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|  | United Nations | CCPR/C/121/R.1 |
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Human Rights Committee

**121st session**

16 October-10 November 2017

Item 7 of the provisional agenda

**Follow-up to Views under the Optional Protocol to the Covenant**

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

**Draft proposed by the Special Rapporteur on follow-up to views**

 A. Introduction

1. At its thirty-ninth session, the Human Rights Committee established a procedure and designated a Special Rapporteur to monitor follow-up on its Views adopted under article 5 (4) of the Optional Protocol to the International Covenant on Civil and Political Rights. The Special Rapporteur for follow-up on Views prepared the present report in accordance with rule 101, paragraph 3, of the Committee’s rules of procedure. The present report sets out all information provided by States parties and authors or their counsel/representative received, or processed, until July 2017.

2. As of the conclusion of the 121st session, the Committee has determined that there have been violations of the Covenant in 1,040 of the 1,258 Views it has adopted since 1979.

3. At its 109th session, the Committee decided to include in its reports on follow-up to Views an assessment of the replies received from and action taken by States parties. The assessment is based on the criteria applied by the Committee in the procedure for follow-up to its concluding observations.

4. At its 118th session, on 4 November 2016, the Committee decided to revise its assessment criteria.

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

**Assessment of replies[[2]](#footnote-2):**

 **A** Response largely satisfactory: The State party has provided evidence of significant action taken towards the implementation of the recommendation made by the Committee.

**B** Action taken, but additional information or measures required: The State party took steps towards the implementation of the recommendation but additional information or action remains necessary.

**C** Response received but actions or information not relevant or do not implement the recommendation: The action taken or information provided by the State party does not address the situation under consideration

**D** No follow-up report received after reminder(s): No follow-up report has been received after the reminder(s)

**E** Information or measures taken are contrary to, or reflect rejection of the Committee’s recommendations

 B. Follow-up information received and processed between March 2016 and July 2017

 1. Algeria[[3]](#footnote-3)

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| **Communication No. 2157/2012, *Belamrania*** |
| Views adopted: | 27 October 2016 |
| Violation: | 2 (3), 6 (1) and 7 |
| Remedy: | the State party is required to: (a) conduct a thorough and rigorous investigation into the alleged summary execution of Mohammed Belamrania; (b) provide his family with detailed information on the results of the investigation; (c) prosecute, try and punish those responsible for the violations; (d) provide the victim’s family with appropriate compensation and redress. |
| Subject matter: | Summary execution |
| Previous follow-up information: | none |
| Submission from the author’s counsel :  | 27 February 2017The author’s counsel submits that on 17 February 2017, soon after receiving the Committee’s Views (transmitted on 2 February 2017), the author (victim’s son) was summoned before the Commissariat central de la sûreté of Jijel. The author then contacted his counsels, as well as the association Mish’al (working on disappearances), with whom he shared his concern over the fact that this summon may be related to the Committee’s decision. On 20 February 2017, the author went to the Commissariat, where he was interrogated on an alleged Facebook account, in which he reportedly defamed members of the local administration, accusing them of corruption. However, the author was primarily interrogated over the complaint he brought before the Committee. On the same day, at 4 pm, the author’s domicile was searched by the police, and all documents related to his complaint brought before the Committee were seized. Rafik Belamrania was arrested, and presented the day after before the Prosecutor of the Republic of the Jijel tribunal, and a detention warrant was issued, on counts of « encouraging terrorism ». According to the author’s family, this is clearly a case of direct reprisals, for having presented a complaint before the Committee. On 8 March 2017, the Committee, acting through the Rapporteur for follow-up to Views, and the Rapporteur on the question of reprisals, sent a letter to the State party, transmitting the letter received from the author’s counsel, and seeking clarifications, with a deadline of two weeks.The Rapporteur for follow-up to Views also met with representatives of the Permanent Mission of Algeria on 14 July 2017 (during the Committee’s 120th session). |
| State party: | 18 July 2017The State party explains that on 28 November 2016, the judicial police of Jijel was informed by the Wali of Jijel that Rafik Belamrania was publically expressing its support to terrorist organisations, including Daesh. Consequently, a search warrant was issued, and documents were seized at the author’s domicile. On 20 February 2017, the latter was interrogated, and placed in detention. On 22 February 2017, he was presented before the Prosecutor and charged with “encouraging terrorism”, and his detention was ordered by the investigative judge. The State party thus claims that Rafik Belamrania’s detention was not arbitrary; his preventive detention did not go beyond delays contemplated by law; that this is a terrorist-related case, and that the author’s allegations of reprisals are ill-founded, as his arrest and detention are not related to the case of his father, which was presented before the Committee. |
| Committee’s assessment: | (a) Effective remedy: D(b) Publication of Views: D(c) Non-repetition: D |
| Committee’s decision:  | Follow-up dialogue ongoing |

 2. Australia[[4]](#footnote-4)

| **Communication No. 2229/2012, *Nasir***  |
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| Views adopted: | 29 March 2016 |
| Violation: | article 9 (1), (3) and (4) |
| Remedy: | Adequate compensation |
| Subject matter: | Detention and conviction for smuggling of persons |
| Previous follow-up information: | None |
| Submission from State party: | 13 December 2016 The Views will be published on the website of the Australian Attorney-General’s Department.Australia acknowledges its obligations under the Covenant and takes its obligations under international human rights law seriously. Concerning the issue of mandatory minimum sentencing, Australia welcomes the Committee’s view that mandatory minimum sentencing is not incompatible per se with the Covenant.Australia however disagrees with the Committee’s view that Australia violated the author’s rights under Article 9(1) of the Covenant. His pre‑trial immigration detention was justified as necessary because he did not have a valid visa to enter or remain in Australia. The Attorney‑General issued a criminal justice stay certificate in respect of the author, with the effect of staying his deportation. This did not alter the basis of his detention under the Migration Act.The author was interviewed by the police on 29 June 2010 and charged on 4 August 2010. His case was under active investigation during the period between the issuance of a criminal justice stay certificate and when the author was charged. The day after he was charged, the author appeared before a court, which decided that he should be remanded in custody, pending his trial. His detention was subject to the supervision and review of the court whilst he was on remand.For these reasons Australia considers that the author’s detention was consistent with Article 9(1) and that the author’s immigration detention was sufficiently justified as reasonable, necessary and proportionate in light of the circumstances of the case. Regarding article 9(3), Australia also disagrees with the Committee’s view. It believes that the obligation in article 9(3) is narrower than the interpretation expressed by the Committee. The right to be brought promptly before a judge rests on the factual requirement that a person has been arrested or detained on a criminal charge. In this case, the author was not detained ‘on a criminal charge’ prior to 4 August 2010, rather, he was detained for immigration purposes, specifically, on the basis that he did not have a valid visa. Concerning article 9(4), Australia reiterates its position that article 9(4) requires the review of the legality of detention under domestic law. The Committee should have considered the author’s claims under article 9(4) of the Covenant to be lacking in merit.As Australia does not agree with the Committee’s view that a violation of Articles 9(1), (3) and (4) of the Covenant has occurred, it does not accept the Committee’s view that it is obliged to provide adequate compensation to the author or to take steps to prevent similar violations in the future. |
| Committee’s assessment: | (a) Publication of Views: A(b) Adequate compensation: E (c) Non-repetition: E |
| Committee’s decision: | Suspend the follow-up dialogue, with a note of unsatisfactory implementation of the Committee’s recommendation |
| **Communication No. 2233/2013, *F.J.et al.*** |
| Views adopted: | 22 March 2016 |
| Violation: | Articles 7 and 9 (1) and (4) |
| Remedy: | Appropriate remedy, including rehabilitation and adequate compensation |
| Subject matter: | Indefinite detention of persons in migration facilities |
| Previous follow-up information: | CCPR/C/119/3[[5]](#footnote-5) |
| Submission from author’s counsel: | 10 October 2016The author’s counsel notes the attempt by Australia to re-argue the case legally, despite its obligation to give effect to the authoritative Views of the Committee. It has not fulfilled its obligation to provide the authors with an effective remedy, nor to prevent future violations, including review of the Migration Act to ensure its conformity with articles 7 and 9 of the Covenant. |
| Committee’s decision: | Suspend the follow-up dialogue, with a note of unsatisfactory implementation of the Committee’s recommendation |

 3. Bosnia and Herzegovina

| **Communication No. 1966/2010, *Hero*** |
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| Views adopted: | 28 October 2014 |
| Violation: | Articles 2 (3), 6, 7 and 9  |
| Remedy: | Effective remedy, including (a) continuing its efforts to establish the fate or whereabouts of Sejad Hero, as required by the Law on Missing Persons 2004, and ensure contact with the authors for their contribution to the investigation; (b) continuing its efforts to bring to justice those responsible for his disappearance, without unnecessary delay, as required by the national war crimes strategy; (c) ensuring adequate compensation; and (d) ensuring that investigations are accessible to the families of missing persons, and that the current legal framework is not applied in a manner that requires families to declare the victim dead as a condition for obtaining social benefits and measures of reparation. |
| Subject matter: | Enforced disappearance |
| Previous follow-up information: | CCPR/C/115/3 |
| Submission from State party: | 27 May 2016The Constitutional Court of Bosnia and Herzegovina (BiH), in its decision of 23 February 2006, determined that the rights of the authors were violated, and issued appropriate orders to various public authorities to restore the rights of victims and their families. The Missing persons Institute indicated that Seja Hero went missing on 4 July 1992 in Tihoviči by members of the former Yugoslav army and paramilitaries to a field, where he was probably killed, along with other individuals. His body was probably buried in a place which remains unknown to date. There has been no DNA match with the samples collected.With respect to legislative amendments, the Commission for the protection of Human Rights and freedoms of the Parliament of BiH has discussed the issue on several occasions, and the decision was to send a letter to the Chair of the House of Peoples of BiH to place the issue on the agenda. The victim’s family meets the requirements for obtaining family disability allowance under the provisions of the law on social protection of civilian victims of war, but it appears that it has not made a request.  |
| Committee’s assessment: | (a) Continuing its efforts to establish the fate or whereabouts of the victim: C(b) Continuing its efforts to bring to justice those responsible: C(c) Abolishing the obligation for family members to declare their missing relatives dead to benefit from social allowances: B(d) Ensuring adequate compensation: C(e) Publication of Views: No information (f) Non-repetition: No information  |
| Committee’s decision: | Follow-up dialogue ongoing. |
| **Communication No. 2048/2011, Kadirić** |
| Views adopted: | 5 November 2015 |
| Violation: | Articles 6, 7 and 9, read in conjunction with article 2 (3), of the Covenant, with regard to Ermin Kadirić, and article 7, read alone and in conjunction with article 2 (3), with regard to the authors.  |
| Remedy: | the State party is obligated, inter alia: (a) to intensify its efforts to locate Ermin Kadirić’s remains, as required by the Law on Missing Persons, and have its investigators contact the authors as soon as possible to obtain from them information that could be helpful in the investigation; (b) to strengthen its efforts to bring to justice those responsible for his arbitrary detention, ill-treatment and extrajudicial execution and for the concealment of his remains, without unnecessary delay, as required by the National Strategy for War Crimes Processing; (c) to ensure that any psychological rehabilitation and medical care necessary is provided to the authors for the psychological harm that they have suffered; and (d) to provide effective reparation to the authors, including adequate compensation and appropriate measures of satisfaction. The State party is also under an obligation to prevent similar violations in the future and must ensure, in particular, that investigations into allegations of torture and cruel, inhuman and degrading treatment, summary and arbitrary killings and enforced disappearances and adequate measures of reparation are accessible to the families of victims.  |
| Subject matter: | Enforced disappearance |
| Previous follow-up information: | No previous follow-up information  |
| Submission from State party: | 17 May 2016The case of Ermin Kadirić is being investigated under number T20 0 KTRZ 0004542 05, against a suspect named Radmilo Zeljaja, on suspicion that he committed crimes against humanity. Since its establishment in 2003, the Prosecutor’s Office has taken measures to clariy the events, and identify perpetrators. It has been conducting investigations against members of the military, police and civilian authorities, and undertook exhumations. A mass grave in Tomašica, Municipality of Prijedor, was discovered in 2013. It contained the mortal remains of over 400 victims of war crimes, out of which 280 have been identified to date. Among those, remains of Ermin Kadirić were found and exhumed on 11 October 2013. On 17 January 2014, an autopsy was performed, by order of the Prosecutor’s Office of BiH, and the identity of the deceased was confirmed on 11 June 2014. On the same day, the family of the victim declared that it wished to bury the remains in the Rizvanovici Shahid cemetary, Municipality of Prijedor, which happened on 20 July 2014.The results of the investigation will be used in the prosecution as evidence of the commission of war crimes and crimes against humanity, which involve command responsibility. Evidence of the crimes was transmitted to the International tribunal for the former Yugoslavia (ICTY) in June 2015 as additional evidence in the trial against Ratko Mladić, charged with genocide in the Municipality of Prijedor in 1992.Although identification of perpetrators proves very difficult for lack of direct eyewitnesses, it will be pursued, and there is no statute of limitation.The Court of BiH is not in a position to provide more information, until an indictment against persons reasonably suspected of the murder of Ermin Kadirić. The Missing persons Institute has closed the case as far as searching for the remains is concerned.Regarding compensation to families of missing persons, the Council of Ministers initiated the preparation of a new law on the rights of victims of torture in BiH, and the law was envisaged to be before Parliament by mid-2016.  |
| Committee’s assessment: | 1. Locating Ermin Kadirić’s remains: A
2. Prosecution: C
3. Psychological rehabilitation and medical care to the authors: C
4. Effective reparation to the authors, including adequate compensation: C
5. Publication of Views: No information
6. Non repetition: No information
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| Committee’s decision: | Follow-up dialogue ongoing. |

 4. Cameroon

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| **Communication No. 1397/2005, *Engo*** |
| Views adopted: | 22 July 2009 |
| Violation: | Article 9 (2) and (3), article 10 (1), and article 14, paragraphs (2) and (3) (a), (b), (c) and (d) |
| Remedy:  | An effective remedy leading to his immediate release and the provision of adequate ophthalmological treatment. |
| Subject matter: | Arbitrary detention |
| Previous follow-up information:  | CCPR/C/116/3. |
| Submission from State party: | 30 May 2016  |
|  | According to the State party, the author had not, in the procedure before the Committee prior to the adoption of the Views, made any compensation claim, nor a request for legislative amendments. Therefore, these requests should not be accepted by the Committee at the follow-up stage.The State party notes that the author was released pursuant to decision n°014/ADD-CRIM/TCS of 7 May 2014. |
| Committee’s assessment: | 1. Release: A
2. Provision of adequate ophthalmological treatment: B
3. Publication of Views: No information
4. Non-repetition: No information
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| Committee’s decision:  | Follow-up dialogue ongoing. |

 5. Canada

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| **Communication No.1544/2007, *Hamida*** |
| Views adopted: | 18 March 2010 |
| Violation: | Articles 2 and 7 |
| Remedy:  | Effective remedy, including a full reconsideration of his expulsion order, taking into account the State party’s obligations under the Covenant. |
| Subject matter: | Deportation to Tunisia |
| Previous follow-up information:  | CCPR/C/116/3 |
| Submission from State party: | 19 June 2017The State party informs the Committee that the author’s latest Humanitarian and Compassionate grounds was successful, and that consequently, Mr. Hamida became a permanent resident on 13 July 2016.  |
| Committee’s assessment: | (a) Effective remedy: A(b) Publication of Views: No information (c) Non-repetition: No information |
| Committee’s decision:  | Close the follow-up dialogue, with a note of satisfactory implementation of the Committee’s recommendation. |

**Communication No. 1912/2009, *Thuraisamy***

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| Views adopted: 31 October 2012 |
| Violation: Article 7 |
| Remedy: Effective remedy, including a full reconsideration of the author’s claim regarding the risk of treatment contrary to article 7, should he be returned to Sri Lanka. |
| Subject matter: Deportation to Sri Lanka |
| Previous follow-up information: CCPR/C/112/3 |
| Submission from Counsel: 17 September 2017The auhor was granted permanent residence in Canada on 4 May 2017. As such, the author is satisfied that he has been provided an effective remedy.Committee’s assessment:1. Remedy: A
2. Publication of Views: No information

Committee’s decision: Close the follow-up dialogue, with a finding of satisfactory implementation of the Committee’s recommendation.  |
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| **Communication No.2081/2011, *D.T. and A.A.***  |
| Views adopted: | 15 July 2016 |
| Violation: | Article 17, read alone and in conjunction with article 23 (1), in respect to the author and her son A.A., and additionally, article 24 (1), in relation to A.A. |
| Remedy:  | Effective re-evaluation of the author’s claims, based on an assessment of the best interests of her child, including his health and educational needs, and to provide the author with adequate compensation. |
| Subject matter: | Deportation to Nigeria of the author and her minor son |
| Previous follow-up information:  | No previous follow-up information |
| Submission from State party: |  28 July 2017The State party submits that its assessment of the facts did not reveal any manifest error or unreasonableness. Nonetheless, the Committee has assessed the underlying facts differently and has unjustifiably substituted its own findings of fact to those made by domestic decision-makers. Additionally, the Committee has relied on information and evidence which postdates the author’s removal, which was inappropriate. The State party recalls that it has considered all of the information available at the time of removal concerning the child’s best interest. The State party reiterates its position that the author’s lack of credibility coloured the entirety of this communication, and that the burden was on the author to establish a potential violation upon removal. The Committee accepted a good deal of the author’s evidence without credible and independent supporting evidence. Notwithstanding the above, the State party has, on an exceptional basis, agreed to allow Ms. D.T. to submit an application for permanent residence on humanitarian and compassionate grounds (H&C application) from outside the country. This will include a re-consideration, by a new decision-maker, of the risks and hardships that Ms. D.T. and her child face in Nigeria as well as a re-consideration of the best interests of her child. Canada will waive the fees related to the filing of this new application and will process it on a priority basis. The State party will inform the Committee of the outcome of Ms. D.T.’s H&C application. For the time being, Ms. D.T. remains in Nigeria. |
| Committee’s assessment: | (a) Effective remedy: B(b) Publication of Views: No information (c) Non-repetition: No information |
| Committee’s decision:  | Follow-up dialogue ongoing. |
| **Communication No.2118/2011, *Saxena*** |
| Views adopted: | 3 November 2016 |
| Violation: | Article 13 |
| Remedy:  | To revise and amend its extradition legislation, including the procedure for consent to a waiver of specialty, in full compliance with the State party’s obligations under the Covenant and the Committee’s present Views |
| Subject matter: | Deportation to Thailand |
| Previous follow-up information:  | No previous follow-up information |
| Submission from State party: | 29 May 2017The State party recalls that in June 2012, a court in Thailand convicted the author of multiple offences, all of which fell within the scope of his original 2003 extradition order (as amended in 2005). He received a sentence of 10 years imprisonment, which he is currently serving in a Thai prison. That sentence is scheduled to expire on 30 October 2019.The author was subsequently tried in Thailand on the charges in the three cases for which Canada had granted a waiver of specialty. On 20 December 2016, he was convicted on those charges by a court in Thailand, which sentenced him to 20 years in prison to be served consecutively after completion of the above-mentioned 10 year sentence. On 27 April 2017, the Thai authorities advised the Canadian authorities that the author has not yet filed an appeal of the 2016 judgment. Canada does not agree that the partial waiver of specialty in the author’s case was a violation by Canada of article 13 ICCPR. Article 13 is a right that can only apply before an individual’s expulsion from the territory of a State Party. Its underlying purpose is “clearly to prevent arbitrary expulsions”. The Committee’s view that Canada violated the author’s article 13 rights after his lawful extradition from Canada is therefore incompatible with the text of Article 13, and lacks a connection to the preventive purpose of the right. When Canada consented to a partial waiver of specialty it did not have obligations under article 13, or any other ICCPR provision, in relation to the author.At paragraph 11.8, the Committee “notes that the waiver was granted notwithstanding its repeated and emphatic assurances that there would be no breach of the specialty rule.” This statement is based on a mistaken understanding of the rule of specialty in extradition law.The “rule of specialty” is an obligation between extradition partners. It provides that a person who has been extradited may be prosecuted only for the offenses for which extradition was granted. The rule of specialty may lawfully be waived by the State from which the person was extradited, which is effectively a rule of comity between States and is recognized as a matter of customary international law. It was not a “breach of the specialty rule” for Thailand to request that Canada waive specialty, and for Canada to consent to waive it. Such circumstances are contemplated by the principles governing specialty. Any statement by Canadian officials regarding the protections provided by the rule of specialty in the author’s case did not preclude the possibility that Thailand could lawfully request, and Canada could lawfully consent, to a waiver of the rule of specialty. Furthermore, the specialty rule does not itself contain any requirement to consult with the individual affected regarding a potential waiver. Canada departed in no way from the procedures that are generally extended to individuals who have been extradited.Concerning remedial recommendations, Canada has carefully considered the procedural fairness issues raised in the Committee’s views, and concluded that it does not need to amend its legislation in order to give effect to the Committee’s recommendation. The International Assistance Group at the Department of Justice Canada, which reviews and coordinates all extradition requests made to Canada, is considering amending its practices accordingly, including by seeking input from extradited persons where a waiver of specialty has been requested by the State to which that person has been extradited. In the author’s case, detailed consideration was given to Thailand’s requests to Canada for the waiver of specialty. A thorough and careful examination of Thailand’s requests and supporting evidence was conducted, and Canada found that waiver was warranted in three of eighteen cases. The granting of waiver of specialty in the author’s case was lawful and warranted, and Canada will not be re-examining the author’s case.Concerning publication of the Views, a website maintained by the Government of Canada provides general information on the individual communications processes that apply to Canada at the international level. It includes information on how to file a complaint and how the processes work. This website contains a link to the publicly available Treaty Body Database that is maintained by the OHCHR.[[6]](#footnote-6) The Committee’s views are now available on that site.Although Canada is taking steps to generally address the procedural fairness issue that is at the heart of the Views in this case, Canada encourages the Committee to reconsider its interpretation of the scope of article 13. |
| Committee’s assessment: | (a) Legislation amendment: C(b) Publication of Views: A(c) Non-repetition: B |
| Committee’s decision:  | follow-up dialogue ongoing |

 6. Denmark

**Communication No. 2343/2014, *H.E.A.K.***

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| Views adopted: | 23 July 2015 |
| Violation: | Article 7 |
| Remedy:  | Effective remedy by proceeding to a review of the decision to forcibly remove him to Egypt, taking into account the State party’s obligations under the Covenant. The State party is also under an obligation to take steps to prevent similar violations in the future. |
| Subject matter: | Deportation to Egypt |
| Previous follow-up information: | CCPR/C/118/3  |
| Submission from State party: | 3 February 2017The State party recalls that on 22 September 2015, the Refugee Appeals Board (RAB) had decided to reopen the author’s asylum case and to undertake a new assessment of the author’s asylum application, in light of the Committee’s Views. Accordingly, on 19 November 2015, an oral hearing was held by the RAB, during which the author, represented by legal counsel, was allowed to provide a statement. After deliberations, the Board decided to stay the case, pending a consultation of the Danish Ministry of foreign affairs, to seek more information about the *Ultra Ahlawy*and its members. On 19 February 2016, the Ministry of Foreign affairs provided its response to the RAB. Based on this response, the RAB issued a new decision, on 26 May 2016, in which it relied on a decision dated 16 May 2005 by an Egyptian appeals court, which determined that there existed no connection between Ultra Ahlawy and terrorism, or the Muslim Brotherhood. The consultation response from the Ministry of foreign affairs also indicates that Ultra Ahlawys have not developed onto a group with political objectives, and that there is no information indicating that Ahlawy members have been prosecuted merely because of their connection to Ultra Ahlawys. Accordingly, in its decision, the RAB determined, in a new hearing, before a new panel, that the author failed to render it probable that he has attracted the attention of the Egyptian authorities in a way that he risks persecution if returned to Egypt. On 28 June and 4 July 2016, the author’s counsel sought a further reopening of the case before the RAB. On 18 July 2016, it appeared that the author had failed to appear at this accommodation center. His whereabouts remain unknown, to date.It follows from section 33(8) of the Aliens Act that the RAB cannot consider a request for reopening if the place of residence of the applicant is unknown. The State party nonetheless considers that the author’s asylum application was considered twice by the RAB, including by a new panel on 26 May 2016.The State party thus considers that it has complied with the Committee’s Views. All decisions of the Human Rights Committee are published on the Board’s website.As for measures of non-repetition, the Views in the case will be taken into account by the Danish Immigration Service and the RAB. |
| Committee’s assessment: | (a) Effective remedy: A(b) Publication of Views: A(c) Non-repetition: B |
| Committee’s decision: | Close the follow-up dialogue with a note of satisfactory implementation of the Committee’s recommendation. |

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| **Communication No. 2462/2014, *M.K.H.*** |
| Views adopted: | 12 July 2016 |
| Violation: | Article 7  |
| Remedy:  | The State party is under an obligation to proceed to a review of the author’s claim, taking into account the State party’s obligations under the Covenant and the Committee’s present Views |
| Subject matter: | Deportation to Bangladesh |
| Previous follow-up information: | None |
| Submission from State party: | 10 March 2017The State party submits that on 25 October 2016, the Refugee Appeals Board (RAB) reopened the author’s asylum case for a review at an oral hearing, before a new panel, to reconsider his claims in light of the Committee’s Views. The hearing took place on 19 December 2016.The RAB accepted for a fact that the author is a homosexual, and that he cannot return to his village, for that reason. However, the RAB determined that there is no basis for assuming that the author risks persecution, within the meaning of article 7 of the Aliens Act *in other parts of Bangladesh*. Accordingly, the RAB determined that, despite the difficult conditions for homosexuals in Bangladesh, the author, who has not become known as homosexual outside his village, can be expected to take up residence elsewhere, for example in the town where he resided without any problem for a period of four and a half months after being banished from his village.Consequently, the RAB upheld the decision of the Immigration Service. The author was ordered to leave Denmark within seven days from service of the RAB’s decision. The State party submits that it has fully complied with the Committee’s Views. The Views of the Committee in cases against Denmark involving the RAB are reported in the Board’s annual report, which is distributed to all members of the Board and includes a chapter on cases brought before international bodies. The annual report is available on the website of the Board. The RAB and the Danish Ministry of Foreign Affairs have also made the Committee’s views publicly available on their individual websites (www.fln.dk and www.um.dk). In light of the prevalence of the English language in Denmark, the Government sees no reason for a full translation into Danish. The State party is of the opinion that full effect has been given to the Committee’s Views. |
| Committee’s assessment: | (a) Effective remedy: A(b) Publication of Views: A(c) Non-repetition: B |
| Committee’s decision: | Close the follow-up dialogue, with a note of satisfactory implementation of the Committee’s recommendation. |

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| **Communication** **No.** **2464/2014,**  ***A.A.S.***  |
| Views adopted: | 4 July 2016 |
| Violation: | Article 7 |
| Remedy:  | Deportation to Somalia |
| Subject matter: | The State party is under an obligation to proceed to a review of the author’s claims, taking into account the State party’s obligations under the Covenant and the Committee’s present Views |
| Previous follow-up information: | No previous follow-up information. |
| Submission from State party: | 7 February 2017The State party submits that on 29 August 2016, the RAB reopened the author’s asylum application for a review with an oral hearing before a new panel, which took place on 8 December 2016. Upon examination of the facts and evidence available, and a full reconsideration of his claims, the majority of the RAB upheld the decision of the Immigration Service. The State party submits that it has fully complied with the Committee’s Views. As for publication of the Views, the State party notes that cases against Denmark involving the RAB will be reported in the annual report of the Refugee Appeals Board. The annual report of the Refugee Appeals Board is distributed to all members of the Board for use in their work. The annual report of RAB includes a chapter on cases brought before international bodies. The annual report is available on the website of the Board. The RAB and the Danish Ministry of Foreign Affairs have also made the Committee’s views publicly available on their individual websites (www.fln.dk and www.um.dk).  |
| Committee’s assessment: | (a) Effective remedy: A(b) Publication of Views: A(c) Non-repetition: C |
| Committee’s decision: | Close the follow-up dialogue in the case, with a note of satisfactory implementation of the Committee’s recommendation. |

 7. Ireland

**Communication** **No.** **2324/2013, *Mellet* *v. Ireland***

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| Views adopted: | 31 March 2016 |
| Violation: | articles 7, 17 and 26 |
| Remedy: | Adequate compensation and to make available to the author any psychological treatment she needs. The State party should amend its law on the voluntary termination of pregnancy, including if necessary its Constitution, to ensure compliance with the Covenant, ensuring effective, timely and accessible procedures for pregnancy termination in Ireland, and take measures to ensure that health-care providers are in a position to supply full information on safe abortion services without fearing they will be subjected to criminal sanctions, as indicated in the present Views of the Committee |
| Subject-matter: | Termination of pregnancy in a foreign country |
| Previous follow-up information:  | CCPR/C/119/3 |
| Submission from Author’s counsel : | 31 July 2017While some further developments have occurred since our last update to the Committee, the State party has yet to adopt any meaningful legal reform measures and fulfil this critical aspect of its remedial obligations.The Citizens’ Assembly was established on 13 July 2016 by the Oireachtas (Irish Parliament). It completed its deliberations on the Eighth Amendment on 23 April 2017. The Citizens’ Assembly recommended by majority vote (87%) that the Eighth Amendment should not be retained in full in the Constitution. A clear majority voted in favor of removing the Amendment and replacing it with a provision that would explicitly mandate the Oireachtas to legislate to address termination of pregnancy. In other words, it would be solely a matter for the Oireachtas to decide how to legislate on these issues.” The Assembly also made recommendations as to the form that future legislation on abortion should take. A clear majority (64%) voted that abortion should be legal on a woman’s request without restriction as to reason, at least in the first trimester. A clear majority also voted for the legalization of abortion in a range of additional circumstances, including risk to a woman’s health (78%), sexual assault (89%), fatal fetal impairment (89%), severe fetal impairment (80%), and for socio-economic reasons (72%).If the full breath of the Citizens’ Assembly’s recommendations were followed and a constitutional referendum was passed and subsequent legislation was adopted to give effect to them the State party would have taken meaningful steps to ensure that the human rights violations that Ms. Mellet suffered would not continue to occur. However, it remains unclear whether or not this will occur. It is unclear if and when a referendum might be held, what the terms will be and what legislative reform will be carried out to give effect to it. Indeed, following the outcome of the Citizens’ Assembly there were several negative political reactions, including from senior members of government.Ireland’s new Prime Minister has said that he believes a constitutional referendum on Article 40.3.3 of the Constitution should be held in 2018. However, the holding of a referendum is subject to Parliamentary approval. A special Joint Committee of the Oireachtas has now been established to consider the Citizens’ Assembly outcome and make recommendations to the Oireachtas on this matter. It will report to Parliament within three months of its first formal meeting, which will be held on 20 September 2017. There is no obligation on the Joint Parliamentary Committee to follow the recommendations of the Citizens’ Assembly and in turn there is no obligation on the Oireachtas to accept the recommendations of the Parliamentary Committee. Consequently, many concrete steps need to be taken before the State party complies with the Committee’s instruction that it amend the law on the voluntary termination of pregnancy, including if necessary the Constitution and ensure effective, timely and accessible procedures for pregnancy termination in Ireland. It remains wholly uncertain if relevant law reform will take place and if it does, what form it will take. Only when law reform has occurred will it be possible to assess whether it gives effect to the State party’s obligations in respect of reparative measures in Ms. Mellet’s case. Although the Irish Constitution can only be amended through a public referendum the Government has a duty to ensure that the terms of the referendum guarantee that women no longer suffer similar human rights violations to those endured by Ms. Mellet: violations of the right to freedom from ill-treatment, the right to privacy and the right to equality before the law. Moreover, the Government has a duty to ensure that the Irish people are informed in full of the consequences of the matter before them in a referendum. Only when effective law reform measures that meet the requirements outlined by the Committee have been adopted will the State party discharge its obligations in respect of the human rights violations Ms. Mellet endured. Regarding full provision of information on safe abortion services, the State party had reported that its review of the Regulation of Information Act 1995, which governs the extent to which medical professionals in Ireland can provide information regarding abortion, was ongoing. The manner in which this review will be carried out, what its parameters will be, when it will be concluded, and what reforms it might recommend remain unclear. The Government’s intention to examine the Regulation of Information Act to assess whether its provisions need to be strengthened or clarified in no way amounts to a commitment to undertake relevant legal reforms or to ensure that any future reforms fulfill the requirement outlined by the Committee that measures be taken “to ensure that health-care providers are in a position to supply full information on safe abortion services without fearing they will be subjected to criminal sanctions.” We therefore consider that the State party’s action with regard to this aspect of its remedial obligations also remains unsatisfactory. Consequently, the author’s counsel maintains its request that the Committee continue to closely scrutinize the State party’s implementation of the Views in Mellet v. Ireland under the follow-up procedure until effective law reform measures that meet the requirements outlined by the Committee have been adopted.  |
| Committee’s decision:  | Follow-up dialogue ongoing. |

 8. Kazakhstan [please re-arrange cases in numerical order]

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| **Communication No. 2304/2013, *Dzhakishev*** |
| Views adopted: | 6 November 2015 |
| Violation: | Articles 10 (1) and 14 (1) and (3) (b) and (d) of the Covenant. |
| Remedy: | Effective remedy, including by (i) quashing the author’s conviction and releasing him, and, if deemed necessary, conducting a new trial, subject to the principles of fair and public hearings, access to counsel and other procedural safeguards; (ii) pending release, providing the author with continuous and effective access to health care in the place of imprisonment; (iii) providing the author with appropriate reparation, including adequate compensation; (iv) taking steps to prevent similar violations in the future. |
| Subject matter: | Unlawful detention, conditions of detention, and unfair trial |
| Previous follow-up information:  | No previous follow-up information |
| Submission from State party: | 3 May 2016, 19 August 2016The State party inform the Committee that the criminal case against the author contains classified documents relating to a State secret, which makes it impossible to conduct a public hearing in the case as a measure of implementation. Furthermore, there have been no requests for retrial received from the author following the adoption of the Views. The State party disagrees with the Committee’s finding a violation of the author’s rights under article 14 of the Covenant. It states that the author was duly provided with legal assistance throughout the trial in his criminal case; that he was also offered the possibility to have his case heard by a jury, however he did not make use of this opportunity. Regarding compensation, the author was informed about the legal avenues in that respect. As for securing appropriate health care arrangements, the State party submits that, upon arrival to the correction facility, the author was examined by doctors; he regularly receives outpatient and inpatient medical treatment. His current health condition is satisfactory; he is being fully provided with the necessary medical treatment. On 23 April 2016, the author underwent a medical examination in the Kapshagay town hospital (a medical certificate to that effect is submitted) and received medical recommendations. On 25 July 2016 the author was placed to the Almaty city central clinical hospital for additional medical examination. At the current moment, his health condition is satisfactory. The State party also submits that there currently exists no possibility to release the author, as the latter is serving his prison sentence on the basis of a binding judgment. A reopening of criminal proceedings could only happen through a request from the author himself, or from the Prosecutor General. No such requests have been submitted so far.  |
| Submission from author’s counsel: | 21 June 2016The author’s counsel refers to the absence of any implementation measures on the part of the State party, and requests the Committee to closely monitor the situation. |
| Committee’s assessment: | 1. Quashing the author’s conviction and releasing him, and, if deemed necessary, conducting a new trial: C
2. Continuous and effective access to health care in the place of imprisonment: B
3. Providing the author with appropriate reparation, including adequate compensation: C

 (d) Publication of Views: No information(e) Non-repetition: No information |
| Committee’s decision:  | Follow-up dialogue ongoing.  |
| **Communication No. 2131/2012, *Leven v. Kazakhstan*** |
| Views adopted: | 21 October 2014 |
| Violation: | Article 18  |
| Remedy: | Effective remedy, including by (i) reviewing the author’s conviction, (ii) reviewing the cancellation of his residence permit and (iii) preventing similar violations in the future. |
| Subject matter: | Conviction with a fine and expulsion from the State party of a foreign national for participating in religious ceremonies |
| Previous follow-up information:  | CCPR/C/118/3 |
| Submission from State party: | 28 December 2015 The State party submits that certain organisational and practical measures were undertaken to prevent similar violations in the future: On 5 November 2015, the Public Prosecutor’s Office in Astana initiated a cassation review of administrative conviction of a member of Jehovah’s Witnesses community, who had been convicted for unlawful missionary activities. As a result, the Astana City Court quashed the conviction on 16 September 2015 and terminated the proceedings against the member. Furthermore, in December 2015, the Office of the Prosecutor General of Kazakhstan held a meeting with Shane Brady – a legal counsel representing 48 Jehovah’s Witnesses members in the proceedings before the Committee. With respect to implementation of the Views, the Office of the Prosecutor General issued practice directions for public authorities urging them to strictly observe guarantees of the freedom of religion enshrined in the Covenant.  |
| Committee’s assessment: | 1. Reviewing the author’s conviction: C
2. Reviewing the cancellation of his residence permit: C
3. Non-repetition: B

 (d) Publication of Views: No information |
| Committee’s decision: | Follow-up dialogue ongoing.  |

**Communication No. 2137/2012, *Toregozhina v. Kazakhstan***

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| Views adopted: | 21 October 2014 |
| Violation: | Articles 9, 19 and 21 |
| Remedy:  | Effective remedy, including by (i) reviewing the author’s conviction, (ii) providing her with an adequate compensation, including reimbursement of the legal costs incurred, (iii) preventing similar violations in the future by reviewing the State party’s legislation, in particular the Law on the Order of Organization and Conduct of Peaceful Assemblies, Meetings, Processions, Pickets and Demonstrations in the Republic of Kazakhstan, as it has been applied in the present case, with a view to ensuring that the rights under articles 19 and 21 of the Covenant may be fully enjoyed in the State party. |
| Subject matter: | Arrest and conviction for an administrative violation and sentencing to a fine for conducting an art-mob event |
| Previous follow-up information: | CCPR/C/118/3 |
| Submission from author: | 5 July 2016The author submits that the State party has failed to adopt implementation, and continues violating her right to freedom of expression and to peaceful assembly. The author was yet again sanctioned for organisation of unauthorised public meeting which was planned to take place on 21 May 2016 in Almaty. By a decision of the Specialised Inter-district Administrative Court in Almaty of 17 May 2016, she was convicted to 15 days of administrative arrest. On 23 May 2016, the Almaty City Court upheld this decision on appeal (copies of both decisions are provided).  |
| Submission from State party: | 21 September 2016The State party submits that on 2 September 2016, the author requested the Office of the Prosecutor Genera to lodge an appeal before the Supreme Court of Kazakhstan. The Office has requested the case materials for examination; the results of the examination will be communicated to the Committee.  |
| Committee’s assessment: | 1. Reviewing the author’s conviction: C
2. Adequate compensation: C
3. Reviewing the State party’s legislation: C

 (d) Publication of Views: No information(e) Non-repetition: C |
| Committee’s decision:  | Follow-up dialogue ongoing. |

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| **Communication No. 2129/2012, *Esergepov*** |
| Views adopted: | 29 March 2016 |
| Violation: | Article 9 (5), article 14 (1) and (3) (b) and (d) and article 19 (2) of the Covenant. |
| Remedy: | Adequate compensation |
| Subject matter: | Author tried and convicted for publishing documents classified as secret |
| Previous follow-up information:  | No previous follow-up information  |
| Submission from State party: | 20 May 2016, 26 September 2016The State party inform the Committee that its Views have been forwarded to the relevant domestic authorities for implementation. In order to give effect to the Committee’s recommendation, the domestic authorities, including the Supreme Court of Kazakhstan, were familiarised with the Views. Its text has also been published on the website of the public prosecutor’s office. On 13 June 2016, the author lodged a civil claim against a number of state authorities and public officials, including the President of Kazakhstan, seeking to receive official apologies and compensation. On 16 June 2016, the Medeuskiy district court in Almaty rejected the suit, on the grounds that it had been lodged against the President who enjoys immunity. On 25 August 2016, the Almaty City Court upheld this ruling on appeal. Subsequently, on 31 August 2016, the author lodged another civil claim with the Supreme Court of Kazakhstan seeking to obtain compensation following the Committee’s Views. The outcome of the proceedings will be communicated once known.On 9 June 2016, the author further requested that the Supreme Court of Kazakhstan reopen criminal proceedings against him, in view of the newly discovered facts. He also requested that the proceedings be terminated due to the absence of *corpus delicti*, and that the public officials responsible for the violation of his rights be sanctioned. On 20 June 2016, the Supreme Court rejected his application, for lack of jurisdiction over the matter. The author was informed about the proper legal venue to obtain the re-examination of his case.  |
| Submission from author: | 20 June 2016, 25 September 2016, 28 January 2017, 9 February 2017The author denounces the reluctance of the State party to comply with the Committees’ decision, and contemplates a hunger strike as a sign of protest.The domestic courts unlawfully refuse to accept his civil claims, making it impossible to obtain compensation for damages sustained as a result of the violation. No public official responsible for his unlawful detention in the correction facility after the expiration of his prison term have so far been punished. The author further submits that he lodged a civil claim against a number of state authorities and public officials with a view to receiving official apologies and compensation for the violation suffered. On 16 June 2016, the Medeuskiy District Court of Almaty rejected his claim against the President of Kazakhstan, on the ground of immunity, but by doing so, it ignored the fact that his action was also directed against a number of state authorities and public officials. On 25 October 2016, this decision was upheld on appeal. His complaint to the Supreme Court President did not bring any positive results. The judicial authorities failed to indicate the correct venue for obtaining reparation in his case. |
| Committee’s assessment: | 1. Adequate compensation: C

 (b) Publication of Views: A(c) Non-repetition: No information |
| Committee’s decision: | Follow-up dialogue ongoing.  |

 9. Kyrgyzstan

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| **Communication No. 2231/2012, *Askarov*** |
| Views adopted: | 31 March 2016 |
| Violation: | Article 7, read separately and in conjunction with article 2 (3), and articles 9 (1), 10 (1) and 14 (3) (b) and (e) of the Covenant. |
| Remedy:  | Effective remedy, including by (i) taking appropriate steps to immediately release the author; (ii) quashing the author’s conviction and, if necessary, conduct a new trial, in accordance with the principles of fair hearings, presumption of innocence and other procedural safeguards; (iii) providing the author with adequate compensation; (iv) taking steps to prevent similar violations occurring in the future. |
| Subject matter: | Torture and unfair trial.  |
| Previous follow-up information: | No previous follow-up information  |
| Submission from author: | 24 January 2017The author submits that the State party has failed to implement the Committee’s Views; that he was subjected to torture in detention while waiting for the re-examination of his case; that he was not provided with adequate facilities to prepare his appeal; and informs about his intention to start a hunger strike.  |
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| Committee’s decision: | Follow-up dialogue ongoing. |

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| **Communication No. 1756/2008, *Zhumabaeva*** |
| Views adopted: | 19 July 2011 |
| Violation: | Articles 6 (1), 7, 2 (3) read in conjunction with articles 6 (1) and 7, of the Covenant. |
| Remedy: | Effective remedy, including by (i) conducting an impartial, effective and thorough investigation into the circumstances of the author’s son’s death, prosecution of those responsible, (ii) providing full reparation including appropriate compensation (iii) preventing similar violations in the future. |
| Subject matter: | Death in police custody |
| Previous follow-up information:  | CCPR/C/116/3 |
| Submission from State party: | 7 February 2017The State party informs the Committee that by a decision of the Supreme Court of Kyrgyzstan of 11 January 2017 the author, Ms. Zhumabaeva (mother of Mr. Moidunov, deceased), was awarded 200 000 Kyrgyzstani Som (approximately 2511 euros) as compensation for non-pecuniary damage sustained as a result of the violation of the rights found by the Committee in its Views. The State party thus requests the Committee to close the dialogue in the case. The State party further seeks a meeting with the Rapporteur on follow-up to Views to discuss the present case.  |
| Submission from author’s counsel : | 25 July 2017The author’s counsel stresses that after significant delay, the Government of the State party transferred the compensation for moral damages to a state deposit account in March 2017. However, as of 25 July 2017, the family of Mr. Moidunov has not received the compensation, due to administrative difficulties. The Kyrgyz government has also not provided any of the additional remedies requested by the Committee. The author’s counsel thus requests the Committee not to close the dialogue in the case until the family actually receives the funds, and to provide the author with a three months period to allow the State party to ensure that compensation is paid, so that the family can reassess its position with regard to the other remedies once compensation has been received. |
| Committee’s assessment: | 1. Investigation and prosecution: C
2. Full reparation, including appropriate compensation: B
3. Publication of the Views: No information
4. Non-repetition: B
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| Committee’s decision: | Follow-up dialogue ongoing; Meet with a representative of the State party during the 122th session. |

 10. Russian Federation

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| **Communication No. 2099/2011, *Polskikh*** |
| Views adopted: | 11 March 2016 |
| Violation: | Article 7 read by itself and in conjunction with articles 2 (3) and 14 (3) (g) of the Covenant. |
| Remedy:  | The State party is obligated, inter alia, to: (a) conduct a thorough and effective investigation into the author’s allegations of torture during his pretrial detention; (b) provide him with detailed information on the results of the investigation; (c) prosecute, try and, if confirmed, punish those responsible for the violations committed; (d) provide the author with a retrial with all the guarantees enshrined under the Covenant; and (e) provide adequate compensation to the author for the violations suffered. |
| Subject matter: | Author arrested on suspicion of murder and forced to confess through torture |
| Previous follow-up information: | No previous follow-up information  |
| Submission from author : | 13 December 2016.[[7]](#footnote-7)The author submits that the State party has failed to adopt implementation measures. He applied to the Supreme Court of Russia to reopen the criminal proceedings in his criminal case. On 17 October 2016, the Supreme Court rejected the request, arguing that the Committee’s finding of a violation of article 14 of the Covenant did not constitute a ground for reopening. He then requested the Office of the Prosecutor’s General to initiate proceedings for reopening his case, based on the Committee’s Views. On 11 November 2016, his request was rejected on the ground that the allegations about his ill-treatment and confession obtained under duress were duly examined by the domestic authorities, and found unsubstantiated; therefore, any implementation measures with regards to the Committee’s Views were unnecessary.  |
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| Committee’s decision: | Send a reminder to the State party; Meet with a representative of the State party during the 122nd session.Follow-up dialogue ongoing. |

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| **Communication No. 1304/2004, *Khoroshenko*** |
| Views adopted: | 29 March 2011 |
| Violation: | Article 6 read together with article 14; articles 7, 9 (1) (2) (3) (4), 14 (1) and (3) (a), (b), (d), (g) of the Covenant. |
| Remedy:  | Effective remedy, including by (i) conducting full and thorough investigation into the allegations of torture and ill-treatment and initiating criminal proceedings against those responsible for the treatment to which the author was subjected; (ii) conducting a retrial in compliance with all guarantees under the Covenant; (iii) providing the author with adequate reparation including compensation; (iv) taking steps to prevent similar violations occurring in the future. |
| Subject matter: | Criminal conviction and death penalty based on an unfair trial, torture, arbitrary detention. |
| Previous follow-up information: | CCPR/C/115/3 |
| Submission from author’s counsel: | 12 June 2016The author submits that the State party has failed to fully implement the recommendations adopted by the Committee.  |
| Committee’s assessment | 1. Investigation and prosecution: D
2. Retrial: D
3. Compensation: D
4. Publication of Views: D
5. Non repetition: D
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| Committee’s decision: | Suspend the follow-up dialogue, with a note of unsatisfactory implementation of the Committee’s recommendation |

 11. Slovak Republic

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| **Communication No. 2062/2011, *M.K. et al.***  |
| Views adopted: | 23 March 2016 |
| Violation: | Article 26 |
| Remedy:  | Adequate compensation. |
| Subject matter: | Dismissal under duress and undue pressure |
| Previous follow-up information: | No previous follow-up information  |
| Submission from State party: | 6 December 2016The State party notes that the authors have not exhausted domestic remedies. Therefore, the State party does not consider it possible to provide them with compensation. The Constitutional Court of the Slovak Republic reviewed, within the control of constitutionality, the decisions of the District Military Prosecutor’s Office of Bratislava and the Higher Military Prosecutor’s Office of Trenčin, which were contested by the authors, and it concluded that the decisions of the competent Prosecutors had not been arbitrary but properly substantiated and well-founded.The State party revisits the facts of the case, and concludes that the authors terminated their service with a free expression of their will, and were able to use remedies offered by national law, including the filing of an action for the review of the legality of their release from service. The authors had a further opportunity to determine the invalidity of the legal act –the petition for release from service under the Code of Civil Procedure Act No.99/1963-then in force. However they chose not to make use of this remedy.The fact that the authors lodged a criminal complaint and filed an application with the Constitutional Court did not amount to exhaustion of domestic remedies, as the purpose of these actions was to establish the criminal responsibility of the Slovak Information Service, rather than assessing the legality of their release from service. The State party also stresses that the quasi-judicial nature of the Committee’s Views cannot change a matter which has been decided under national law. The Views were published, along with their translation into the Slovak language, on the Ministry of Foreign and European affairs’ website. Distribution to all concerned government authorities and institutions was arranged, including to Ministry of Justice, general courts, and the Slovak national Centre for Human Rights, as the national specialized anti-discrimination body.As for non-repetition measures, the State party points to Act No.365/2004 on equal treatment in certain areas and protection against discrimination (Antidiscrimination Act), which prohibits discrimination in employment relationships on grounds of political opinions, including harassment.  |
| Committee’s assessment: | (a) Effective remedy: E(b) Publication of Views: A(c) Non-repetition: C |
| Committee’s decision: | Follow-up dialogue ongoing.  |

 12. Sri Lanka

**Communication No. 2087/2011, *Guneththige***

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| Views adopted: | 30 March 2015 |
| Violation: | article 6 (1), read alone and in conjunction with article 2 (3), of article 7, and of article 9 (paras. 1, 2 and 4), in respect of Sunil Hemachandra; and of article 2 (3), read in conjunction with article 7, in respect of the authors. |
| Remedy: | Prompt, thorough and independent investigation into the facts; ensuring that the perpetrators are brought to justice; and ensuring reparation, including the payment of adequate compensation and a public apology to the family. |
| Subject matter: | Death in custody allegedly resulting from torture |
| Previous follow-up information:  | No previous follow-up information |
| Submission from author: | 6 February 2017 The authors’ counsel stresses that more than a year since the Views were adopted, the State party has failed to provide such information, or to take steps to implement the Views. The authors and their legal representatives have received no correspondence or contact from the State party in relation to the steps it plans to take in relation to this case. More than a year after these Views were adopted - and more than 13 years after the incidents which led to Mr. Hemachandra’s death in the custody of the State party, no effective investigation has been undertaken, and the violation of the authors’ rights remains ongoing. A new, independent and thorough investigation must cure the defects of the earlier investigation. Regarding compensation, the Government of Sri Lanka should contact the authors through their counsel and obtain an estimate from them regarding pecuniary and non-pecuniary damages incurred. Calculation of the loss of earnings should take into consideration the fact that Mr. Hemachandra was 34 years old, a healthy and literate man with no criminal record, who was a daily paid labourer. The compensation must also consider the lottery winnings which he had just received and the additional opportunities that this would have opened up for him. Compensation must also include expenses incurred seeking justice and an investigation. It must also recognise the pain and suffering and continued anguish and psychological pressure suffered by the victim’s family. The State party should also issue a public apology containing an unequivocal acknowledgement of the numerous violations of the Covenant in the present case.The authors’ counsel adds that in 2016, the UN Special Rapporteurs on the independence of judges and lawyers, and on torture and other cruel, inhuman or degrading treatment or punishment conducted an official visit to Sri Lanka, and noted that “old and new cases of torture continue to be surrounded by total impunity”. In November 2016 the Committee against Torture similarly expressed serious concerns regarding ongoing violations, including “torture during police detention” and “inadequate investigations into allegations of torture and ill-treatment.”The State party has not provided information on the translation, publication and dissemination of the Views. The authors’ counsel requests the Committee to assess the State party’s non-implementation with a D grade.  |
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| Committee’s decision: | Send a reminder to the State party; Meet with a representative of the State party during the 122nd session Follow-up dialogue ongoing. |

1. \* All persons handling this document are requested to respect and observe its confidential nature.

 \*\* The present document is being issued without formal editing. [↑](#footnote-ref-1)
2. The full assessment is available at <http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/INT_CCPR_FGD_8108_E.pdf> [↑](#footnote-ref-2)
3. The Special Rapporteur for follow-up to Views met with a representative of Algeria on 14 July 2017. The State party representative agreed to request from the Ministry of Justice follow-up observations for each individual case currently under the follow-up procedure. [↑](#footnote-ref-3)
4. The Special Rapporteur for follow-up to Views met with a representative of Australia on 18 July 2017 [↑](#footnote-ref-4)
5. Committee’s assessment at the 119th session:

 (a) Appropriate remedy, including rehabilitation and adequate compensation: E

 (b) Publication of Views: No information

 (c) Non-repetition: C2 [↑](#footnote-ref-5)
6. <http://canada.pch.gc.ca/eng/1448633333967>. [↑](#footnote-ref-6)
7. The submission is not dated, therefore the date of the receipt is indicated. [↑](#footnote-ref-7)