. All executions are carried out in the presence of a prosecutor, a representative of the penitentiary institution where the execution takes place, and a medical doctor. On an exceptional basis, a prosecutor may authorize the presence of additional persons. Pursuant to article 175 (5), of the CEC, the penitentiary administration of the institution where the execution took place is obliged to inform the court that has pronounced the sentence that the execution was carried out. The court then informs the relatives of the executed individual. The body of the executed is not given to the family, and no information about the burial place is provided. The State party concluded that the death penalty in Belarus is provided by law and constitutes a lawful punishment applied to individuals that have committed specific particularly serious crimes. The refusal to inform the relatives of a sentence to death or the date of execution and burial place is also provided by law (the CEC).
State party response	In light of the above, the State party affirmed that in the present cases, the moral anguish and stress caused to the authors cannot be seen as the consequence of acts, that had the objective to threaten or punish the families of the convicted, but rather as anguish that occurs as a result of the application of the State party's official organs of a lawful sanction and are not separable from this sanction, as provided in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In connection with the authorities' refusal to deliver the body of those executed for burial, and the refusal to divulge the burial place, the State party added that these measures are provided by law not with the aim of punishing the relatives of those executed, leaving them in a state of uncertainty and moral anguish, but because, as has been shown by the practice of other States that apply the death penalty, burial places of criminals sentenced to death constitute "pilgrimage" sites for individuals of mental instability. The State party added that neither the author nor her counsel had ever mentioned that the lack of information about the date of execution or the burial site location had caused any psychological harm to the author; they did not appeal to the State party's competent authorities in this relation. Finally, the State party informed the Committee that its Parliament has asked the Constitutional Court to examine the question of the compliance of the relevant Criminal Code provisions regulating the application of the death penalty, with the provisions of the Constitution and the State party's international obligations.

	On 26 June 2007, the State party provided another submission to the Committee, in which it outlined its legislative framework and practice with respect to the death penalty (as provided in November 2006 above). It submits that a new law, which came into force on 17 July 2006, amended the Criminal Procedure and Administrative Infractions' Codes. In accordance with this law the death penalty should only be applied "until its abolition". Indicating that the death penalty may be abolished at some point in the future. In light of the information provided, in particular with respect to the new law, the State party requests the Committee to remove these cases from consideration under the followup procedure.
Further action taken or required	In its last annual report (A/62/40), the Committee considered the State party's response of 1 November 2006, regretted its refusal to accept the Committee's Views and considered the dialogue ongoing. In an effort to assist the State party and given the information provided in the last paragraph of this submission above, the Committee instructed the Secretariat to inform it that the Committee and/the Office of the United Nations High Commissioner for Human Rights would be ready to assist it in the examination of its obligations under international law with respect to the imposition of the death penalty. It also requested of the State party further information on the issues to be examined by the Constitutional Court and the likely time frame for consideration. The Committee understands that the law of 17 July 2007, as referred to above, was based on a decision of the Constitutional Court of 2004, which upheld the constitutionality of the application of the death penalty "until its abolition." It understands that there has been no decision relating to the death penalty by the Constitutional Court since 2004.
Committee's Decision	While welcoming the information that the abolition of the death penalty is envisaged for some future date, the Committee notes that the cases under consideration related to a finding of a violation of article 7 with respect to the authorities' initial failure to notify the authors of the scheduled date for the execution of their sons, and their subsequent persistent failure to notify them of the location of their sons' graves. The Committee notes that it has received two responses from the State party with respect to this issue and that the Special Rapporteur has met with the State party's representative on several occasions with regard to these cases as well as other cases involving the State party.
	Given the State party's persistent failure to explain how its law relating to the notification of the date of execution and burial ground (CEC) and its implementation are consistent with the rights protected under the Covenant, and its failure to provide any remedy for the authors in these cases, the Committee considers that it serves no useful purpose to pursue the dialogue in these two cases and does not intend to consider these cases any further under the followup procedure.
State party	**BURKINA FASO**
Case	**Sankara et al., 1159/2003**
Views adopted on	28 March 2006
Issues and violations found	Inhuman treatment and equality before the Courts articles 7 and 14, paragraph 1.
Remedy recommended	The State party is required to provide Ms. Sankara and her sons an effective and enforceable remedy in the form, interalia, of official recognition of the place where Thomas Sankara is buried, and compensation for the anguish suffered by the family. The State party is also required to prevent such violations from occurring in the future.
Due date for State party response	4 July 2006
Date of State party's response	30 June 2006
	The State party provided its followup response on 30 June 2006. It stated that it was ready to officially acknowledge Mr. Sankara's grave at Dagnoin, 29 Ouagadougou, to his family and reiterated its submission prior to the decision that he has been declared a national hero and that a monument is being erected in his honour. It submitted that on 7 March 2006, the Tribunal of Baskuy in the commune of Ouagadougou ordered a death certificate for Mr. Sankara, deceased on 15 October 1987 (it does not mention the cause of death) Mr. Sankara's military pension has been liquidated for the benefit of his family.
State party response	Despite offers by the State to the Sankara family of compensation from a fund set up on 30 March 2001 by the Government for victims of violence in political life, Mr. Sankara's widow and children have never wished to receive compensation in this regard. On 29 June 2006, and pursuant to the Committee's Views to provide compensation, the Government had assessed and liquidated the amount of compensation due to Ms. Sankara and her children as 434,450,000 CFA(around 843,326.95 USD). The family should contact the fund to ascertain the method of payment if they wish to receive it. The State party submitted that the Views are accessible on various governmental websites, as well as distributed to the media. Finally, it submitted that the events which are the subject matter of these Views occurred 20 years ago at a time of chronic political instability. That since that time the State party has made much progress with respect to the protection of human rights, highlighted, interalia, in its Constitution, by the establishment of a Minister charged with the protection of human rights and a large number of NGOs.
	On 29 September 2006, the Committee members will recall that the authors commented on the State party's submission disputing the adequacy of all the remedies set out in the State party's submission. They highlighted the failure by the State party to initiate inquiry proceedings to establish the circumstance of Mr. Sankara's death. On 21 June 2006, the Procurator refused to refer the matter to the Minister of Defence to commence a judicial inquiry, arguing that it was "timebarred". They argue that the only effective remedy would be an impartial judicial inquiry into the cause of his death. The Committee itself in paragraph 12.6 has already rejected the prescription arguments provided by the State party. The authors state that the "decision" of 7 March 2006 to unilaterally modify the falsified death certificate of Mr. Sankara of 17 January 1988 was done ex parte during proceedings which were secret and of which the authors only became aware in the State party's response on followup to this case. In their view this constitutes an independent and further violation of article 14, paragraph 1. As to the recognition of his burial place, the authors stated that no records, direct witness evidence, burial record, DNA analysis, autopsy or

Author's comments	forensic report were provided which would constitute an "official record" in relation to the burial remains of Mr. Sankara. As to the entitlement to a military pension, the authors stated that such entitlement is irrelevant for the purposes of providing a remedy for the violations found. As to the receipt of compensation from the Compensation Fund for Victims of Political Violence, the authors submitted that as the Committee itself found in considering the admissibility of this case, the pursuit of an application through the existing Compensation Fund for Victims of Political Violence does not qualify as an effective and enforceable remedy under the Covenant given the context of the grave breaches of article 7 rights. In addition, any such application would require the Sankara family to abandon their rights to have the circumstances of Mr. Sankara's death established by judicial inquiry and waive all rights to seek remedies before the courts. In an email from the authors on 14 November 2007, they insist that, despite the Committee's failure to specifically mention it in the Views, the only appropriate remedy in this case is the initiation of an inquiry to establish the circumstances of Mr. Sankara's death. The prosecutor has continually refused to do so. The authors refer to the Committee's jurisprudence (including in *Kimouche v. Algeria*, communication No. 1159/2003) to demonstrate that this has been the type of remedy requested of the Committee in previous cases and refer also to the admissibility decision of the case of Sankara itself which affirms the necessity for such an inquiry. They submit that it is unclear whether this was merely an oversight by the Committee or an administrative error.
Committee's Decision	The Committee welcomes the State party's response to its Views. It notes the authors' claim that the only effective remedy in this case is an inquiry into the circumstances of Mr. Sankara's death but recalls that the remedy recommended by it did not include a specific reference to such an inquiry. It also recalls that its decisions are not open to review and that this applies equally to its recommendation. The Committee considers the State party's remedy satisfactory for the purposes of followup to its Views and does not intend to consider this matter any further under the followup procedure.
State party	**CAMEROON**
Case	**Gorji Ginka Fongum, 1134/2002**
Views adopted on	17 March 2005
Issues and violations found	Conditions of detention, unlawful and arbitrary arrest, right to liberty of movement, right to vote and to be elected articles 9, paragraph 1, 10, paragraphs 1 and 2 (a), 12, paragraph 1, and 25 (b).
Remedy recommended	An effective remedy, including compensation and assurance of the enjoyment of his civil and political rights.
Due date for State party response	18 July 2005
State party response	None
Author's response	On 29 February 2008, the author informed the Committee that the State party had made no effort to implement its decision and requested to know what steps the Committee would take to encourage the State party to meet its commitments.
Committee's Decision	The Committee considers the dialogue ongoing.
State party	**CANADA**
Case	**N.T., 1052/2002**
Views adopted on	20 March 2007
Issues and violations found	Interference with the author and her daughter's family life, failure to protect the family unit, violation of the author's and her daughter's rights to an expeditious trial and to fair hearing, articles 17, 23, 24, 14, paragraph 1.
Remedy recommended	Effective remedy, including regular access of the author to her daughter and appropriate compensation for the author.
Due date for State party response	3 July 2007
Date of reply	6 June 2008 (the State party had previously replied on 31 July 2007) On 31 July 2007, the State party explained the reasons why it did not provide submissions following the author's second set of submissions in September 2003. The author's claims were formulated in such a broad, imprecise and sweeping manner that in order to have appropriately responded to them, the State party would have been forced to disclose an enormous amount of highly sensitive personal information relating to the author, her daughter and the adoptive parents. Moreover, officials were operating under the assumption that the Committee would be rendering its views exclusively on admissibility. The State party regretted the fact that the Committee issued its views without the benefit of its submission on the merits. The State party claimed that the communication was without merit. The statement of facts submitted by the author and relied upon by the Committee was incomplete and contained errors. The State party provided a detailed chronology of events and comments regarding each of the Committee's findings. It did not contest admissibility. However, regarding the merits it requested the Committee to reconsider both its findings of violations of the Covenant and its recommendation for remedial action. All actions taken with respect to the placement and care of the author's daughter were undertaken according to the terms set out under the law and were subsequently confirmed by the courts, with a view to ensuring the best interests of the child. Regarding the remedy proposed by the Committee, based on the historical hostility of the author towards the child's adoptive family, the State party stated that there was no prospect for an openness agreement between the birth parent and adoptive parents pursuant to 153.6 of the Child and Family Services Act (CFSA). Therefore, contact between the author and her birth daughter was not a remedy that can be pursued at law by Canada. Furthermore, the evidence before the Committee does not support an inference that reintroduction of access between this

child and her birth parent would be in the child's best interests.

State party response

On 6 June 2008, the State party responded to the Committee' decision not to review the case. The State party submits that there has been no violation of article 17. It reminds the Committee that when J.T. was initially taken to the police station on 2 August 1997, the authorities came to realize that she had been beaten by N.T. and that this may not have been an isolated incident. In order to ensure the child's safety, a decision was made by the Catholic Children's Aid Society of Toronto (CCAST) to seek a three month temporary placement for J.T. The initial terms of access were direct and regular and in the State party's view not "extremely harsh". Visits were scheduled every Monday from 1.00 to 2.30 and every Thursday from 1.00 to 2.00. They were held in the CCAST office and supervised by the CCAST worker who was either present in the room with N.T. and the child, or who observed from behind a one way mirror. Access by telephone between N.T. and J.T. was also permitted. Access was only terminated only after N.T. abducted J.T. during a scheduled access visit for which she was criminally convicted, after it was observed that J.T. exhibited signs of distress prior to access visits and after N.T. repeatedly refused to attend counselling (*Buckle v. New Zealand*, 858/1999). On 12 August 1998, the motion regarding the termination of access was heard by a court. Although N.T. was represented by counsel at the time, she chose to proceed with a hearing of the motion without the benefit of counsel. Following the hearing, the court terminated access pending the disposition of the protection application because termination of access was found to be in the best interests of the child.

The State party submits that there was no violation of articles 23 or 24 and that the Ontario Child and Family Services Act ("the CFSA") establishes clear criteria to enable the courts to apply the provisions of article 23. During the child protection trial, the judge had to determine the issue of whether J.T. should be declared a "Crown ward" for the purposes of adoption, rather than a "society wardship", where the presumption under the CFSA favoured access. In the determination of Crown wardship, there is a bias against access unless certain conditions exist. The reason for this is the concern that long term foster care plans with access to family members have been found to place a child in a loyalty bind which can seriously hamper a child's development and ability to form positive attachments. Such concerns were beginning to surface in J.T., who according to the specialist seemed to be in limbo and did not know where she belonged. Due to the unique concerns with respect to placing a child in permanent limbo, and recognizing that the context is Crown wardship for the purposes of adoption and not custody and access as between two divorced parents, as was the case in *Hendricks v. Finland* (201/1985), the State party submits that the Committee incorrectly applied the test in Hendricks and that the standard set out in the CFSA is in the best interest of the child.

The State party denies that article 14 applies to child protection proceedings. In any event, it submits that the proceedings were not unreasonably prolonged, as a significant cause of the length of the proceedings was the multiple motions etc. initiated by the author and refers to the Committee's decision in *E.B. v. New Zealand* (1368/2005). It shares the concerns of the Committee with respect to the time it took to proceed to trial given the age of J.T. However, it submits that at no point was there a period of inactivity and points to the jurisprudence of the European Court of Human Rights in this respect. The State party submits that the criteria set out in the legislation in question was followed, and a determination was reached after having heard all the parties, including counsel for the child. The protection trial lasted 7 days and during that time 11 witnesses were called by the CCAST and a number of expert reports were put before the court. Thus, the national proceedings disclosed no manifest error, unreasonableness or abuse which would allow the Committee to evaluate the facts and evidence. The State party notes that J.T. was not independently represented before the Committee and therefore it was not in a position to take her best interests into account.

The State party also submits a copy of its response to the Committee on the Rights of the Child, in which it submits that reinstating access now, on the basis of the Committee's Views alone, which were adopted without any knowledge of the views of the child or her adoptive parents may be in contravention of article 3 (1) and 12 (2) of the Convention on the Rights of the Child.

Author's comments

The State party's response was sent to the author on 12 June 2008 within a deadline for comments of two months. On 18 June 2008, the author acknowledged receipt of the State party's submission and indicated that she expects the Committee to comment on the State party's arguments.

During the ninety-first session, the Committee regretted the State party's refusal to accept the Views. It reviewed the new submission sent by the State party and concluded that there were no grounds to reconsider the Views in the case. The Committee considered the dialogue ongoing.

Committee's Decision

During the ninety-third session, the Committee considered the State party's most recent response of 6 June 2008. It notes that the communication was submitted on behalf of both the mother and the child. It regrets that the State party had not responded on the merits of the case prior to its consideration by the Committee and recalls that it was requested to provide such information on 10 December 2003. It also regrets that the State party is not willing to accept the Committee's Views, however, as it can see no useful purpose in pursuing a dialogue with the State party it does not intend to consider the communication any further under the followup procedure.

State party	**COLOMBIA**
Case	**Nydia Erika Bautista, 563/1993**
Views adopted on	27 October 1995
Issues and violations found	Abduction, detention incommunicado and subsequent disappearance of the victim articles 2, paragraph 3, 6, paragraph 1, 7, 9, 10 and 14, paragraph 3 (c).
Remedy recommended	In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide the victim's family with an appropriate remedy, which should include damages and an appropriate protection of family members from harassment. The Committee urged the State party to expedite the criminal proceedings leading to the prompt prosecution and conviction of the persons responsible for the abduction, torture and death of the victim.
Date of reply	The State party responded on 21 April 1997 and 2 November 1999.
State party response	The State party claimed that the case was pending before the Higher Military Tribunal. Some unspecified payment had been made to the family on an unspecified date.

Counsel has informed the Committee on several occasions of the lack of implementation of the Committee's recommendations. In a letter dated 19 July 2007 he indicates that the case was transferred from the military to civilian jurisdiction in 2000. The Public Prosecutor's Office

	carried out investigations against a number of military officers allegedly involved in the crime, however, in January 2004, it decided to drop the charges for lack of evidence. That decision was appealed by the family on 5 February 2004, but the appeal was rejected by the Superior Court of Bogota in February 2006. As a result, no further investigation will be possible.
Author's comments	The decision to drop penal charges is however inconsistent with a judgement of the Administrative Tribunal of Cundinamarca dated 22 June 1995 which acknowledged the State's liability for the disappearance and extrajudicial execution of the victim carried out by members of the Army's XX Brigade. It is also inconsistent with Resolution No. 13 dated 5 July 1995 of the Human Rights Procurator which ordered the removal of Commander Velandia and Sergeant Ortega from the Army. That Resolution was implemented. However, on appeal, the State Council declared it null on 23 May 2002 and ordered the Commander's return to the Army. Counsel claims that the Public Prosecutor's Office and the Superior Court of Bogota did not investigate the case properly and did not take into consideration the existing evidence against the military officers involved in the crime, some of whom had already been convicted for similar acts committed against another victim. Clearly, the investigation did not respect the minimum rules for the investigation of enforced disappearances and extrajudicial executions.
Further action taken or required	On 18 July 2008, a meeting was attended by Mr. Shearer, Special Rapporteur on follow‑up, members of the secretariat, and Ms. Alma Viviana Perez Gomez, and Mr. Alvaro Ayala Melendez from the Colombian Permanent Mission. The Rapporteur had forwarded an aide memoire to the State party prior to the meeting in an effort to assist it in its preparations and to structure the meeting. The State party's representatives attended the meeting with a response from the State party on the questions raised in the aide memoire. As to the question on the provision of compensation in three cases (45/1979, Saurez de Guerrero; 161/1983, Herrera Rubio; and 195/1985, Delgado Paez), the State party stated that it could not follow‑up on these cases as it had no information on the location of the authors. The secretariat indicated to the State party that it could assist it in this regard. As to questions on the payment of compensation in four other cases (46/1079, Fals Borda; 64/1979, Salgar de Montejo; 181/1984, Freres Sanjuan Arevalo; and 514/1992, Fei), the State party states that, as the Committee did not specifically recommend compensation in these cases, under Law 288/1966, the Committee of Ministers cannot make such a recommendation. The Rapporteur stated that he would discuss this matter with the bureau to see what could be done in this regard. As to case No. 687/1996, Rojas Garcia, the State party stated that this matter is before the Council of State for the purposes of (it would appear) the consideration of the amount of compensation. As to case No. 778/1997, Coronel et al., the State party indicated that there are two procedures ongoing ‑ one criminal in nature against the accused and one relating to compensation. As to 859/1999, Jimenez Vaca; 848/1999, Rodriguez Orejuela; and 1298/2004, Becerra Barney, the State party's representatives indicated that the State party would wish to receive a note that there is no procedure for reconsideration of these cases. As to No. 1361/2005, "C", the State party indicated that it had already responded in detail, but that it had not received the author's response which was sent on 20 February 2008. It will be resent by the secretariat with a request for comments. In any event, the State party confirmed (as stated by the author) that the new draft legislation had not passed through the Senate, but that new legislation was being considered, that in any event same sex couples were now protected through a change in the jurisprudence of the Constitutional Court and that because these precedents are not retroactive, efforts are being made to provide the author with a remedy through other means. As to case No. 563/1993, Bautista, the State party informed the Committee that (...) (around 31,700 dollars) were paid to the author. The Rapporteur indicated his appreciation to the representatives for meeting with him and to the State party for the information provided, which he will present to the Committee during the discussion on follow‑up.
Committee's Decision	The Committee considers the dialogue in relation to all of these cases ongoing.
Case	**C., 1361/2005**
Views adopted on	30 March 2007
Issues and violations found	Denial of life partner's pension on basis of his sexual orientation ‑ article 26
Remedy recommended	An effective remedy, including reconsideration of his request for a pension without discrimination on grounds of sex or sexual orientation.
Due date for State party response	30 March 2007
Date of reply	9 November 2007
State party response	The State party submits that the Committee, when adopting its Views on this case, did not take into consideration all its correspondence, contrary to article 5 of the Optional Protocol. It submits that the last two letters sent to the Committee through the Permanent Mission (notes MOC 71 dated 30 Jan 2007 and MPC dated 12 April) were not taken into account when making its decision. The Permanent Mission re‑sent the notes, and the secretariat acknowledged receipt. The content of those letters can be summarized as follows: administrative and judicial decisions are based on the current legal framework that protects the family; according to the legal meaning of article 23 of the Covenant and article 42 of the Colombian Constitution a family is formed by a man and a woman; the current legal framework regarding pensions has no provisions for same sex couples; sexual orientation is not one of the criteria used by the authorities to deny social security benefits; the fact that same sex couples have no access to social security benefits does not mean they are left unprotected; the concept of "family" is a longstanding one and only recently have other forms of relationships been receiving protection; in the absence of an applicable legal framework, the Constitutional Court has recently changed its jurisprudence regarding same sex couples; and Congress has also been active in this area. In addition, the State party states that the following measures were taken: 1.Judicial measures (a) Constitutional Court Decision c‑1075 of 2007: protects economic rights of same sex couples and (b) Constitutional

Court decision C-811 of 2007: recognized the right of homosexual couples to health-related social security benefits.

2.Legislative measures: Draft law on social protection of homosexuals (draft 130 of 2005 (Senate), draft 152 in House of Representatives): Same sex couples can have access to social security. This draft was rejected due to the failure to fulfil certain formalities. There are currently two new drafts before the Senate.

As to the provision of a remedy to the author, the State party submits that unfortunately, due to the lack of an appropriate legal framework, it is not legally in a position to reopen the case or re-examine his application. However, the Government has expressed its support for the current draft laws.

On 28 January 2008, the author responded as follows:

Author's comments

Law 288 of 1996 established a procedure to implement the Committee's Views. The Ministries of Foreign Affairs, Interior, Justice and National Defence studied the author's case and decided to comply with the Views. They drafted opinion 003 of 2007 to that effect. They later "changed their minds". According to the author, an article in the front page of a Colombian newspaper sets out why the Government decided not to comply with the Views. According to this article, when opinion 003 was ready to be signed, the Ministers received a memo signed by the Director of Social Security of the Ministry of Social Welfare who advised against the implementation of the Views. An argument between the Ministers ensued. In the end, after the intervention of the Vice-President, it was decided not to comply with the Views. The reason given was to avoid setting a precedent which would have a major economic impact.

The author responds to the arguments presented by the State party as follows: the absence of national legislation or applicable case law in Colombia does not exempt it from complying with its international obligations; even if it is true that national decisions are in conformity with national legislation, they are not in conformity with the Covenant; the issue of "family" was indeed discussed by the Committee and was the object of two separate opinions; "efforts" made by the Supreme Court are not applicable to the author's case and do not resolve his situation or pension issues; all law drafts had been archived, including one that has already been approved; the State party did not sponsor these drafts; despite the claim that same sex partners are not left without a pension, however, the author does not have access to any pension whatsoever; the State party could issue decrees to avoid Congress; as laws are generally not retroactive, even if the laws are changed now, it will not have an impact on the author's situation; to date, no remedies have been provided to the author; the Views have not been made public; due to the small numbers of same sex couples in the State party, the granting of pensions to homosexuals would not have a major economic impact.

Further action taken or required

See above for minutes of the meeting held between the Special Rappporteur and representatives of the State party relating to all of the cases against Colombia on 18 July 2008.

Committee's Decision

The Committee considers the dialogue ongoing.

State party

GUYANA

Cases

(1) Yasseem and Thomas, 676/1996; (2) Sahadeo, 728/1996; (3) Mulai, 811/1998; (4) Persaud, 812/1998; (5) Hussain et Hussain, 862/1999, (6) Hendriks, 838/1998; (7) Smartt, 867/1999; (8) Ganga, 912/2000; (9) Chan 913/2000

Views adopted on

(1) 30 March 1998; (2) 1 November 2002; (3) 20 July 2004; (4) 21 March 2006; (5) 25 October 2005; (6) 28 October 2002; (7) 6 July 2004; (8) 1 November 2004; (9) 25 October 2005.

Issues and violations found

1.Death penalty case. Unfair trial, inhuman or degrading treatment resulting in forced confessions, conditions of detention - articles 10 paragraph 1, 14, paragraph 3 (b), (c), (e), in respect of both authors; 14, paragraph 3 (b), (d) in respect of Mr. Yasseen.

2.Prolonged pretrial detention - articles 9, paragraph 3, 14, paragraph 3 (c).

3.Death penalty after unfair trial - articles 6 and 14, paragraph 1.

4.Death penalty, death row phenomenon - article 6, paragraph 1.

5.Death penalty - mandatory nature - article 6, paragraph 1.

6.Death penalty following unfair trial and mistreatment - articles 9, paragraph 3 and 14, paragraph 3 (c), (d) and (e) and consequently of 6.

7.Death penalty after unfair trial - articles 6, and 14, paragraph 3 (d).

8.Fair trial (compelled to testify against self) - articles 6, and 14, paragraphs 1, 3 (g).

9.Death penalty - article 6, paragraph 1.

Remedy recommended

1.Under article 2, paragraph 3 (a), of the Covenant, Messrs. Abdool S. Yasseen and Noel Thomas are entitled to an effective remedy. The Committee considers that in the circumstances of their case, this should entail their release.

2.The Committee is of the view that Mr. Sahadeo is entitled, under article 2, paragraph 3 (a), to an effective remedy, in view of the prolonged pretrial detention in violation of article 9, paragraph 3, and the delay in the subsequent trial, in violation of article 14, paragraph 3 (c), entailing a commutation of the sentence of death and compensation under article 9, paragraph 5, of the Covenant.

3.In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide Bharatraj and Lallman Mulai with an effective remedy, including commutation of their death sentences.

4.Effective remedy, including commutation of his death sentence.

5.Effective remedy including commutation of sentence.

	6.In accordance with article 2, paragraph 3, of the Covenant, the author's son is entitled to an effective remedy, including the commutation of his death sentence. 7.An effective remedy, including release or commutation. 8.An effective remedy, including commutation of their death sentence.
Due date for State party response	(1) 3 September 1998; (2) 21 March 2002; (3) 1 November 2004; (4) 6 November 2006; (5) 9 March 2006; (6) 10 March 2003; (7) 10 October 2004; (8) 10 March 2004; (9) 9 March 2006.
State party response	No reply to any of these Views. Action taken: During the eightyIthird session (29 March 2005) the Rapporteur met with the Deputy Permanent Representative of Guyana to the United Nations. The Rapporteur explained his mandate and provided the representative with copies of the Views adopted by the Committee in the following communications: 676/1996 (Yasseem and Thomas); 728/1996 (Sahadeo); 838/1998 (Hendriks); 811/1998 (Mulai); and 867/1999 (Smartt). The Views were also sent to the Permanent Mission of Guyana by eImail to facilitate their transmittal to the capital. The Rapporteur expressed concern about the lack of information received from the State party regarding the implementation of the Committee's recommendations on these cases. The representative gave the Rapporteur assurances that he would inform his authorities in the capital about the Rapporteur's concerns.
Further action taken/required	On 31 March 2008, the Rapporteur on followIup, Mr. I. Shearer, met with Ms. Donette Critchlow, member of the Permanent Mission of Guyana to the United Nations in New York. Mr. Shearer observed that, despite repeated requests, the Committee had never received information from the State party regarding followIup to the nine cases on which Views had been adopted. Furthermore, the Committee was also concerned at alleged recent statements by the President of Guyana according to which he intends to resume signing death warrants and expediting execution dates. Ms. Critchlow said she was not in a position to react to Mr. Shearer's concerns, but she would convey his message to the capital. She did not deny that the aboveImentioned statements had been made. Rather, she said that there had never been an official moratorium on the death penalty and that executions might resume in view of the recent increase of murder cases. Despite several reminders sent on behalf of the Secretariat for information on followIup to these cases, none has been forthcoming.
Author's response	With regard to communication No. 811/1998 (Mulai), the lawyer informed the Committee by letter dated 6 June 2005 that no measures had been taken by the State party to implement the Committee's recommendation.
Committee's Decision	The Committee considers the dialogue in all of these cases ongoing.
State party	**ICELAND**
Case	**Haraldsson, 1306/2004**
Views adopted on	24 October 2007
Issues and violations found	Discrimination in business of commercial fishing quotas I article 28.
Remedy recommended	An effective remedy, including adequate compensation and review of its fisheries management system.
Due date for State party response	2 June 2008
Date of reply	11 June 2008
State party response	The State party provides a detailed response to the Committee's Views, which is only summarized below. The State party provides detailed information on the development of fishing rights in the State party with a view to shedding some light on the framework in which the State party may take action on its Views (copies may be provided from the secretariat upon request). It submits that it cannot infer from the Views how far it should go for its measures to be considered "effective". It asks of the Committee whether minor adaptations and changes in the Icelandic fisheries management system will suffice or whether more radical changes are needed. In any event, it is of the view that caution is required and that overturning the Icelandic fisheries management system would have a profound impact on the Icelandic economy, and in some respects it would appear to be impossible to wind down the system e.g. by recovering the quota for the State, unless the State treasury were prepared to pay some sort of compensation to the persons affected by the confiscation. It could not however be rule out that the State could act on the basis of the third sentence in Article 1 of the Fisheries Management Act which stipulates that the issue of catch entitlements does not form a right of ownership or irrevocable jurisdiction over harvest rights. In short there are numerous considerations that need to be taken into account before any decisions can be made on alterations of the system. The State party submits that the manifesto of the current Government includes a decision to "conduct a study of the experience of the quota system for fisheries management and the impact of the system on regional development" but that this is a longIterm plan and the system cannot be dismantled in six months. The State party submits that there are no grounds for paying compensation to the authors as this could result in a run of claims for compensation against the State; such claims are untenable under Icelandic law. To ensure equality, the State would have to compensate all those who found themselves in a similar situation and it would constitute an admission that anyone who possesses or buys a vessel holding a fishing permit would be entitled to allocation of catch quotas. This would have unforeseeable consequences for the management of the State party's fisheries resources, protection of the fish stocks around Iceland and economic stability in the country.
Author's response	The State party's submission was sent to the authors on 12 June 2008 with a deadline of two months for comments.
Committee's	The Committee welcomes the fact that the State party is currently conducting a review of its fisheries management system and looks forward

Committee's Decision	to being informed of the results as well as the implementation of the Committee's Views. It also looks forward to receiving the authors' comments in this regard and considers the dialogue ongoing.
State party	**JAMAICA**
Case	**Simpson, 695/1996**
Views adopted on	23 October 2001
Issues and violations found	Inhuman conditions of detention and absence of legal representation – articles 10, paragraph 1, 14, paragraph 3 (d).
Remedy recommended	An appropriate remedy, including adequate compensation, an improvement in the present conditions of detention and due consideration of early release.
Due date for State party response	5 February 2002
Date of reply	18 June 2003
State party response	On 18 June 2003, State party advised that the author had complained to prison authorities about testicular, eye and shoulder problems. He has been receiving medical attention, keeping to date 25 medical appointments, consistent with international standards. His detention conditions have improved significantly since being moved from St Catherines to Sth Camp Rd Adult Correctional Centre in September 2002, the best facility on the island. The Courts will need to decide on his parole eligibility – the Registrar of the Court of Appeal is making arrangements for the matter to be placed before a judge of the court. The assignment of legal representation is being awaited.
Author's comments	On 18 February 2002, counsel asked whether the State party had responded with follow-up information. He noted that the author's non-parole period had still not been reviewed as required by law since the commutation of his death sentence in 1998, rendering him ineligible for parole. The State party has also not taken steps to address the author's medical problems. On 26 March 2008, the author informed the Committee that his conditions of detention had worsened and that he had not been considered for release.
Committee's Decision	The Committee considers the dialogue ongoing.
State party	**NEW ZEALAND**
Case	**E.B., 1368/2005**
Views adopted on	16 March 2007
Issues and violations found	Undue delay in the resolution of the author's application to the Family Court for access to his children (art. 14, para. 1).
Remedy recommended	Effective remedy, including the expeditious resolution of the access proceedings in relation to one of the children.
Due date for State party response	July 2007
Date of reply	26 July 2007
State party response	The New Zealand Police has conducted a thorough review of the four separate investigations relating to the author, in light of the Committee's Views. The State party gives details about such investigations in order to explain the reasons for the delays. It states that while at face value the total period of time involved may seem lengthy and was indeed regrettable, the delay was neither undue nor unreasonable when considering in detail the circumstances of the case. Nor were the delays wholly attributable to the State, as noted in the opinion of one Committee member. As such the State party does not accept the Views of the Committee that a breach of Article 14, paragraph 1 has occurred, and accepts instead the individual View of one Committee member that "the suggestion that this case could be handled quickly does not give weight to the difficulty of assessing delicate facts in the close confines of a family and to the trauma to children that can be caused by the very process of investigation". In order to comply with natural justice and fairness, the Court was required at various points in the process to extend time frames beyond those originally imposed. Thus, although regrettable, the delays were neither undue nor unreasonable, nor wholly attributable to the State. In relation to the continuing application by the author for access to one of the children, while it would be inappropriate for the Executive to intervene in matters of the Judiciary, the Family Court advised that the matter would be set down for a five-day hearing on 20–24 August 2007. The principal judge of the Family Court has assured the Government of New Zealand that undertaking its cases speedily and in accordance with the principles of fairness and natural justice is the single greatest concern of the Family Court judges. To address the concern that cases are sometimes taking longer to hear than is desirable, the principal Family Court judge launched a new initiative in November 2006, aimed at those 5 per cent of cases that require a defended hearing. It is intended to reduce delay and costs by shortening families' involvement in litigation through a less adversarial approach.
Author's response	On 23 October 2007 the author informed the Committee that he had not been supplied with copies of the investigations referred to in the State party's response and, therefore, he suffered from an inequality of arms. As a result of the Committee's views, some priority was given to the case by the judicial authorities and a four-day hearing commenced on 20 August 2007. The judgement has not been issued yet.
Committee's Decision	The Committee considers the dialogue ongoing and would appreciate information on the results of the hearings which took place in August.

State party	**PERU**
Case	**Avellanal, 202/1986**
Views adopted on	28 October 1988
Issues and violations found	No standing of wife in court procedure over property ‖ articles 3, 14, paragraph 1, 26.
Remedy recommended	Take effective measures to remedy the violations.
Due date for State party response	12 June 1991
Date of reply	None
State party response	None
Author's comments	Letters dated 30 March 2007, 4 June 2007 and 3 August 2007 were received by the Committee in which the author complains about the Committee's inability to secure implementation of its Views.
Committee's Decision	The Committee regrets the State party's lack of response and considers the dialogue ongoing.
Case	**K.N.L.H., 1153/2003**
Views adopted on	**24 October 2005**
Issues and violations found	Abortion, right to a remedy, inhuman and degrading treatment and arbitrary interference in ones private life, protection of a minor ‖ articles 2, 7, 17, 24.
Remedy recommended	In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is required to furnish the author with an effective remedy, including compensation. The State party has an obligation to take steps to ensure that similar violations do not occur in the future.
Due date for State party response	9 February 2006
Date of State party response	**7 March 2006**
State party response	The Committee will recall that as set out in its annual report A/61/40, the State party had informed it of the publication of a report by the National Human Rights Council (Consejo Nacional de Derechos Humanos), based on the K.N.L.H. case. The report proposed the amendment of articles 119 and 120 of the Peruvian Criminal Code or the enactment of a special law regulating therapeutic abortion. The National Human Rights Council had required the Ministry of Health to provide information as to whether the author had been compensated and granted an effective remedy. No such information was provided in the letters sent by the Health Ministry in reply to the National Human Rights Council. The Committee will also recall that during consultations with the State party on 3 May 2006, Mr. José Burneo, Executive Secretary of the National Human Rights Council of Peru, said that the absence of a response was deliberate, as the question of abortion was extremely sensitive in the country. His office was nevertheless thinking of drafting a bill allowing the interruption of pregnancy in cases of anencephalic foetuses. By letter of 16 June 2006, the Centre for Reproductive Rights (which represents the author) had contended that by failing to provide the complainant with an effective remedy, including compensation, it had failed to comply with the Committee's decision.
Author's response	On 6 March 2007, the author informed the Committee that the new Government has continued to question the Committee's Views. On 1 December 2006, the author met with representatives of the National Human Rights Council who also spoke for the Ministry of Justice. In that meeting, the State party's representatives explained that the State was willing to comply with the Committee's view. However, the author considered that the Government's proposed action, which would consist in the payment of $10,000 dollars in compensation as well as the introduction of a proposal to amend legislation in order to decriminalize abortions in cases of anencephalic foetuses, to be insufficient. Compensation would reportedly be made only in relation to the violation of article 24 of the Covenant, as the State party's representatives allegedly indicated that they considered that there had been no violation of other articles of the Covenant. She contended that, in fact, such legislative change is unnecessary as therapeutic abortion already exists in Peru and should be interpreted in accordance with international standards to include cases where the foetus is anencephalic. The author recalled that the Constitutional Court of Peru (Tribunal Constitucional Peruano) has considered that the Committee's Views are definitive international judicial decisions that must be complied with and executed in accordance with article 40º of Law No. 23506 and article 101º of the Constitution. She provides a detailed proposal for reparations totalling $96,000 dollars (the proposal includes $850 dollars for payment of expenses such as the birth and baby's burial, $10,400 dollars for psychological rehabilitation, $10,000 dollars for diagnostic and treatment of physical consequences, $50,000 dollars for moral damages and $25,000 for "life project" (lost opportunities). The State party should retract its proposal in which women seeking a therapeutic abortion must seek judicial authorization. On 7 January 2008, the author submits that there are currently no technical guidelines or procedures regarding the voluntary termination of pregnancy that could provide guidance to women and doctors, at the national level, on how to terminate a pregnancy for medical reasons. The

	Ministry of Health has prepared a proposal, which was submitted to the Cabinet in May 2007, for their review and advice. Those guidelines are currently with the Minister of Health, but according to the author, there is a lack of political will to approve them. The State party has not taken any measures to allow women to have safe therapeutic abortions. It has made changes to the Penal Code, allowing for therapeutic abortion in case of anencephaly, but not for other reasons that also may cause harm to women's mental health. The author has not accepted the offer of $10,000 made to her, as: (1) Peru has not accepted responsibility in relation to violations of articles 2, 7 and 17 of the Covenant and (2) The compensation offered is not commensurate with the damage caused. The State party has not yet published the Views.
Committee's Decision	The Committee welcomes the information provided by the author that the State party has proposed providing her with compensation and looks forward to receiving detailed information from the State party on this proposal as well as any other means the State party intends to implement its Views.
Case	**Carranza Alegre, Marlem, 1126/2002**
Views adopted on	28 October 2005
Issues and violations found	Arbitrary detention, torture and inhuman and degrading treatment, faceless judges ▌ articles 2, paragraph 1, 7, 9, 10 and 14.
Remedy recommended	The State party is required to furnish the author with an effective remedy and appropriate compensation. In the light of the long period she has already spent in detention and the nature of the acts of which she stands accused, the State party should give serious consideration to terminating her deprivation of liberty, pending the outcome of the current proceedings. Such proceedings must comply with all the guarantees required by the Covenant.
Date of State party's response	25 May 2006 (see 2007 annual report) and 8 August 2007.
State party's response	The State party recalls that the author was released from prison following a judgment of the Supreme Court dated 17 November 2005 in which all charges of terrorism against her were dropped. The Ministry of Justice, through its National Human Rights Council, requested the Casimiro Ulloa Hospital, in which the author worked as a doctor before her detention, to reinstate her in her post. Such request was accepted and the author was able to rejoin the hospital staff as of 27 April 2007.
Author's response	None
Committee's Decision	The Committee welcomes the information regarding the author's reinstatement in her post at the hospital. It regrets, however, that no compensation has been provided to her and considers the dialogue ongoing.
Case	**Quispe Roque, 1125/2002**
Views adopted on	21 October 2005
Issues and violations found	Illegal arrest, unfair trial, faceless judges, articles 9 and 14.
Remedy recommended	An effective remedy and appropriate compensation. In the light of the long period that he has already spent in prison and the nature of the acts of which he is accused, the State party should consider the possibility of terminating his deprivation of liberty, pending the outcome of the current proceedings against him. Such proceedings must comply with all the guarantees required by the Covenant.
Due date for State party response	1 February 2006
Date of reply	25 May 2006, 13 August 2007
State party response	On 13 August 2007, the State party sent to the Committee report No. 105▌2007▌JUS/CNDH▌SE▌CESAPI of the Executive Secretary of the National Council of Human Rights issued on 24 July 2007, concluding that although the State party is still waiting for the Supreme Court's judgment on the remedy sought by the applicant, it considers that the recommendations of the Committee have been complied with as (a) the applicant was found guilty of the crime against public order▌terrorism (affiliation to terrorist organizations) and sentenced to 15 years imprisonment; and (b) the time spent in jail by the applicant before conviction has been counted as served for the 15 years' imprisonment imposed on him. His imprisonment therefore came to an end on 20 June 2007.
Author's response	None
Committee's Decision	The Committee welcomes the information regarding the author's release from prison.It regrets, however, that no compensation has been provided to him and considers the dialogue ongoing.
Case	**Vargas Mas, 1058/2002**
Views adopted on	26 October 2005
Issues and violations found	Torture, illegal arrest, inhuman treatment in prison, unfair trial, faceless judges, articles 7, 9, paragraph 1, 10, paragraph 1, 14.
Remedy recommended	The State party is under an obligation to provide the author with an effective remedy and appropriate compensation. In the light of the long period that he has already spent in detention, the State party should give serious consideration to terminating his deprivation of liberty, pending the outcome of the current proceedings against him. Such proceedings must comply with all the guarantees required by the Covenant.
Due date for state party response	6 February 2006

Date of State party response	25 May 2006 and 13 August 2007
State party response	On 13 August 2007, the State party sent to the Committee report No. 105‑2007‑JUS/CNDH‑SE‑CESAPI of the Executive Secretary of the National Council of Human Rights issued on 24 July 2007, concluding that although the State party is still waiting for the Supreme Court's judgment on the remedy sought by the applicant, it considers that the recommendations of the Committee have been complied with as (a) the applicant was found guilty for the crime against public order‑terrorism (affiliation to terrorist organizations) and sentenced to 20 years of imprisonment; and (b) the time spent in jail by the applicant before conviction has been counted as served for the 20 years' imprisonment imposed on him.
Author's response	None
Further action required	The Committee considers the dialogue ongoing.
State party	**PHILIPPINES**
Case	**Pimentel et al., 1320/2004**
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 United States judgement in the State party.
Due date for State party response	3 July 2007
State party response	None
Author's comments	On 1 October 2007, the authors informed the Committee that the State party had failed to date to provide them with compensation and that the action to enforce the class judgement has 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. Thus, the authors wish the Committee to request of the State party prompt resolution of the enforcement action and compensation. Following the jurisprudence of the European Court of Human Rights (interalia *Triggiani v. Italy*, (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 413,512,296 dollars in compensation.
Committee's Decision	The Committee considers the dialogue ongoing.
State party	**REPUBLIC OF KOREA**
Case	**Yeo‑Bum Yoon and Myung‑Jin Choi, 1321/2004 and 1322/2004**
Views adopted on	3 November 2006
Issues and violations found	Conscientious objection to enlistment in compulsory military service ‑ article 18, paragraph 1.
Remedy recommended	An effective remedy, including compensation.
Due date for State party response	16 April 2007
Date of reply	March 2007 (no date)
State party response	In March 2007, the State party informed the Committee that on 8 January 2007 an outline of the Views was reported in the major Korean newspapers and on the principal broadcasting networks. The full text was translated and published in the Korean Government's Official Gazette. In April 2006 (prior to consideration by the Committee) a joint committee called the "Alternative Service System Research Committee" was set up as a policy advisory body under the Ministry of National Defence. It was made up of members selected from legal, religious, sporting, and artistic circles and from amongst concerned public authorities. Its mandate was to review the issues involving conscientious objection to military service and an alternative service system and between April 2006 and December 2006 meetings took place. By the end of March 2007 this Committee was suppose to release its results on the basis of which the State party would proceed with the follow‑up of this case. As to the consideration of remedial measures for the authors in question, the State party informed the Committee that a task force relating to the implementation of individual communications was set up. New legislation will have to be enacted by the National Assembly, for the purposes of reversing the final judgements against the authors. The enactment of such legislation is currently being discussed.
Authors response	On 12 November 2007, the authors submitted that they have been provided with no effective remedy to date and their criminal record still stands. They report that there are around 700 conscience objectors serving prison sentences in the State party, and that even since the Views the State party has continued to charge, prosecute and imprison such objectors. On 18 September 2007, the Ministry of Defence issued a press release stating that "it will propose allowing conscience objectors to engage in social service instead of mandatory military terms." However, before doing so "the Ministry plans to hold public hearings and opinion polls before revising laws governing the military service by

	the end of next year. The revision is subject to the legislature's approval." Thus, according to the authors this is only a political proposition that may or may not happen. Furthermore, the Ministry of Defence has indicated that if such alaw is ever adopted alternative service would be nearly twice as long as military service. In their view, this would appear to be a punitive alternative at best.
Committee's Decision	The Committee considers the dialogue ongoing.
State party	**SERBIA**
Case	**Bodrožić, 1180/2003**
Views adopted on	31 October 2005
Issues and violations found	Freedom of expression ‖ article 19, paragraph 2.
Remedy recommended	An effective remedy, including quashing of the conviction, restitution of the fine imposed on and paid by the author as well as restitution of court expenses paid by him, and compensation for the breach of his Covenant right.
Due date for State party response	
Date of reply	N/A
State party response	None
Author's comments	On 22 July 2008, the State party informed the Committee that the author had been paid 800,000 RSD (approximately €10,000) pursuant to a compensation agreement between the State party and the author. On 19 June 2008, the Secretariat received information through the United Nations Development Programme that the author had signed an agreement with the Ministry of Justice according to which he will receive 800,000 dinars (approximately 10,000 euros) for reparations and restitution. On 25 July 2008, the author informed the Committee that he had accepted compensation of 800,000 dinars for the violation of his rights under the Covenant.
Committee's Decision	The Committee welcomes the award of compensation, which the author accepts as a remedy for the violation of his rights under the Covenant, and regards the State party's response as satisfactory.
State party	**SRI LANKA**
Case	**Sarma, Jegatheeswara, 950/2000**
Views adopted on	16 July 2003
Issues and violations found	Military detention, mistreatment and disappearance ‖ articles 7 and 9.
Remedy recommended	The State party is under an obligation to provide the author and his family with an effective remedy, including a thorough and effective investigation into the disappearance and fate of the author's son, his immediate release if he is still alive, adequate information resulting from its investigation, and adequate compensation for the violations suffered by the author's son, the author and his family. The State party is also under an obligation to expedite the current criminal proceedings and ensure the prompt trial of all persons responsible for the abduction of the author's son under section 356 of the Sri Lankan Penal Code and to bring to justice any other person who has been implicated in the disappearance.
Due date for State party response	4 November 2003
Date of reply	2 February 2005
State party response	The State party submitted that the criminal proceedings against the accused charged with the abduction of the author's son were pending before the High Court of Trincomalee. The Attorney‖General had, on behalf of the Government of Sri Lanka, informed the court to expedite the trial. The Government intended to refer the case to the Human Rights Commission of Sri Lanka to make recommendations on the question of payment of compensation including the determination of the quantum of such compensation.
Author's comments	On 11 April 2005, counsel provided comments on the State party's submission. He stated that the State party has failed to give effect to the decision as it has: failed to investigate all those responsible even though their particulars were made available by the author to the State party; failed to trace the interviews of the potential witnesses whose names and addresses were disclosed to the State party and whose evidence could cast light as to the whereabouts of the author's son, and failed to cite them as witnesses for the prosecution in the case of Corporal Sarath; failed to pay compensation, deferring consideration of the payment of compensation to the conclusion of the said trial, which, in light of experience, is likely to lead to further inordinate delays if it does not lead to the question of compensation being deferred indefinitely. The case against Corporal Sarath has been pending in the High Court of Trincomalee for the last three years. There is nothing on the case brief to indicate that any request to expedite the trial has been received by the Court, still less acted upon. On 10 April 2008, the author states that he was informed on 8 October 2007 by the Human Rights Commission of Sri Lanka that it had sent its recommendations for compensation to the Attorney General of Sri Lanka. However, since then he has not heard from the Government.
Further action taken or required	The author's submission was sent to the State party on 21 April 2008 with a request for comments by 23 June 2008.
Committee's	

Committee's Decision	The Committee considers the dialogue ongoing.
State party	**SWEDEN**
Case	**Alzery, 1416/2005**
Views adopted on	25 October 2006
Issues and violations found	Failure to ensure that the diplomatic assurances procured were sufficient to eliminate the risk of ill-treatment; excessive use of force against the author at Bromma airport; failure to ensure that the State party's investigative apparatus is able to preserve the capacity to investigate, as far as possible, the criminal responsibility of all relevant officials, domestic and foreign, for conduct in breach of article 7 committed within its jurisdiction; absence of any opportunity for effective, independent review of the decision to expel the author; failure to permit the exercise in good faith of the right of complaint to the Committee. Articles 7, 7 in conjunction with 2, article 1 of the Optional Protocol.
Remedy recommended	Effective remedy, including compensation.
Due date for State party response	6 February 2007
Date of reply	9 July 2008 (the State party had previously responded on 18 September 2007 and 14 March 2007)
State party response	In its response of 14 March 2007, the State party indicated that the author's request for a residence permit in Sweden, as well as his request for compensation were pending (See 2007 annual report, A/62/40). On 18 September 2007, the State party informed the Committee that on 10 May 2007 the Migration Board rejected Mr. Alzery's application for a residence permit. The Migration Court of Appeal upheld the Board's decision on 31 August 2007. The Government will now examine Mr. Alzery's application in accordance with the relevant provisions of the Aliens Act. A decision might be expected before the end of the year. Furthermore, Mr. Alzery's request for compensation from the Swedish Government is presently under examination by the Chancellor of Justice. On 9 July 2008, the State party informed the Committee that a settlement of 3,160,000 SEK was awarded to the author. The decision is currently being translated. It also informed the Committee that it is still awaiting a decision on the author's request for a residence permit, and that this decision will probably be made in August.
Author's comments	According to newspaper reports, the author has been awarded 3 million SEK (approximately 500,000 CHF) by the Swedish Government as compensation for his case. The State party has been requested to confirm the information provided.
Committee's Decision	The Committee considers the dialogue ongoing.
State party	**TAJIKISTAN**
Case	**Boymurodov, 1042/2001**
Views adopted on	20 October 2005
Issues and violations found	Torture, forced confession, incommunicado detention, right to counsel – article 7, 9, paragraph 3, 14, paragraph 3 (b), and (g).
Remedy recommended	Pursuant to article 2, paragraph 3 (a), of the Covenant, the Committee considers that the author's son is entitled to an appropriate remedy, including adequate compensation.
Due date for State party response	1 February 2006
Date of reply	5 December 2007 (the State party had responded on 14 April 2006)
State party response	On 14 April 2006, the State party submitted two letters, one from the Supreme Court and one from the Office of the Prosecutor General, and informed the Committee that both institutions had examined the Committee's Views, at the request of the Governmental Commission on the State party's compliance with its international human rights obligations. The Supreme Court, which had studied the materials from the criminal case, established that there had been no gross violations of the State party's criminal or procedural legislation during the preliminary investigation and court consideration, on the basis of which the Committee found violations of article 9 and 14, paragraph 3 (b) of the Covenant. Despite the author's statement on 10 October 2000, that he did not need a defence lawyer, from 9 November 2000 a defence lawyer participated in his preliminary investigation and trial. Concerning the alleged violations of articles 7 and 14, paragraph 3 (g), the Supreme Court concluded the following: the facts as set out in the State party's response to the Views; that the case file contains a power of attorney with the name of the author's lawyer, who represented the author during the investigation and trial, dated 9 November 2000; that with respect to the allegation of torture, a criminal case was opened by the Supreme Court on 31 July 2001, and was sent to the Prosecutor General's office, which opened a criminal case. This was closed on 5 November 2001, having found that the author had not been subjected to any form of coercion and neither he nor his lawyer made any complaint in this regard either during the preliminary investigation or court hearings. It concluded that the author's conviction was lawful and well-founded, and his conviction and sentence fair. The letter from the Prosecutor General, made similar arguments to that of the Supreme Court.

	On 5 December 2007, the State party provided further decisions from the Supreme Court and the Prosecutor General, dated 5 October 2007 and 28 May 2007, respectively, which reviewed the matter for a second time. After consideration of the cases, they arrive at similar conclusions to their earlier decisions provided to the Committee on 29 September 2004.
Author's response	The author responded to the State party's submission and notes that the State party maintains that Mr. Boyumorodv's guilt was established but does not indicate what measures have been taken to remedy the violation of his rights in the context of the Committee's Views. According to the author, during the examination of the Committee's case, he had asked different national authorities on the steps he should take to have those responsible for his son's illtreatment punished. He and his lawyer received only limited answers. Even though a criminal case was opened against the officials in question, they are still working in the law enforcement agencies and received new posts. In the meantime, the author and his lawyer have requested to have Mr. Boymurodov's criminal case reexamined. According to him, his son's guilt was established on three counts and he was sentenced to 25 years' imprisonment. After the recent reexamination of the case (exact dates or Court name not provided), Boyumurodov was found guilty on only one count, but his punishment was confirmed and remained 25 years' of imprisonment.
	The Special Rapporteur met with the State party during the ninetysecond session and received confirmation from the State party that it would accept a followup mission to the State party.
	A meeting between the Committee's Special Rapporteur on followup to Views and representatives of Tajikistan (H.E. the Ambassador and a Secretary) took place during the Committee's ninetysecond session in New York, on 3 April 2008.
	The Special Rapporteur had submitted an aide memoire to the State party's representatives. He noted, inter alia, the amelioration in the communication between the State party and the Committee. He raised a number of questions in relation to the moratorium on death penalty and the State party's intention to permanently abolish recourse to capital punishment; the structure and functions of the State party's Commission on the execution of Tajikistan's international obligations; on the existence of an institution which deals specifically with the individual communications submitted under the Optional Protocol to the Covenant; on the introduction of the institution of Ombudsman.
Further action taken or required	The Special Rapporteur further asked the State party on the measures taken in order to give effect to the Committee's Views in respect to relatives (that were found to be victims of a violation of article 7 of the Covenant) of individuals who were sentenced to death and were executed and whose burial site was never revealed to the family.
	The State party's representatives provided a number of clarifications in particular to the effect that the death penalty would be excluded from the legislation after the necessary legislative changes; to the work of an InterMinisterial (InterAgency) Commission on human rights, and the Department on Constitutional (human) rights of Tajik citizens. The State party's representatives noted that recently Tajikistan was visited by the United Nations High Commissioner for Human Rights; the Special Rapporteur on freedom of religion and belief, and the Special Rapporteur on violence against women, its causes and consequences.
	The State party's representatives expressed their agreement to receiving a visit, in Tajikistan, of the Committee's Special Rapporteur. The purpose of the visit would be to facilitate better cooperation with officials concerned and to contribute to yet better understanding of the work/procedure. They have asked for a note verbale to that effect, in order to check for available dates for the visit with their capital.
	A note verbale was sent to the State party in May 2008 requesting available dates for the mission. To date no response has been received from the State party.
Committee's Decision	The Committee considers the State party's response unsatisfactory and considers the dialogue ongoing. It reminds the State party of its invitation to the Rapporteur for a followup mission to the State party and notes that despite a note verbale in May 2008 from the secretariat on behalf of the Special Rapporteur to the State party requesting available dates for the mission, no response has been forthcoming from the State party.
Case	**Kurbanov, 1096/2002**
Views adopted on	6 November 2003
Issues and violations found	Arbitrary arrest and detention, torture, unfair trial, no/inadequate legal representation, no right to appeal, no interpretation, inhuman conditions, death sentence following unfair trial articles 6, 7, 9, paragraph 2, and 3, 10, 14, paragraphs 1, and 3 (a) and (g).
Remedy recommended	Compensation and a new trial before an ordinary court and with all the guarantees of article 14, or, should this not be possible, release.
Due date for State party response	10 February 2003
Date of reply	5 December 2007 (the State party had responded on 29 September 2004)
State party response	On 29 September 2004, the State party confirmed that following the Committee's Views, and pursuant to the Death Penalty (Suspension) Act of 2 June 2004, the execution of the author's death sentence was commuted to 25 years. By order No. 1300 of the President of the Republic of Tajikistan dated 9 March 2004, he was granted clemency. The State party provided a copy of the joint reply of the Office of the Prosecutor General and the Supreme Court addressed to the Deputy Prime Minister. The Prosecutor General and the Supreme Court reexamined the author's case and established the following facts. He was arrested on 12 May 2001 suspected of fraud, with which he was charged on 14 May 2001, and was kept in detention from 15 May 2001. At the time, the law did not allow for court control of detention and it was controlled by the prosecutor. According to the authorities, the case file did not contain any information that the author had been subjected to torture or illtreatment, and he presented no complaint on this issue during the investigation or in court. After having confessed to the murders for which he had also been charged he was assigned a lawyer in whose presence he was charged with murder on 30June2001. The authorities concluded that his conviction for different crimes (including murders) was proven, that the judgment was grounded, and they found no reason to challenge it.
	On 5 December 2007, the State party provided further decisions from the Supreme Court and the Prosecutor General, dated 5 October 2007 and 28 May 2007 respectively. After a second review of these cases, both bodies arrive at similar conclusions to their earlier decisions

	provided to the Committee on 29 September 2004.
Further action taken or required	In an earlier report the Committee, while expressing its satisfaction that the author's sentence had been commuted, requested the State party to fully implement its Views.
Committee's Decision	The Committee considers the dialogue ongoing.
Case	**Dovud and Sherali Nazriev, 1044/2002**
Views adopted on	17 March 2006
Issues and violations found	Torture, forced confession, unlawful detention, no legal representation at initial stages of the investigation, no notification of execution or burial ground ▌articles 6, 7, 9, paragraph 1, 14, paragraphs 1, 3(b), (d), and (g) and breach of the Optional Protocol.
Remedy recommended	In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide Mrs. Shukurova with an effective remedy, including appropriate compensation, and to disclose to her the burial site of her husband and her husband's brother. The State party is also under an obligation to prevent similar violations in the future.
Due date for State party response	2 July 2006
Date of reply	5 December 2008 (the State party had responded on 13 July 2006)
State party response	On 13 July 2006, the State party submitted two letters, one from the Supreme Court and one from the Office of the Prosecutor General. It informed the Committee that, at the request of the Governmental Commission, both institutions had examined the Committee's Views and had given their opinion on the State party's compliance with its international human rights obligations. The Supreme Court recalled in extenso the facts/procedure of the case. It submitted information provided by the State party prior to consideration of the case, including the fact that their requests for Presidential pardon were denied in March 2002, and that the death sentences were carried out on 23 June 2002 (NB: the case was registered in January 2002). Thus, the executions took place when the judgment became executory and all domestic judiciary remedies were exhausted. The examination of the criminal case file showed that the Nazrievs' guilt was established by much corroborating evidence (an extensive list of this evidence was provided, for example witnesses' testimonies, material evidence, and several experts' conclusions) that were examined and evaluated by the court). According to the Supreme Court, the author's allegations about the use of torture by the investigators to force the brothers to confess guilt were groundless and contradicted the content of the criminal case file and the rest of the evidence. There was no record in the criminal case file about any requests or complaints in relation to the assigned lawyers, no request to change the lawyers, and no complaints or requests from the Nazrievs' lawyers about the impossibility of meeting with their clients. The Supreme Court rejected as groundless the author's allegations that both brothers were subjected to torture during the preliminary investigation, and that the court ignored their statements in this regard. It noted that according to the criminal case file, neither during the preliminary investigation nor in court did the brothers or their representatives make any torture claims (it is noted that the court trial was public and held in the presence of the accused, their representatives, relatives, and other individuals). In addition, the brothers "did not confess guilt either during the preliminary investigation or in court and their confessions" were not used as evidence when establishing their guilt. Notwithstanding, the court had requested from the Detention Centre of the Ministry of Security (where the brothers were kept) medical records, and according to a response of 18 April 2001, it transpired that both brothers had requested medical care during their stay for hypertonia, "acute respiratory virus infection", grippe, caries, and depression. The brothers were examined on several occasions by medical doctors and were given appropriate medical care. No marks of torture or ill▌treatment were revealed during these examinations, nor had they complained about torture/ill▌treatment during the medical examinations. Finally, in relation to the author's allegation that she was not informed either of the date of execution or of the burial place of her husband and his brother, the Supreme Court referred the Committee to its law on the Execution of Criminal Penalties. It stated that when the Supreme Court learnt that the brothers had been executed, it informed the relatives. The Deputy Prosecutor General had provided a similar decision to that of the Supreme Court with identical conclusions, in a decision of 14 June 2006. On 5 December 2008, the State party provided further decisions from the Supreme Court and the Prosecutor General, dated 5 October 2007 and 28 May 2007. After review of these cases for a second time, they arrived at similar conclusions to their earlier decisions provided to the Committee on 13 July 2006.
Author's response	The State party's response was sent to the author on 26 September 2006 with a deadline of 26 November 2006 for comments. The State party's response of 5 December 2008 was sent to the author on 21 February 2008 with a deadline of 21 April 2008 for comments.
Committee's Decision	The Committee considers the dialogue ongoing.
Case	**Davlatov brothers and Askarov, 1121/2001**
Views adopted on	26 March 2007
Issues and violations found	Torture; unfair trial; right to life; conditions of detention: as to Messrs. Davlatovs ▌articles 6, paragraph 2, 7 and 14, paragraph 3 (g) read together, 10, and 14, paragraph 2. As to Messrs. Karimov and Askarov ▌articles 6, paragraph 2, 7 read together with 14, paragraph 3 (g), 10, and 14, paragraphs 2 and 3 (b) and (d), of the Covenant

Remedy recommended	An effective remedy, including compensation.
Due date for State party response	3 September 2007
Date of reply	5 December 2008
State party response	The State party submits that in light of the Views, theSupreme Court reviewed the authors' case. It reiterated the facts in detail and refers to the large quantity of evidence on which the courts based their judgment in establishing the authors' guilt. With reference to the authors' allegations set out in the Committee's Views, the Supreme Court notes the following: the allegations of the alleged victims' innocence is not corroborated and is groundless; during the preliminary investigation, in the presence of their lawyers, all authors confirmed that they were not forced to confess and that they made their depositions freely; three witnesses testified, both during the preliminary investigation and in court, having seen Karimov on 11 April 2001 near the place where the Deputy Minister was killed; and during a search on 11 April 2001 at the crime scene, a sports bag was discovered. All four authors confirmed that the bag in question was used by them to carry the guns used in the murder. The Supreme Court contends that the Committee's conclusions are groundless, and are refuted by the material in the criminal case file. The General Prosecutor's Office also examined the Committee's Views and contests the findings. The file demonstrates inter alia that all actions taken during the investigation were conducted in the presence of their respective lawyers and all records are countersigned by the lawyers. Thus, the Committee's conclusion in relation to the breach of the alleged victims' right to defence has not been confirmed. As to the alleged violation of the presumption of innocence, due to the fact that they were kept with handcuffs in a metallic cage, the State party submits that officials have explained that this was needed because they were dangerous criminals. The fact that officials refused to remove their handcuffs does not in any way affect the outcome of the trial. The Committee's conclusion that the pronouncement of death sentences does not fulfil the requirements of justice is, according to the Prosecutor's decision, also incorrect as it is only based on the author's distorted allegations.
Author's comments	State party's response sent to the authors on 21 February 2008 with a deadline of 21 April 2008.
Committee's Decision	The Committee considers the dialogue ongoing.
State party	**ZAMBIA**
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 response	9 February 2006
Date of State party's response	27 May 2008 (previously responded on 17 January 2006)
State party response	On 17 January 2006, the State party provided its follow-up response. As to the author's sentence,the State party stated that it had provided the Committee with the Supreme Court judgement dated 5 June 1996, which upheld the sentence of death for aggravated robbery and also convicted the accused to an additional 18 years on the count of attempted murder. Therefore, Zambia's view is that, if the sentence clearly indicates two different counts and two different sentences given for each count respectively, there can be no confusion.The State partyquoted from section 294 of its Penal Code and affirmed that the Supreme Court cannot reduce the sentence of death if it finds that the offence contained in Section 294 (2) – namely the felony of aggravated robbery where the offensive weapon or instrument is a firearm, or where the offensive weapon or instrument is not a firearm and grievous harm is done to any person in the course of the offence – was committed. The State party acknowledged the "possibility" that the complainant may have been transferred from death row to the long-term section of the prison. It explained that this constitutes "deterrent sentencing", which means that the convict is required to perform the shorter sentence before being subjected to the more severe one when sentenced on more than one count. It affirms that "deterrent sentencing" is a recognized form of punishment under the common law system and that, therefore, Zambian courts are within their mandates when imposing such sentences. The State party affirmed that the right to appeal in its judicial system is not only guaranteed under the Constitution but is also effectively implemented, because in the offences of treason, murder and aggravated robbery (carrying the death penalty) an accused person is, without discrimination, automatically granted the right to appeal to the Supreme Court by the High Court. Regarding the communication of the Master of the Supreme Court that purportedly reduced the complainant's sentence, it states that the communication may have been conveying the sentence by the Supreme Court for the count of attempted murder. The State party stated that the accused was taken to the long-term section of the prison to serve the 18-year sentence for attempted murder. It added that there is no record that the author was taken back to death row after two years and requests him to prove this allegation. It considered that what constitutes one of the most serious crimes is a subjective test and depends upon a given society. In the State party crimes of murder or aggravated robbery are widespread and, therefore, not to consider them as serious crimes defeats fundamental rights such as the right to life, security and liberty of the person. Zambia further states that the Committee's suggestion that since the victim did not

	die the complainant should not be sentenced to death is an affront to the very essence of human rights. The State partysubmits that there is a Presidential decree giving amnesty to all prisoners on death row. What the President is said to have declared publicly is that he will not sign any death warrants during his term. It further affirms that prisoners can still apply for clemency according to the terms of the Constitution. Such applications are dealt with by the "Committee on the Prerogative of Mercy" chaired by the VicePresident. No death sentence has been carried out since 1995, and there is a moratorium on the death penalty in Zambia. On 27 May 2008, the State party provided another copy of the Supreme Court judgement of 5 June 1996, as well as the notification of result of final appeal, both of which indicate that the author's appeal against the death penalty was dismissed and his death sentence confirmed and that the author was also sentenced to 18 years imprisonment. The State party provides no explanation of the reason behind the resubmission of these documents.
Author's response	None
Committee's Decision	The Committee reiterates its decision set out in its annual report A/61/40, that the State party's argument on admissibility should have been included in its comments on the communication prior to consideration by the Committee, and that it regards the State party's response as unsatisfactory and considers the followup dialogue ongoing.

IIIII