CCPR
Centre for Civil and Political Rights

The United Nations Human Rights Committee's Jurisprudence

A YEAR IN REVIEW 2024

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Centre for Civil and Political Rights (CCPR Centre)

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FOREWORD

The Centre for Civil and Political Rights is pleased to present the analysis of the 2024 individual communications of the United Nations (UN) Human Rights Committee (the Committee). This analysis, conducted annually since 2014, highlights the latest developments in the Committee's jurisprudence and provides deeper insights into the Committee's work. The purpose is to make the jurisprudence of the Committee more visible and accessible to all individuals involved in the promotion and protection of civil and political rights. We are confident that this publication will be useful to both litigators and human rights defenders.

The research has been carried out in collaboration with the Law Clinic of the LL.M. in International Law of the Graduate Institute of Geneva. The students prepared the related research materials and produced the articles and summaries included in this Yearbook under the supervision of the Head of the Law Clinic and previous Committee member and Chair, Prof. Yuval Shany, along with the Centre. Moreover, for the third year, the students had the opportunity to present their research to Committee members during the 144th session in Palais Wilson, Geneva.

During the year 2024, the Committee held the 140th, 141st, and 142nd sessions. According to the official information given by the UN Secretariat, the Committee enlarged its jurisprudence by issuing 445 communications, though our analysis showed 444 communications (134 decided on merits, 237 inadmissible, and 73 discontinued). This is an increase compared to the year 2023, when 143 communications were adopted. As such, the Committee continues to receive the highest number of communications among all UN treaty bodies. Regarding the follow-up procedure for Views, in 2024 the Committee only issued one report instead of the common practice of issuing two, and graded 10 communications, which is lower than in previous years. The most frequently awarded grade was once again C (not satisfactory), which confirms the persistent pattern of limited compliance. The issuance of A grades (largely satisfactory) continued its gradual upward trend, B grades (partially satisfactory) declined sharply in 2024, no D grades (no cooperation) were awarded, and E grades (contrary or rejecting measures) continued to decrease as in the past three years.

Unfortunately, as mentioned in previous years, the Committee faces a backlog of submissions, and now the liquidity crisis affecting the UN Secretariat — and consequently the Petitions Section — has further deepened, continuing to hinder the Committee's ability to respond effectively to victims' complaints. As in last year, the Centre will continue to advocate for the Views as a key avenue to develop international human rights jurisprudence and promote the recognition, redress, and reparation of victims. The Centre also persists in urging States parties to fully support the Petitions Section's work, including through adequate funding and paying the installments they committed to.

We would like to thank the students who participated in the project, namely Tanya Goel, Cosmo Loris Reitzig and Tanisha Singh. Coordination, research, and editing were carried out by Irene Aparicio, Human Rights Officer at the Centre. We are also deeply grateful to Prof. Yuval Shany for his fantastic support and continued commitment.

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OVERVIEW OF THE JURISPRUDENCE OF THE HUMAN RIGHTS COMMITTEE

In 2024 (140th, 141st and 142nd sessions), the Human Rights Committee (the Committee) adopted 444 communications. In total, 73 communications were discontinued for reasons such as loss of contact with the author of the communication or requests by the author to discontinue, among others. Moreover, 237 communications were declared inadmissible. The Committee found violations on merits in 131 communications and in 3 communications no merits were found.

Note: This research has only considered those communications made available on the Committee's website as of May 2025, those being 444. This is slightly lower than the official numbers given by the Committee, according to which there should be 445. Also, the Committee's official summaries differ from this report's breakdown, instead recording 57 discontinued communications, 29 inadmissible ones, and findings of violations on merits in 356 communications (and no violations in 3 communications.) This discrepancy primarily arises from the Committee's aggregation of 252 communications against Italy in the 143rd session into a single batch under "findings of violation", whereas a closer examination reveals that only 26 of these were violations, with 208 declared inadmissible, and 18 discontinued.

It is also important to note that the unusually high number of communications addressed in 2024 compared to previous years—which averaged around 100 annually—is due to the Committee's increasing use of consolidated handling. This has resulted in a greater number of communications being disposed of, although the number of distinct Views rendered has remained relatively consistent with previous years. For the purposes of this analysis, each communication within a consolidated View has been counted individually, in accordance with the specific outcome adopted by the Committee.

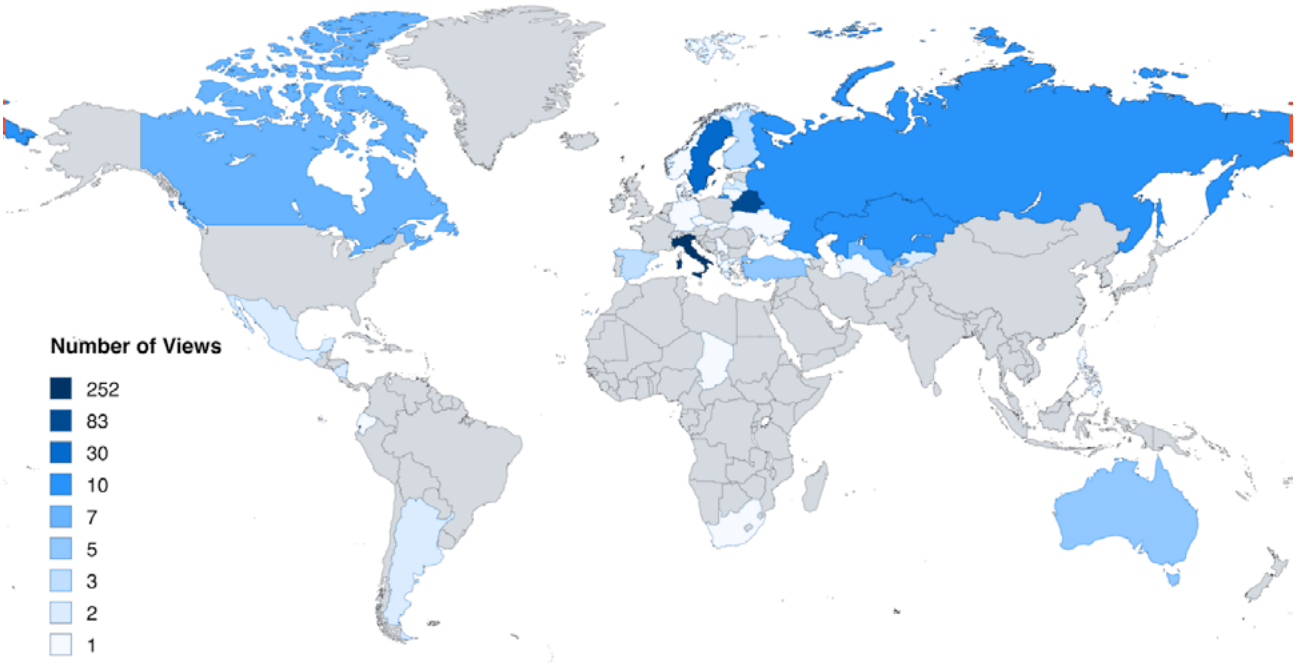
Geographical Trends

The geographical spread of the Committee's communications in 2024 shows that Italy (252) generated the largest number, a marked deviation from previous years, in which it amassed none in 2023 and 2021, and only 1 in 2022. Formerly, Belarus topped the chart in 2023, 2022, 2021, and 2019; however, this year it dropped to second place, with a total of 83 communications. Sweden, with 30 communications, was also notably higher than in prior years, where it registered at most 5 in 2023, 2022 and 2021. Kazakhstan (10) and the Russian Federation (10) follow past trends of high numbers of communications generated.

The first group of cases consists of States with more than 100 communications, comprising Italy, with 252. The second group comprises States with 11 to 100 communications, amounting to 2 States in total: Belarus and Sweden. The third group comprises States with 7 to 10 communications, amounting to 4 States in total: Kazakhstan, Russia, Canada and Uzbekistan. The fourth group includes those with 3 to 6 communications each, also amounting to 4 States. The final group consists of the remaining 24 States, each with 1 or 2 communications.

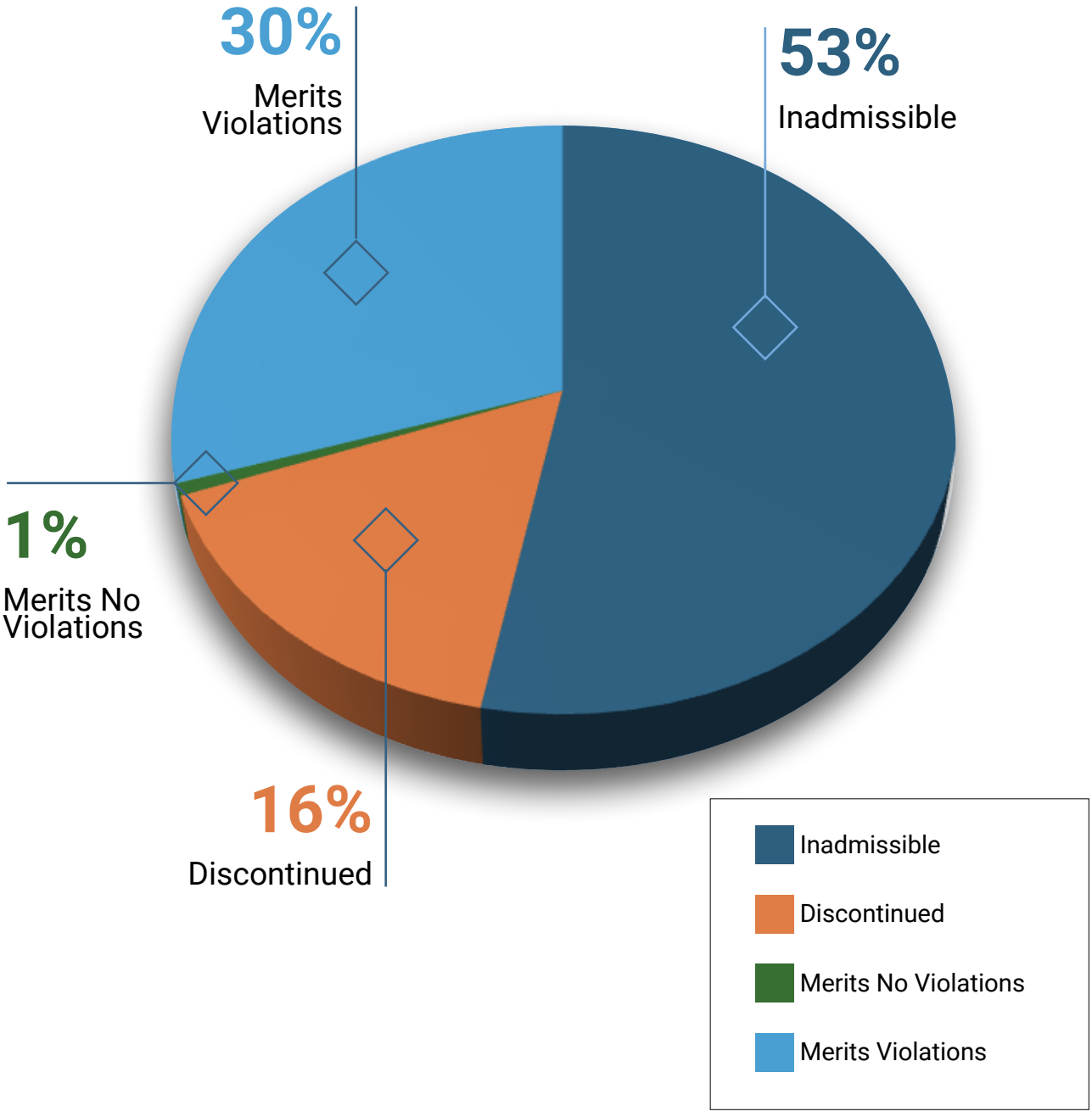
One may note the sharp disparity between the country with the highest number of communications, that is, Italy, and even the second place, Belarus; with the former amassing over triple the amount of communications than the latter, and 251 more than the States with the least communications. As mentioned before, this is due to the aggregation of 252 communications against Italy concerning individuals sentenced to life imprisonment without parole for mafia-related offences (*Antonio Albanese et al. v. Italy,* CCPR/C/142/D/3328-2019-3579-2019).

This year also saw a continued concentration of communications originating from Eastern European and Central Asian States, notably Belarus (9), Kazakhstan (7), and the Russian Federation (7). In contrast, engagement from African, South Asian, and Latin American States remained sparse, with most contributing only 1 or 2 communications.



Country	Views in 2024
Italy	252
Belarus	83
Sweden	30
Kazakhstan	10
Russian Federation	10
Canada	7
Uzbekistan	7
Australia	5
Türkiye	5
Spain	3
Finland	3
Nicaragua	2
Kyrgyzstan	2
Argentina	2
Latvia	2
Mexico	2
Maldives	1
Ukraine	1
Chad	1
Cabo Verde	1
South Africa	1
Denmark	1
Georgia	1
Germany	1
Czech Republic	1
Turkmenistan	1
Armenia	1
Slovakia	1
Philippines	1
Greece	1
Norway	1
Serbia	1
Lithuania	1
Ecuador	1
Albania	1
Grand Total	**444**

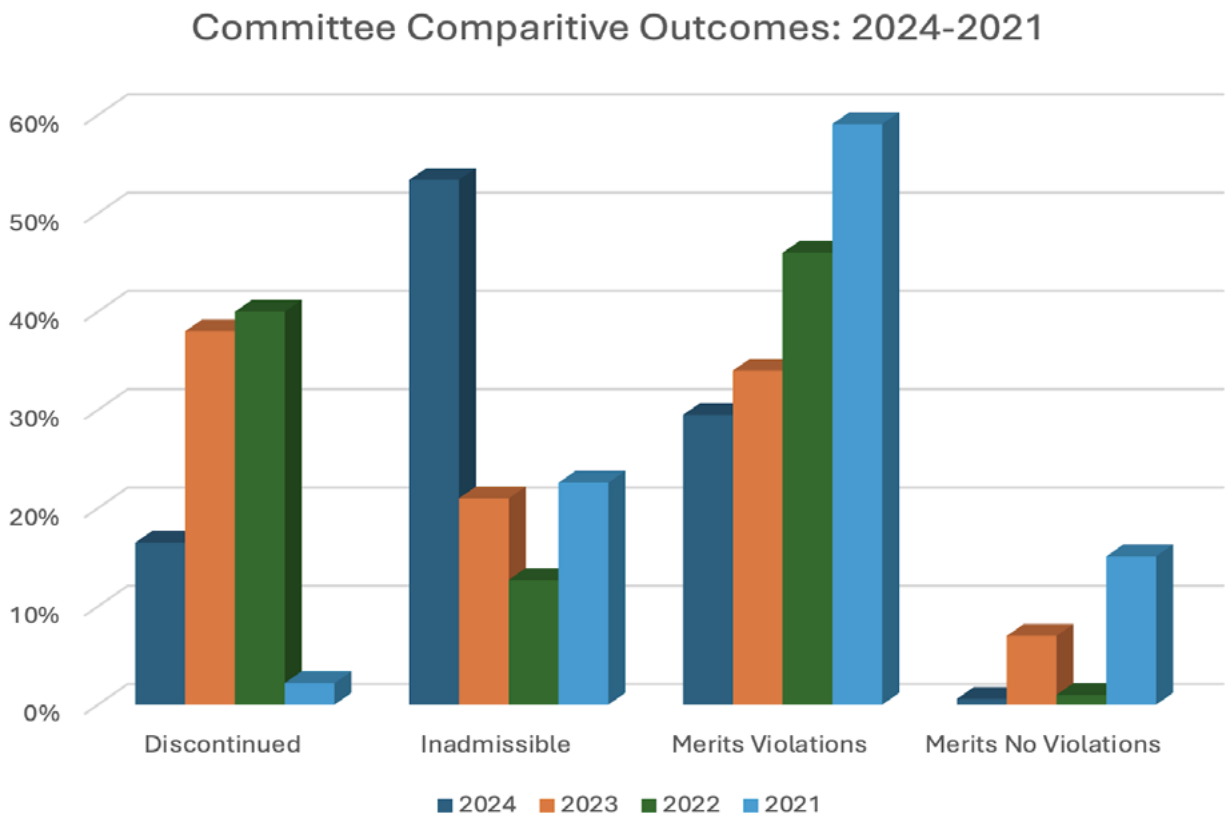
Outcomes of the Communications



Out of 444 communications received by the Committee in 2024, 73 were discontinued (16.5%), and out of the remaining 371 communications adopted, 131 (29.5%) involved the violation of the International Covenant on Civil and Political Rights (the Covenant). In 3 communications the Committee did not find any violation (0.6%), and 237 communications were declared inadmissible due to the different criteria stated in the Optional Protocol to the Covenant (53.4%).

Comparative Analysis of Outcome

Comparing the outcomes of communications from 2023, 2022 and 2021 with those of 2024 is crucial for understanding and identifying the trends in the jurisprudence of the Committee. Given the significant rise in the number of communications adopted this year—444 as opposed to 143 in 2023, 149 in 2022, and 91 in 2021—percentage-based comparisons are preferred over absolute figures.



The proportion of discontinued communications in 2024 (16.5%) marks a considerable decline from 2023 (38%) and 2022 (40%), though it remains notably higher than in 2021 (2.2%). In regards to inadmissible communications, numbers have increased substantially this year (53.4%) compared to 2023 (21%), 2022 (12.7%), and 2021 (22.6%). Findings of violations on the merits have continued a steady decline, with 30% of communications in 2024 resulting in such findings—down from 34% in 2023, 46% in 2022, and 59.1% in 2021. Findings of no violation on merits have fluctuated significantly, dropping to a mere 0.6% this year, after a peak in 2023 (7%), following relatively low rates in 2022 (1%) and 2021 (15.1%).

Thematic Trends within the Violations

1. Qualitative Thematic Breakdown of Trends Identified in the Committee's Views

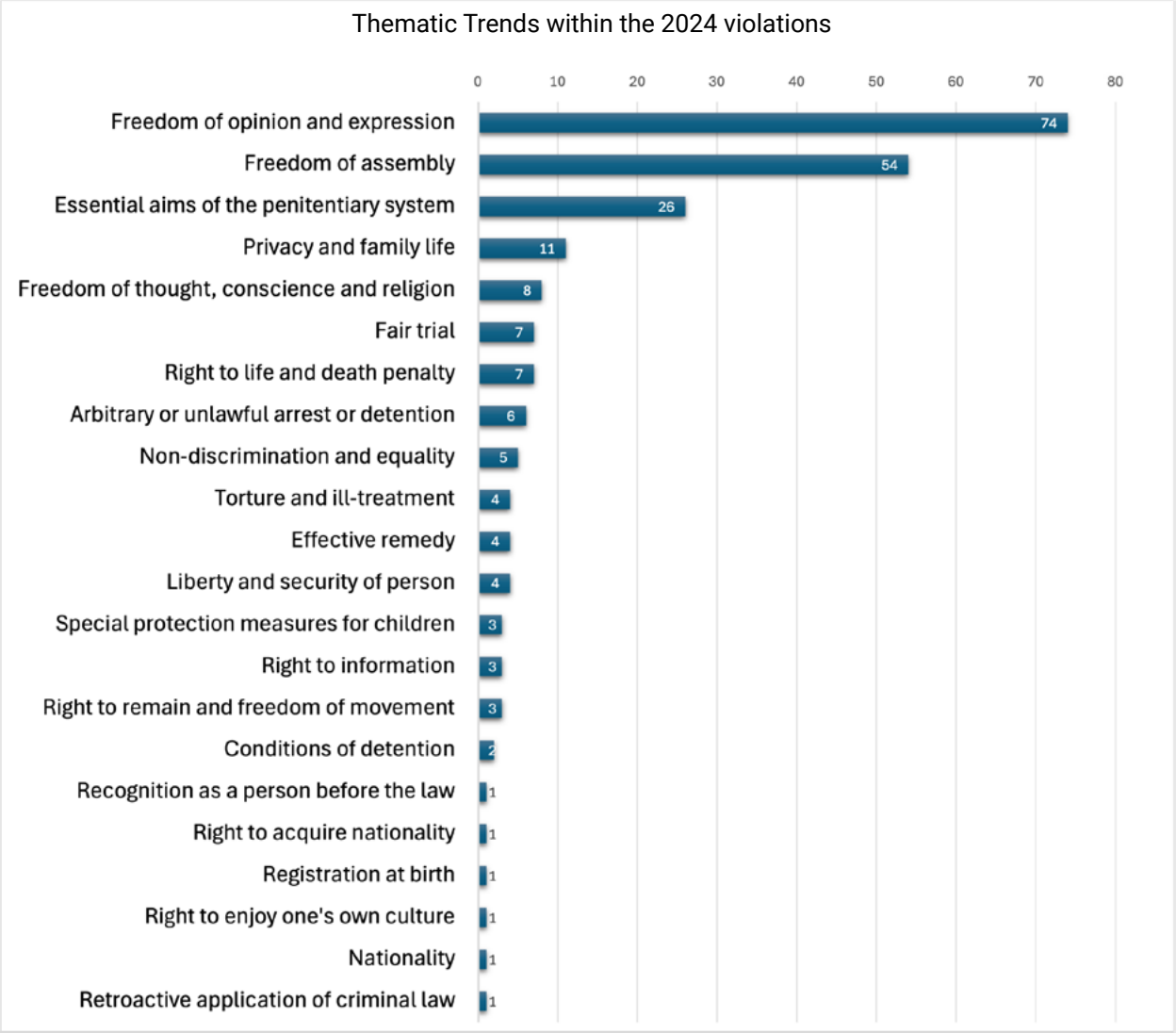
This analysis examines the thematic trends in the violations found by the Committee in its 2024 jurisprudence. The methodology of this analysis differs in some respects from that of previous Yearbooks in order to accurately reflect the number of communications considered by the Committee in 2024.

First, this analysis considered the compiled 32 published Views in which the Committee found some violation of the Covenant in 2024. Second, from that subset of Views, this analysis extracted the "substantive issues" identified on the cover page of the Views, in order to engage with the most salient themes. Third, to account for the consolidation of multiple communications in one set of Views, this analysis disaggregated the specific "substantive issues" that were applicable to each of the 131 individual communications in which the Committee found a violation of the Covenant. For instance, if one set of Views consolidated 21 communications, this analysis extracted and applied the specific "substantive issue" that corresponded to the violation(s) found in each of the 21 communications.

Finally, to the extent certain issues were included as a "substantive issue" on the cover page of the Committee's Views, but did not correspond to a violation of the Covenant, they were excluded from this analysis. Namely, if the Committee found that a particular claim was inadmissible or did not reflect a violation of the Covenant, that "substantive issue" was not incorporated in this analysis.

Moreover, some themes were merged under one category for simplification purposes—for example, 'Torture' and 'Cruel and human or degrading treatment' were merged into *Torture and ill-treatment*.

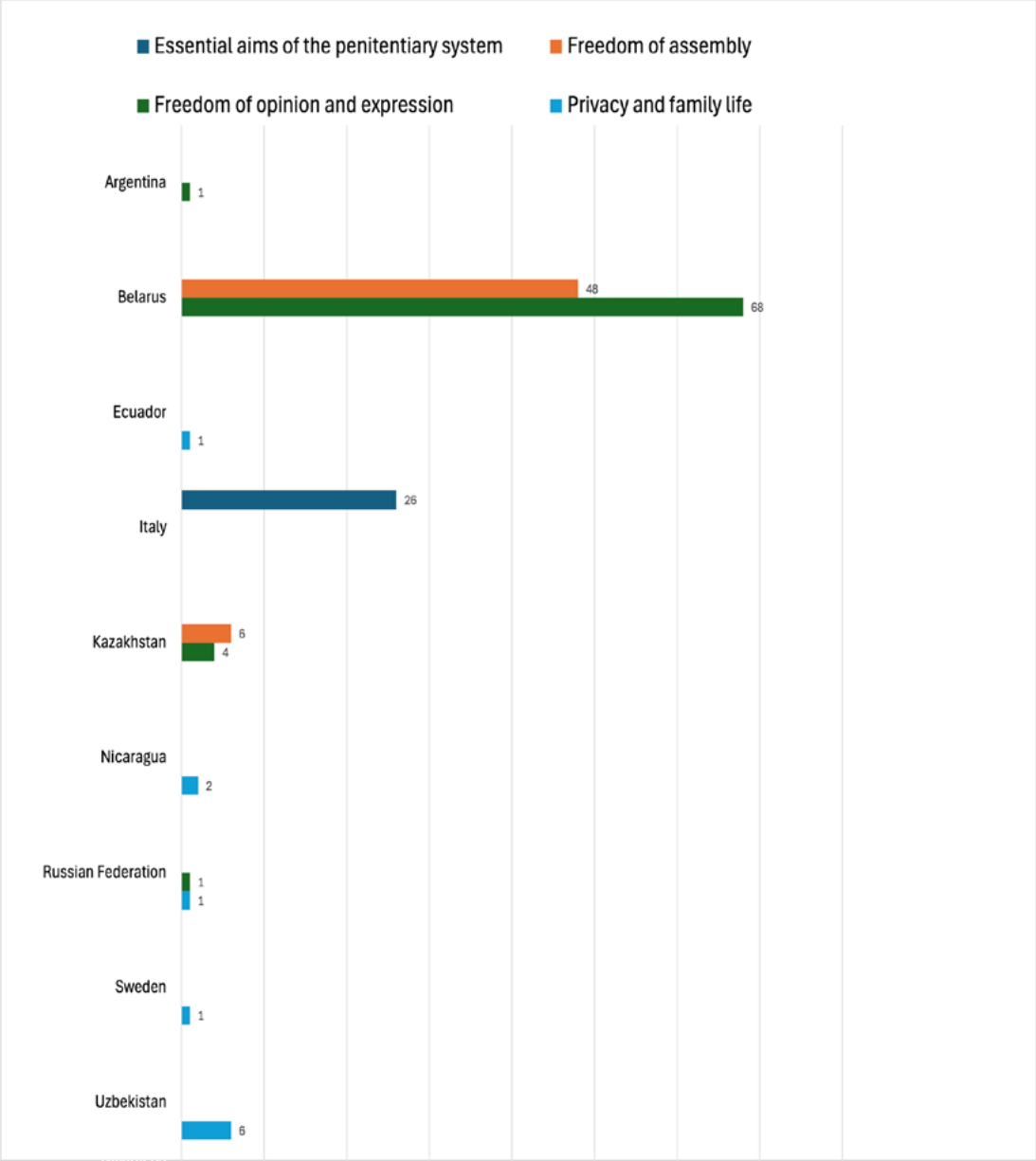
The following chart illustrates how often these substantive issues arose across the 131 communications in which the Committee found violations of the Covenant.



As illustrated, the Committee's findings of violation clustered around four main themes. These most salient themes are further analyzed below. A number of other "substantive issues" appeared only once across the communications with a finding of violation, such as the right to enjoy one's own culture, whereas others arose between three and eight times across the 131 communications analyzed.

2. Country-wise Quantitative Representation of the Thematic Violations

Geographical breakdown of the four most salient themes identified within the Committee's Views



From the thematic trends analysis, four themes arose most frequently and are considered the most salient ones. These include the themes of *Freedom of opinion and expression*; *Freedom of assembly*; *Essential aims of the penitentiary system*; and *Privacy and family life*. This chart shows the geographical distribution of these themes, and the States in which they were raised and violations were found.

3. Top Salient Themes

Out of the 131 communications with a finding of a violation, the most salient theme in 2024 was *Freedom of opinion and expression*. This arose in 74 communications with a finding of a violation (56.4%). A substantial majority of those communications (68) originated from Belarus and were consolidated by the Committee for consideration in four sets of Views. *Freedom of opinion and expression* was also among the most salient themes in 2023, and Belarus was the country with the most violations, reflecting a consistency with the 2024 jurisprudence.

The second-most salient theme in 2024 was *Freedom of assembly*, arising in 54 communications with a finding of violation (41.2%). The country with the most violations under this theme was also Belarus (48), and the remaining violations under this theme originated from Kazakhstan (6). Although *Freedom of assembly* was not among the most salient themes in 2023, it was the most salient one in 2022. In addition, Belarus and Kazakhstan were the two countries with the highest number of violations under the 2022 analysis.

Essential aims of the penitentiary system was identified as a substantive issue in 26 communications with a finding of violation (19.8%). Although this was the third-most salient theme in 2024, it arose entirely in relation to Italy, and all communications under this theme were addressed by the Committee in one consolidated set of Views (*Antonio Albanese et al. v. Italy*, CCPR/C/142/D/3328/2019-3579/2019). As mentioned, this case involved 252 communications by Italian individuals sentenced to life imprisonment without parole for mafia-related offences. The Committee found that Italy had violated the rights of 26 of the authors under article 10 (1), concerning the humane treatment of detainees, and article 10 (3), regarding the obligation to ensure that the penitentiary system aims at reformation and social rehabilitation, as enshrined in the Covenant.

Finally, the theme of *Privacy and family life* arose in 11 communications with a finding of violation (8.4%). Out of these 11 communications, 6 originated from Uzbekistan and concerned unlawful registration-based restrictions for Jehovah's Witnesses. The remaining communications were distributed across Nicaragua (2), Ecuador (1), Sweden (1), and the Russian Federation (1). The Russian Federation case was notable because it related, in large part, to the imposition of Russian nationality on Ukrainians in Crimea (*R. Bratsylo and V. Golovko et al. v. Russian Federation*, CCPR/C/140/D/3022/2017). The Committee held that protection against arbitrary or unlawful interference with one's privacy includes protection against the forceful imposition of a foreign nationality, and found a violation of article 17.

4. Other Emblematic Themes

Arbitrary or unlawful arrest or detention

In addition to the most salient themes discussed above, the Committee reached two important decisions in 2024 on the theme of arbitrary or unlawful arrest or detention. In *M.I. et al. v. Australia* (CCPR/C/142/D/2749/2016), 24 unaccompanied minors seeking asylum were intercepted at sea by Australian authorities and initially detained on Christmas Island, an Australian territory in the Indian Ocean. Pursuant to memoranda of understanding signed between Australia and the Republic of Nauru, the authors were later transferred to and detained in Nauru. Similarly, in *M. Nabhari v. Australia* (CCPR/C/142/D/3663/2019), an Iranian national sought asylum in an Australian territory,

where she was detained; subsequently, the author was also transferred to and detained in Nauru. In both cases, the Committee found violations of article 9 of the Covenant. Notably, the Committee reasoned that during relevant periods of the authors' detentions in Nauru, they remained subject to the jurisdiction of Australia, due to a variety of factors establishing Australia's significant control and influence over the detention operations in Nauru. For these reasons, even violations of the Covenant that occurred during the relevant periods of the authors' detentions in the territory of Nauru were attributable to Australia.

These cases not only establish important pronouncements on the legal contours of detention under article 9 of the Covenant, but illustrate significant developments in the Committee's jurisprudence on the scope of a State party's jurisdiction.

Right to enjoy one's own culture

Another significant decision from the Committee related to the right to enjoy one's own culture, under article 27 of the Covenant. In the case of *Jovsset Ante Sara v. Norway* (CCPR/C/141/D/3588/2019), the Committee recognized that the practice of reindeer husbandry for the indigenous Sámi peoples is deeply cultural, and held that Norway's reindeer culling order violated article 27. In reaching this decision, the Committee departed from its earlier views in *Kalevi Paadar et al. v. Finland* (CCPR/C/110/D/2102/2011), where it had found no violation in a similar context relating to reindeer herding restrictions. The *Jovesset Ante Sara* case therefore marks an evolution in the Committee's jurisprudence under article 27. It sets a higher threshold of justification for State interference, and affirms that cultural rights must be preserved with a view to maintaining practical viability and meaningful consultation.

Non-discrimination and equality

The Committee adopted three Views in 2024 that addressed equality (article 3) and non-discrimination (article 26) in the context of abortion and forced motherhood. In *Norma v. Ecuador* (CCPR/C/142/D/3628/2019), the Committee addressed a communication by a 13-year-old Ecuadorian girl who was repeatedly raped by her father, resulting in pregnancy. The author did not discover her condition until she was 27 weeks pregnant due to a lack of sex education, and was then denied an abortion. The Committee held that derogatory comments by the authorities and their refusal to provide legally available reproductive health services reflected discriminatory treatment and gender-based stereotyping of the author's reproductive role. In addition, the sexual violence to which the author was subjected, as well as the lack of access to specific health services for women, constituted forms of gender-based violence and discrimination. Separately, in *Susana v. Nicaragua* (CCPR/C/142/D/3626/2019) and *Lucía v. Nicaragua* (CCPR/C/142/D/3627/2019), the Committee held that Nicaragua's total ban on abortion inherently constituted gender-based discrimination under articles 3 and 26 of the Covenant.

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FOLLOW-UP PROGRESS REPORT ON INDIVIDUAL COMMUNICATIONS

At its 142nd (November 2024) session, the Committee assessed the follow-up information received with regard to ten Views. Due to the liquidity crisis and budget cuts, the Committee has adopted one follow-up report instead of two, in deviation from its previous practice.

Figures

1. Assessment for Each State Party

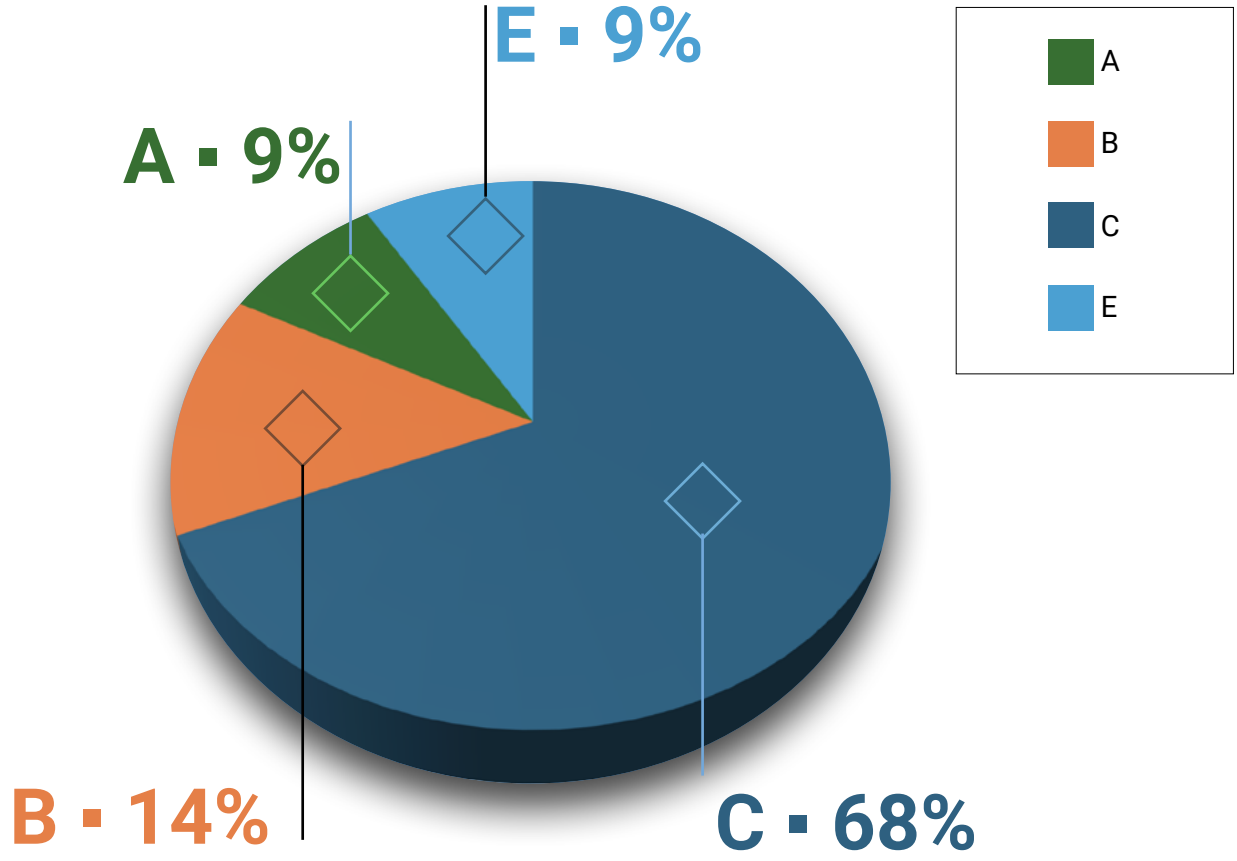
State Party	Committee's Assessment	Average of Assessments out of 5 (A=5; E=1)
Colombia	C, C, C, C, C, B; C, C, C, C, C, C, C	3,08
Ecuador	B, B	4,00
Finland	C, C	3,00
Greece	C, C, C, B, B	3,40
New Zealand	C, C	3,00
Sweden	A, A	5,00
Türkiye	C, C, C	3,00
Turkmenistan	E, E, E	1,00
Ukraine	C, C, A	3,67

In the 2024 reporting cycle, Sweden received the best average implementation grade with a perfect score of 5.00. Turkmenistan had the worst grade, with an average of 1.00, significantly worse than its 2023 average of 3.00. Other States with relatively strong performance included Ecuador (4.00) and Greece (3.4).

Among the States reviewed in both 2023 and 2024, Sweden once again recorded the best average, while Turkmenistan had the worst—and saw a significant deterioration. Ukraine showed a slight improvement, rising from 3.5 to 3.67, while Colombia worsened marginally from 3.3 to 3.08. Finland maintained a stable score of 3.00 across both years.

Notably, four of the ten communications assessed in 2024 concerned issues of military service or conscientious objection. These cases were predominantly graded C or E, suggesting persistent implementation challenges in this thematic area.

2. Assessment by Percentage of Each Grade



In the 2024 reporting cycle, 35 recommendations were reviewed during the follow-up procedure. The majority received a C grade (Reply/action not satisfactory), accounting for 68.6% of all assessments (24 out of 35). This was followed by B grades (Reply/action partially satisfactory), which made up 14.3% (5 out of 35). Both A grades (Reply/action largely satisfactory) and E grades (Information or measures contrary to the recommendation) were each awarded in 8.6% of cases (3 out of 35). Notably, the D grade (No cooperation with the Committee) was not awarded during this cycle.

3. Assessment by Recommendations Category

The recommendations evaluated by the Committee in 2024 can be grouped into the following thematic categories, reflecting common remedial frameworks: *Investigate, prosecute, and punish;*

Provide compensation, reparations or information; Non-repetition; Due process guarantee; Refraining from expelling the author; and *Review of legal claims, release, and expunge record*.

The most frequently assessed category in 2024 was *Provide compensation, reparations or information*, with twelve recommendations. Of these, ten were graded C (not satisfactorily implemented), while one received a B and another an E. These forms of reparation are often central to the recognition of victims as rights holders and signal a degree of public accountability. As such, the widespread failure to implement them undermines the impact of the Committee's Views, limiting redress for individuals affected by violations.

The second most common category was *Non-repetition*, with ten recommendations. Six of these were graded C, while the remainder received grades A, B (two cases), and E. Given that guarantees of non-repetition are among the most routinely issued recommendations in the Committee's Views, the consistent shortfall in implementation raises concerns about the extent to which States internalize structural obligations under the Covenant.

The third most assessed category was *Investigate, prosecute, and punish*, with five recommendations. Four received a C grade and one a B. This cluster of measures is particularly significant for establishing the truth of past violations, advancing accountability, and affirming the rule of law—yet it, too, suffers from limited implementation.

The remaining categories contained fewer recommendations. *Review of legal claims, release, and expunge record* accounted for six recommendations, with a majority graded C, alongside one A and one E grade. *Due process guarantee* and *Refraining from expelling the author* were each addressed in one recommendation, graded B and A respectively.

Recommendation Category	A	B	C	D	E	Total
Investigate, prosecute, and punish	0	1	4	0	0	**5**
Provide compensation, reparations or information	0	1	10	0	1	**12**
Non-repetition	1	2	6	0	1	**10**
Due process guarantee	0	1	0	0	0	**1**
Refraining from expelling the author	1	0	0	0	0	**1**
Review of legal claims, release, and expungement of record	1	0	4	0	1	**6**
Total	**3**	**5**	**24**	**0**	**3**	**35**

4. Comparison with the Previous Year

In 2024, the Committee graded 10 communications, compared to 12 in 2023. As in previous years, the most frequently awarded grade was C (not satisfactory), which confirms the persistent pattern of limited compliance.

The percentage of A grades (largely satisfactory) continued its gradual upward trend, increasing from 2.5% in 2022 to 7% in 2023 and further to 8.6% in 2024. Similarly, the percentage of C grades (not satisfactory) has risen for two consecutive years, moving from 37.5% in 2022 to 52% in 2023 and then to 68.6% in 2024, highlighting a growing concern with implementation gaps.

B grades (partially satisfactory) increased from 17.5% in 2022 to 24% in 2023, but then declined sharply to 14.3% in 2024. E grades (contrary or rejecting measures) have consistently decreased over the past three years, from 35% in 2022 to 17% in 2023 and down to 8.6% in 2024. These trends suggest growing polarization in implementation outcomes: communications are increasingly resulting in either not satisfactory engagement (grade C) or clear compliance (grade A), while both outright contrary or rejecting measure (grade E) and partial implementation (grade B) have become less common.

The number of cases closed through follow-up has remained consistently low over the past three years but increased slightly in 2024—which is surprising given that in both 2022 and 2023 there were two follow-up reports and in 2024 there has been only one. In 2022, the Committee closed two cases: one was assessed as partially satisfactory, and the other as unsatisfactory. In 2023, again two cases were closed, with one deemed satisfactory and the other unsatisfactory. In 2024, three cases—Nos. 3, 7, and 9—were closed: one was assessed as satisfactory, one as partially satisfactory, and one as unsatisfactory. While the overall number of closures has remained limited, the outcomes in 2024 reflect a slight improvement in the assessment of closed cases.

142nd Session

1. Colombia, Communication No. 2134/2012, *Rosa Maria Serna et al.* (9 July 2015)

Subject matter: Enforced disappearance by paramilitary groups

Follow-up information received: In this case, the Committee determined that the State party, by failing to investigate, was responsible for the human rights violations committed by a non-State actor. The enforced disappearance constituted a violation of articles 6, 7, 9, and 16 of the Covenant.

The State party reported that 35 investigative actions had been undertaken, and that the case remained open. It indicated that the disappearance was registered in the National Register of Disappeared Persons and that search efforts were ongoing by the Missing Persons Search Unit (UBPD, acronym in Spanish). The State party reiterated its commitment to strengthening institutional capacities for search mechanisms and noted that the Committee of Ministers had previously concluded there was insufficient evidence to classify the case as an enforced disappearance. It also reported that the authors had initiated proceedings to challenge that decision, which were still ongoing.

The authors' counsel argued that the investigation remains at a preliminary stage more than 20 years after the disappearance and that no significant progress has been made in clarifying the facts or identifying those responsible. Counsel noted that search efforts have largely been driven by the victims' representatives and that institutional mechanisms such as the CNBPD face limited resources and a lack of coordination. Counsel further emphasized delays and procedural setbacks in efforts to secure compensation through the domestic mechanisms and expressed concern that the State party continues to question the legal classification of the case as an enforced disappearance. In light of the lack of progress and the absence of a coordinated institutional response, the authors requested that the Committee consider the follow-up information unsatisfactory.

Committee's assessment:

(a) Performance of an independent, thorough, and effective investigation and prosecution and punishment of those responsible: C

(b) Release of Mr. Anzola and Mr. Molina, should they still be alive: C;

(c) If they are dead, the hand-over of their remains to their family: C;

(d) Effective reparation: C;

(e) Non-repetition: C;

(f) Ensure that any forced disappearances give rise to a prompt, impartial and effective investigation: B.

Committee's decision: Follow-up dialogue ongoing.

2. Colombia, Communication No. 3076/2017, *Múnera López et al.* (1 March 2020)

Subject matter: Killing of a trade unionist

Follow-up information received: The case concerns Adolfo Múnera López, a Colombian union leader who was murdered in 2002 after receiving multiple threats. The Committee found violations of articles 6 and 2 (3) of the Covenant, due to the State party's failure to protect the authors' family members' right to life and to conduct an effective investigation into their murder. The State party reported that the Attorney General's Office had found no new evidence to justify continuing the investigation or to substantiate the hypothesis of intellectual authorship. Regarding compensation, it stated that the Committee of Ministers had adopted a favourable opinion concerning the Committee's Views and that compensation would proceed under the framework of Law No. 288 of 1996. The State party also indicated that the Committee's Views had been published on the websites of the Office of the Presidential Adviser on Human Rights and the Ministry of Foreign Affairs.

The authors' counsel expressed regret that the Committee's Views had not been fully implemented. They noted that the families were not informed of the favourable resolution until several months after its adoption, and that the proposed reparations were limited to financial compensation without addressing other forms of reparation such as rehabilitation, restitution, satisfaction, or guarantees of non-repetition. Proposals for additional measures were dismissed without discussion. While one meeting with the Ministry of Foreign Affairs was held in July 2021, no further engagement occurred. The authors subsequently filed a petition for damages before the Administrative Court of Cundinamarca, which was admitted; however, the Ministry of Foreign Affairs challenged it, claiming a lack of competence and proposing the involvement of other ministries. The court later rejected the objection. Counsel also noted that the criminal investigation had not led to identifying the perpetrators or clarifying the circumstances and intellectual authorship of the crime.

Committee's assessment:

(a) Investigation into the circumstances of Mr. *Múnera* López murder: C ;
(b) Investigation and sanctioning of any type of action that might have hindered the effectiveness of the searching and tracing process: C;
(c) Providing the authors with detailed information about the investigation: C;
(d) Prosecution and punishment of those responsible: C;
(e) Psychological rehabilitation and medical treatment for the authors: C;
(f) Reparation: C;
(g) Non-repetition: C.

Committee's decision: Follow-up dialogue ongoing.

3. Ecuador, Communication No. 2244/2013, *Dassum and Dassum* (30 March 2016)

Subject matter: Criminal conviction and seizure of authors' assets

Follow-up information received: In this case, Roberto and William Isaías Dassum, former executives of Filanbanco in Ecuador, alleged serious human rights violations after being convicted in absentia for bank embezzlement and having their assets seized by the State. The Committee held that the State party violated the authors' due process rights under article 14 (1) of the Covenant in the seizure of their assets and ordered the State party to provide an effective remedy.

The State party submitted that the Committee did not recommend restitution and emphasized that the Covenant does not recognize a right to property. It maintained that the Committee's Views did not declare the seizure unlawful and that the authors had access to alternative legal remedies. The State also claimed that interim measures granted by a domestic court in favour of the authors, pending clarification of full reparation, reflected a misuse of the Committee's Views. It referred to court proceedings and opinions from legal experts and former judges to support its position that restitution is not required unless explicitly ordered.

The authors submitted that full reparation, as established in international law, includes restitution or compensation where restitution is not possible. They asserted that the continued application of Legislative Decree No. 13 prevents them from accessing meaningful remedies, including the ability to contest the original seizure. They noted that, while a domestic court eventually granted partial reparation, including restitution, compensation, and guarantees of non-repetition, implementation has been delayed, and the Committee's Views have not been adequately published or disseminated. The authors reiterated that the violation of due process effectively undermined their civil rights, including property-related interests.

Third-party submissions by FIAN and Union Tierra y Vida supported the State party's position, warning that restitution would adversely affect peasant communities currently living on the land. The land was redistributed under a national land reform programme (Plan Tierras), which is essential for the communities' livelihood. The organizations stressed that the UN Declaration on the Rights of Peasants (UNDROP) should guide the interpretation of the Covenant in this context, prioritizing the rights of peasants in decisions regarding public land.

Committee's assessment:

(a) Full reparation: B

(b) Ensuring that due process is followed in the relevant suits at law: B

Committee's decision: Close the case with a note of partially satisfactory implementation of the Committee's Views. The Committee found a violation of article 14 (1) of the Covenant, specifically the right to a fair hearing. At the time, the legal framework in the State party barred individuals from filing constitutional or other forms of special protection claims against decisions of the Deposit Guarantee Agency. It also prevented judges from reviewing such claims.

While the Views did not require the return of the authors' assets, they emphasized the need to allow judicial review of the Agency's decisions. This right has since been granted, and the authors have been able to challenge the decisions in domestic courts. However, the implementation remains only partial, as no information was provided on whether any further remedies or substantive outcomes resulted from these proceedings.

4. Finland, Communication No. 2950/2017, *Klemetti Käkkäläjärvi et al.* (2 November 2018)

Subject matter: Right to vote for elections at Sámi Parliament

Follow-up information received: The Committee held that the State party violated the authors' rights under article 25, read in conjunction with article 27 and article 1 of the Covenant, by including individuals in the Sámi Parliament electoral roll contrary to the Sámi people's right to internal self-determination.

The State party reported that it had translated and widely disseminated the Committee's Views in Finnish and North Sámi, and issued a related press release. A meeting was held between the Ministry of Justice and Sámi Parliament representatives of the Inari Sámi group. The State party reported that the Sámi Parliament petitioned the Supreme Administrative Court (SAC) to annul earlier decisions concerning the inclusion of 97 individuals on the electoral roll; the SAC rejected this petition in July 2019. Before the ruling, the Election Committee had already removed those individuals, some of whom later raised concerns about legal protections and lack of participation in the Committee's process. The State party reiterated its intention to continue dialogue with the Sámi Parliament, pursue ratification of ILO Convention No. 169, reform the Sámi Parliament Act, and establish a Truth and Reconciliation Commission.

The authors argued that the State has failed to revise the definition of a Sámi or take effective steps to prevent future violations. They criticized the lack of progress on reforming the Sámi Parliament Act and the long-standing delay in ratifying ILO Convention No. 169. They also objected to the State shifting responsibility to the courts and excluding them from key legal proceedings. The Truth and Reconciliation Commission, they maintained, cannot replace needed legal reforms. The authors no longer saw the Sámi Parliament as a legitimate representative body, as non-Sámi individuals had been allowed to vote. They proposed a model of collective reparation, including support for Sámi institutions, culture, siida structures, education, and traditional ways of life, stressing the need for Sámi people to live according to their traditions without facing assimilation or discrimination.

Committee's assessment:

(a) Revision of Section 3 of the Act on the Sami Parliament: C;
(b) Non-repetition: C.

Committee's decision: Follow-up dialogue ongoing.

5. Greece, Communication No. 3065/2017, *Petromelidis* (2 July 2021)

Subject matter: Conscientious objection to compulsory military service; punitive alternative civilian service

Follow-up information received: The Committee found that the State party violated the author's rights under articles 9, 10, and 18 of the Covenant in relation to his imprisonment and treatment as a conscientious objector.

The State party responded that his obligations ended in 2008 when the author turned 45, with suspended rights restored, though judicial penalties remained. It cited reforms under Law 4609/2019 as ensuring proportionality and equal treatment, noting that both conscripts and conscientious objectors receive comparable benefits. The Views were translated and shared with relevant authorities, and no further measures were deemed necessary.

The author contested these claims, arguing that persecution continued until at least 2014, citing arrests and fines. His judicial criminal record still reflects convictions, which he claims result in discrimination. He stated that fines were not reimbursed, and compensation for his detention was not provided. While acknowledging some legal reforms, he maintained that alternative service remains more punitive than military service, citing inferior pay, benefits, and assignment conditions. He further criticized the continued role of military bodies in adjudicating conscientious objector claims and a low recognition rate for ideological grounds. Individuals labeled "insubordinate" remain subject to fines, imprisonment, and repeated conscription. The author argued that his status was unjustly revoked and called for legislative reform and full implementation of the Committee's Views.

Committee's assessment:

(a) Expunging criminal records: C
(b) Reimbursement of sums paid as fines: C
(c) Adequate compensation: C
(d) Non-repetition: B
(e) Review of the legislation: B

Committee's decision: Follow-up dialogue ongoing.

6. New Zealand, Communication No. 3162/2018, *Thompson* (2 July 2021)

Subject matter: Compensation for wrongful arrest and detention

Follow-up information received: The Committee found violations of articles 9 (1) and 9 (5) of the Covenant in connection with the author's arbitrary detention due to a judicial error and the lack of compensation.

The State party reported that the Ministry of Justice had been requested to consider the payment of *ex gratia* compensation in light of the Committee's Views. It noted that domestic law does not provide for compensation in cases of judicial error and that any such payment raises constitutional concerns due to the separation of powers between the executive and judiciary. The State party also indicated that legislative amendments were being considered to prevent future violations of article 9 (5), and that further consultations with civil society, academics, and practitioners were planned.

The author reports that *ex gratia* compensation is inconsistent with the legally binding nature of the obligation under article 9 (5) and undermines the judicial character of the Committee's Views. Additionally, the author noted that the absence of a right to compensation is based on judge-made

law, and that Parliament retains the constitutional power to override judicial decisions through legislation. In this regard, he argued that such legislative action could give effect to the right to compensation as an existing obligation under international law. The author also noted the lack of engagement by the Secretary of Justice and highlighted that no timeline or details had been provided regarding the proposed consultation process. In the absence of legislative action or a reporting deadline, the author expressed concern about the State party's compliance with its obligations under the Covenant.

Committee's assessment:

(a) Providing adequate compensation: C;

(b) Non-repetition: C;

Committee's decision: Follow-up dialogue ongoing. The Committee will request a meeting with a representative of the State party during one of its future sessions.

7. Sweden, Communication No. 2632/2015, *O, P, Q, R and S* (15 March 2022)

Subject matter: Deportation to Albania

Follow-up information received: The Committee found that the State party violated the authors' rights under articles 7 and 17 of the Covenant in connection with a deportation decision to Albania that would expose the family to a real risk of harm.

The State party reported that the Swedish Migration Agency had initiated proceedings to consider whether a new examination of a case may be granted. At the time of the submission, no decision had yet been issued. The State party also stated that it had disseminated the Committee's Views to relevant authorities, including the Migration Agency and the migration courts, and published the Views on the government's website along with a summary in Swedish. It concluded that these actions fulfilled its obligations under the Committee's Views and that no further follow-up was necessary.

The authors responded that the Migration Agency issued a decision on 2023 rejecting their request for a residence permit under Chapter 12, Sections 18 and 19 of the Aliens Act. They argued that the Migration Agency should have applied Chapter 5, Section 4 instead, which provides that a residence permit *shall* be granted when an international body has found that a removal order violates Sweden's treaty obligations, unless exceptional grounds exist. The authors asserted that there were no such exceptional grounds in their case and that the Migration Agency failed to comply with the Committee's Views. As a result of the negative decision, the authors and their family face removal from Sweden, which they claim puts them in a situation of serious vulnerability and continued risk of rights violations under the Covenant.

Committee's assessment:

(a) Reviewing the authors' claims, taking into account the State party's obligations under the Covenant and the Committee's present Views: A;

(b) Refraining from expelling the authors to Albania while their requests for asylum are under reconsideration: A

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

8. Türkiye, Communication No. 1853-1854/2008, *Atasoy and Sarkut* (29 March 2012)

Subject matter: Conscientious objection to military service by Jehovah's Witnesses

Follow-up information received: The Committee found that the State party violated the authors' rights under articles 9 and 18 of the Covenant, in connection with their repeated prosecutions and sanctions for refusing military service on grounds of conscience.

The State party recalled its previous submission from April 2013 and noted that the broader issue of conscientious objection is under supervision by the Committee of Ministers of the Council of Europe following the European Court of Human Rights' judgments in the Ülke v. Türkiye group of cases. It reported that one of the authors, Mr. Sarkut, had his military service postponed until 2016 and was permitted to forfeit Turkish citizenship in 2016, thereby exempting him from military obligations. The other author, Mr. Atasoy, remains classified as an "absentee" but has not been fined. The State party also highlighted reforms, including the abolition of military courts in 2017, the transfer of military service-related cases to civil courts, and the 2019 reduction of compulsory military service from 12 to 6 months, along with the introduction of a paid exemption system.

The authors' counsel stated that the State party had taken no steps to implement the Committee's Views. He recalled that both authors, as conscientious objectors, had been repeatedly indicted, subjected to criminal proceedings, and exposed to ongoing risk of punishment. Mr. Sarkut was forced to renounce Turkish citizenship to avoid further military-related persecution, and his criminal record remains intact. Mr. Atasoy remains at risk of criminal sanctions due to continued conscription obligations. The authors emphasized that reforms cited by the State party—including reduced service duration and the paid exemption system—do not address the issue of conscientious objection, as all male citizens are still required to perform one month of military service, with no provision for civilian alternatives. As of February 2023, the counsel noted that at least 47 other conscientious objectors who are Jehovah's Witnesses face similar legal uncertainty.

Committee's assessment:

(a) Expunging criminal records: C
(b) Adequate compensation: C
(c) Non-repetition: C

Committee's decision: Follow-up dialogue ongoing.

9. Turkmenistan, Communication No. 3272/2018, *Begenchov* (11 March 2022)

Subject matter: Conscientious objection to compulsory military service

Follow-up information received: The Committee found violations of articles 9 (1), 9 (3), and 18 (1) of the Covenant in connection with the author's detention and imprisonment for refusing compulsory military service on religious grounds as a Jehovah's Witness.

The State party reported that the author was released after completing his sentence and submitted information from the Supreme Court and the General Prosecutor's Office. The Supreme Court reiterated that the domestic courts had upheld the conviction and noted that national law does not provide for conscientious objection or alternative civilian service. The General Prosecutor's Office stated that the author's procedural rights were observed and that he received all entitlements under the Correctional Labour Code.

The author's counsel reported that neither he nor the author was aware of any steps taken by the State party to implement the Committee's Views.

Committee's assessment:

(a) Expunging the author's criminal record: E;

(b) Providing the author with adequate compensation, including by reimbursing any legal costs he has incurred: E;

(c) Non-repetition, including by reviewing the legislation of the State party with a view to ensuring the effective guarantee of the right to conscientious objection under article 18 (1) of the Covenant, for instance by providing for the possibility of alternative service of a civilian nature: E.

Committee's decision: Close the follow-up dialogue, with a note of unsatisfactory implementation of the Committee's recommendation.

10. Ukraine, Communication No. 3809/2020, *Aliev* (26 July 2022)

Subject matter: Impossibility of having life sentence reviewed; fair trial; discrimination

Follow-up information received: The Committee found that the State party violated the author's rights under articles 7 and 10 of the Covenant in relation to the imposition of a life sentence without the possibility of a meaningful review or parole.

The State party reported that it had translated and made public the Committee's Views. It explained that under new legislation, individuals serving life sentences may apply for substitution of their sentence with a fixed-term sentence of 15 to 20 years, provided they have served at least 15 years. The substitution was subject to an internal review, taking into consideration rehabilitation, risk of reoffending, and personal development. In the author's case, the request was declined. Compensation was said to be available through domestic courts, though the Committee's Views are not recognized as a legal basis.

The author argued that the State party has not implemented the Committee's Views in substance, noting that repeated requests for judicial review were rejected by the Supreme Court on the grounds that the Committee's Views are non-binding, with the hearings conducted in a formalistic manner and without proper access or participation by the author and his counsel. He also contended that no compensation has been provided, and that suggesting he file a civil claim misrepresents the Committee's requirement for proactive redress by the State. Additionally, the author criticized the retroactive application of Law No. 4049, which disadvantages those who had already served over 15 years before its enactment. A renewed application for judicial review on 22 May 2023 was again denied.

Committee's assessment:

(a) Full reparation: providing Mr. Aliev with a meaningful review of his sentence of life imprisonment on the basis of a clear and predictable procedure: C

(b) Compensation: providing him with adequate compensation: C

(c) Non-repetition: A

Committee's decision: Follow-up dialogue ongoing.

Research by:
Cosmo Loris Reitzig

JURISPRUDENCE OF THE HUMAN RIGHTS COMMITTEE IN 2024

Seven of the 2024 cases were highlighted as the most significant and thus include a longer summary and an explanation of their relevance for the Committee's jurisprudence. Such cases are the following:

Juan Gasparini v. Argentina; M.I. et al. v. Australia; *Norma v. Ecuador, Susana v. Nicaragua and Lucía v. Nicaragua; Jovsset Ante Sara v. Norway; R. Bratsylo and V. Golovko et al. v. Russian Federation.*

ALBANIA

CCPR/C/142/D/3602/2019

Daniel Faslliu et al. v. Albania

Discriminatory gap concerning Roman children in Albania's birth registration system

Substantive issues: Registration at birth; right to acquire nationality; discrimination based on ethnicity; recognition as a person before the law; right to family life; right to take part in the conduct of public affairs

Facts: The authors, three Roma children born in Greece to Albanian parents without valid residence status, were issued incomplete Greek birth certificates that Albanian authorities refused to recognize. As a result, they could not enroll in school or access health care in Albania. They allege these registration hurdles violated their rights to immediate birth registration under article 24 (2)–(3), recognition as persons before the law under article 16, and equality under articles 26, as well as a violation of articles 17 and 25 of the Covenant.

Admissibility: The Committee confirmed that no other international procedure was examining the same matter and that the authors' alleged violations, though beginning before the Optional Protocol entered into force, continued to produce effects afterward. With the State party neither identifying any domestic remedy nor objecting to admissibility, the Committee found no bar under article 5 (2) (b). However, it deemed the claims under articles 17 and 25 unsubstantiated and thus inadmissible. The remaining allegations, under articles 16, 24 (1)–(3), and 26, were declared admissible.

Merits: The Committee held that the State party violated the author's rights under articles 16, 24 (1)–(3), and 26 of the Covenant. It observed that children have a right to immediate birth registration and special protection under article 24, and that birth registration is crucial to establishing an individual's legal personality under article 16 as well as accessing basic rights, including education and healthcare. The Committee found that Albania's legislation and practice in registering children born abroad—particularly Roma children—were insufficient and had a disparate effect on the authors, thus also contravening the prohibition on discrimination under article 26. Having received no convincing rebuttal from the State party, the Committee concluded that the authors were left in a "legal limbo," at risk of statelessness, and unable to enjoy the full protection owed to them as minors.

Recommendations: The State party should:

(a) ensure that the authors' births are immediately registered in the civil registry or alternatively;

(b) provide the author with adequate compensation; and

(c) take all steps necessary to prevent similar violations from occurring in the future, including by ensuring that its legislation on the registration of births and the implementation thereof comply with the State party's obligations under articles 16, 24 (1)–(3) and 26 of the Covenant.

Deadline for implementation: 27 April 2025

ARGENTINA

CCPR/C/141/D/4035/2021

Juan Gasparini v. Argentina

Journalist found to incur civil liability for defamation following publication on dictatorship-era corruption

The Committee's Views in this case mark an important reaffirmation of the role of freedom of expression in transitional justice contexts, particularly regarding journalistic work aimed at uncovering past human rights abuses. By recognising that civil defamation penalties must be proportionate and cannot prevent reporting in the public interest, the Committee clarifies that truth-telling about historical injustice is not only protected speech, but essential to democratic accountability. The case is also significant for affirming that judicial impartiality must be assessed in light of broader historical and institutional contexts. The finding of a violation of article 14 (1) due to the involvement of judges later convicted for complicity in dictatorship-era crimes reflects an evolving understanding of how structural legacies can undermine fair trial guarantees. This decision stands out not only for its substantive findings, but also because Argentina explicitly acknowledged international responsibility before the Committee, a rare gesture that underscores the role of the Committee in supporting accountability and reparations in post-authoritarian societies. In this way, the case contributes to a growing body of jurisprudence that integrates freedom of expression, fair trial, and reparative justice within a transitional human rights framework.

Substantive issues: Right to an effective remedy; freedom of expression; right to an independent and impartial tribunal; judicial guarantees; right to review by a higher tribunal

Facts: The author, Juan Gasparini, is an Argentine investigative journalist, author, and recognised victim of torture under Argentina's 1985 Truth and Justice programme. He sought asylum in Switzerland in 1980 and has since been based in Geneva, where he was accredited as a journalist by the United Nations in 1988. Known for his reporting on dictatorship-era human rights violations and corruption in Argentina, Gasparini wrote extensively on crimes committed during the country's last military regime (1976–1983). In 2001, he published the book *La delgada línea blanca*, in which he reported that there had been a theft of 27 hectares of land belonging to three disappeared individuals in the province of Mendoza, and that this land was subsequently sold for 20 million USD. He alleged that individuals with links to the military dictatorship, including lawyers and government officials, were involved in fraudulent attempts to seize such real estate belonging to victims of enforced disappearance. One such individual mentioned in the book was Federico Gómez Miranda, a deceased lawyer. His son, on seeing the same, reported to the press that the author's findings were false, and that his father was a true owner of the land in question. The author responded in a press release that Mr. Gómez Miranda was claiming ownership of a property that did not belong to him. In 2006, Mr. Gómez Miranda brought a civil libel suit against the author, alleging that he had impeached his honour, injured his innermost personal rights, and damaged his reputation.

Initially, a court of first instance dismissed the complaint, finding that the author's journalistic investigation lacked malicious intent. However, in 2011, the Federal Court of Appeals reversed that decision, holding the author liable for defamation and ordering him to pay damages in the amount of 50,000 Argentine pesos. Notably, two judges on the appellate bench were later sentenced to life imprisonment for collusion and obstruction in human rights cases concerned with the dictatorship. The author then lodged an extraordinary federal appeal, which also sought recusal of three of the judges on the panel for lack of impartiality. A new composition of the court dismissed the appeal on procedural grounds. The author then appealed to the Supreme Court, which found his appeal inadmissible.

In the present communication, the author alleged violations of article 19 (2) for the disproportionate restriction of his right to freedom of expression, and article 14 (1) for lack of judicial impartiality. He also cited article 2 (3) for the lack of an effective remedy. He requested that the penalty be reviewed, and that the violation he suffered be publicly acknowledged as a form of reparation.

Admissibility: The Committee found the communication admissible in part. The State party did not contest admissibility, and the Committee accepted that domestic remedies had been exhausted, including the dismissal of the extraordinary appeal by the Supreme Court in 2019. The Committee admitted the claims under article 19 (2) and article 14 (1), both read alone and in conjunction with article 2 (3). It acknowledged that the author had sufficiently substantiated his claim that the civil judgment for defamation had a chilling effect on his ability to publish investigative work about past abuses, particularly in a transitional justice context where public accountability is essential.

However, the Committee declared inadmissible the author's claim under article 14 (5), which protects the right to have a criminal conviction reviewed by a higher court. It found the claim incompatible *ratione materiae* because the defamation case was a civil suit, and not a criminal suit. It also rejected a subsidiary claim regarding the lack of reasoning in the Supreme Court's dismissal, finding it insufficiently substantiated under article 2 of the Optional Protocol.

Merits: The Committee appreciated the State party's offer to engage in dialogue with a view to reaching a friendly settlement, the State party's acceptance of the facts of the communication, and its acknowledgement of international responsibility for violations of the author's right to freedom of expression under article 19 (2) of the Covenant and the right to a fair trial under article 14 (1). It agreed that the Mendoza Court ruling constituted a disproportionate restriction on the author's right to freedom of expression under article 19 (2), acknowledging the public interest nature of the reporting, and that the courts failed to weigh the impact on the right to truth and democratic accountability. It also found a violation of article 14 (1), noting that the involvement of appellate judges, who were later criminally convicted for their role in covering up dictatorship-era crimes, compromised the independence and impartiality of the tribunal. The Committee concluded that both violations also engaged the State's obligation under article 2 (3) to provide an effective remedy.

The Committee considered that the State party's acknowledgement of the facts and violations of the Covenant made a positive contribution to the consideration of the communication and had considerable material and symbolic value as assurances of non-repetition of similar incidents. Further, it noted that the finding in the case has implications for the right to truth in the collective sense.

Recommendations: The State party should:

(a) review the penalty imposed on the author;
(b) provide full reparation including adequate compensation for harm suffered; and
(c) take steps to prevent similar violations in the future.

Deadline for implementation: 15 January 2025

Separate opinions: Committee member Mr. Laurence R. Helfer issued a concurring opinion providing additional context for the Committee's remedial choices, and offering guidance regarding the remedies of acknowledgement of responsibility and apology in international human rights law. He noted that Argentina's unprecedented acknowledgment of responsibility served as a milestone and supported the Committee's findings. He clarified that, although the Committee did not require Argentina to apologise or publicly acknowledge its responsibility, the decision itself includes a detailed statement from Argentina accepting the facts and legal claims alleged by the author, and the publication and dissemination of the Committee's Views therefore constitute a formal and public acknowledgement by Argentina of its responsibility. On the issue of apology, he found that the Committee did not order it despite the author's request, and argued that such symbolic remedies are evolving in international law and should be systematically considered in grave rights violations. He further noted that both the Committee and the Inter-American Court of Human Rights have previously ordered apologies or acknowledgements of responsibility for violations similar to those at issue in this case, admitting though that the case law on the matter is still not fully consistent.

Committee members Ms. Tania María Abdo Rocholl, Mr. Hernán Quezada Cabrera and Ms. Hélène Tigroudja issued a joint concurring opinion agreeing with the findings but expressing concern that the Committee did not include a public apology or acknowledgement of responsibility as a formal form of reparation. They highlighted the importance of symbolic measures in transitional justice, especially given the context of past dictatorship crimes, and pointed out that Argentina's own recognition of violations justified such a measure under Committee precedent and UN reparations standards. They also outlined a long-standing tradition of such a request in the Inter-American system, and the Committee's prior jurisprudence that requested States parties to publicly acknowledge its responsibility or offer a public apology.

Committee member Mr. Rodrigo A. Carazo adhered to the joint concurring opinion of Committee members Mr. Quezada, Ms. Tigroudja and Ms. Abdo Rocholl. The member added that, for the Committee, including in its Views a public acknowledgement of international responsibility was an opportunity to highlight the importance of such acts of recognition of serious transgressions in the past. In this historical context, such recognition is crucial for consolidating transitional justice. He encouraged public commemoration of the Committee's Views as part of the broader memorialisation effort.

ARMENIA

CCPR/C/141/D/3168/2018

G. Ghazaryan v. Armenia

Police violence against a journalist documenting a public protest and the sufficiency of domestic investigations into the incident

Substantive issues: Freedom of expression; right to an effective remedy; discrimination based on profession

Facts: The author of the communication is a national of Armenia, and claims that the State party violated his rights under articles 2 (3), 19 and 26 of the Covenant. The author is a freelance journalist who covers mostly political and public interest events for international and regional news agencies. Following an armed attack that resulted in police officers being taken hostage and an officer becoming wounded and killed, supporters of the armed group organized protest actions. The author went to cover one such demonstration, wearing a press badge, and took photographs in a small park nearby among other journalists. A flash-bang grenade was thrown in his direction, and another explosive caused damage to a nearby house. The author alleges that the police noticed him filming this event, and threatened and beat him. The police took his video camera and still camera, and the author's video camera broke. The Prosecutor General instituted a criminal case relating to violence against journalists and abuse of official authority, and the author was interviewed and granted victim status in the course of the investigation. He states, however, that no other investigative action has been taken at the time of his submission of the complaint, and that there is no effective domestic remedy to challenge inaction in the investigative process within the framework of criminal proceedings.

Admissibility: The Committee declared the communication admissible as to the author's claims under article 19, read in conjunction with article 2 (3) of the Covenant. The Committee noted that the author did not provide sufficient substantiation of his claim under article 19 of the Covenant alone, so it considered the claims in conjunction with article 2 (3). The Committee further considered that the author had failed to provide sufficient information in support of his claim under article 26, read in conjunction with article 19 of the Covenant, and the claim was therefore inadmissible.

Merits: The Committee considered that the author's claims do not reveal a violation by a State party of article 19 (2), read in conjunction with article 2 (3) of the Covenant. The Committee took into account the State party's information on the investigative measures that it has conducted and its argument that all possible investigative and operative search measures have been carried out. In addition, the Committee considered the lack of any specific argument from the author as to which investigative steps the State party authorities had failed to conduct. As a result, the Committee could not conclude that the facts revealed a violation of the author's rights.

Separate opinions: Committee members Ms. Yvonne Donders and Mr. Laurence R. Helfer issued a joint concurring opinion, but wrote separately to address two issues that, in their view, are not sufficiently developed in the Committee's case law. These issues include the chilling effect of confiscating or damaging devices used by journalists, and the obligation to investigate complaints. The domestic authorities of Armenia adequately complied with these principles and the Committee

properly rejected the specific shortcomings alleged by the author regarding the conduct of the investigation. However, the members considered it important to underscore the chilling effect of police seizures or the destruction of devices used by journalists, and to provide guidance to States parties regarding the nature and scope of the obligation to investigate such misconduct.

Committee member Mr. Koji Teraya concurred with the conclusion and the primary rationale of the Committee, but contended that the State party's obligation to investigate required further supplementation. The member emphasized that the author lacks the investigative tools available to the police, and the situation is further complicated by the confiscation of the author's camera. Noting other details of the events and the investigation, the member considered that ascertaining a sufficient level of accountability on the part of the State party was challenging. The member further noted that there is potential for the State party to enhance its compliance, as its obligation may not have been fully met.

Committee member Ms. Hélène Tigrouja dissented from the Committee's views, and considered that the author's claim under article 19 was sufficiently substantiated, and triggered a violation of the provision read alone. The member shared the Committee's conclusion regarding the absence of the State's failure regarding the domestic investigation. She considered that the Committee had not indicated the additional elements that would have substantiated the author's claim under article 19 read alone. The member also disagreed with this conclusion for three reasons: (1) the Committee treated the facts only under their procedural dimension, because the facts were clearly spelled out in several parts of the decision but were not considered; (2) this minimalist approach was at odds with the Committee's own standards as developed in General Comments No. 34 and No. 37; and (3) the minimalist approach was also at odds with international standards applicable to the protection of freedom of expression, in general, and the protection of the safety of journalists, in particular.

AUSTRALIA

CCPR/C/140/D/3129/2018

V.K. v. Australia

Deportation of a former LTTE member to Sri Lanka despite alleged risk of persecution

Substantive issues: Right to life; freedom from torture or cruel, inhuman or degrading treatment or punishment; arbitrary detention; right to privacy

Facts: The author, V.K., a Sri Lankan national of Tamil ethnicity, arrived in Australia by boat in 2012 and applied for a protection visa in 2013. He claimed that as a medical practitioner who had treated Liberation Tigers of Tamil Eelam (LTTE) members and had a brother in a high-ranking LTTE position, he would face torture, arbitrary detention, and possible death if returned to Sri Lanka. His application was rejected on 18 March 2014, with authorities deeming his claims inconsistent and lacking credibility. In 2015, the Administrative Appeals Tribunal upheld the rejection on appeal, concluding that he had exaggerated his involvement with LTTE and that the Sri Lankan authorities had no interest in him. His subsequent appeals to the Federal Circuit Court and the Federal Court of Australia were dismissed in 2016 and 2017, respectively. Throughout the proceedings, the author changed his claims multiple times—first stating he was an LTTE affiliate, then an LTTE member, and later a high-level cadre who worked as an LTTE medic in a hospital and on the front lines, where he allegedly sustained injuries.

The author alleges violations of articles 6 and 7 of the Covenant, arguing that his deportation would expose him to a real and personal risk of torture, ill-treatment, or extrajudicial killing by Sri Lankan authorities due to his perceived LTTE affiliation. In his submission, the author presented new evidence of his LTTE involvement, including a photograph of him receiving an award from LTTE leader Velupillai Prabhakaran. He further claimed that since his departure from the country, Sri Lankan authorities had monitored and questioned his family and had even issued an arrest warrant in his name. In 2018, the Committee requested interim measures to halt the author's deportation while reviewing his case. The State party twice requested the lifting of these measures, asserting that the author's claims had already been thoroughly assessed and found not credible.

Admissibility: The Committee found the communication inadmissible under article 2 of the Optional Protocol, concluding that the author had failed to substantiate his claim that he would face a real and personal risk of irreparable harm if deported. It noted that Australian authorities had conducted a comprehensive assessment of his case, reviewing his LTTE claims, the credibility of his statements, and general country conditions in Sri Lanka. It considered that his LTTE involvement was raised late in proceedings and that his account contained major inconsistencies. It also found no evidence that Sri Lankan authorities had ever detained or questioned him, or that he had previously been at risk despite having returned to Sri Lanka multiple times before 2012.

The Committee did recall its General Comment No. 31 (2004), stating that States must not remove individuals to a country where they face a real risk of irreparable harm under articles 6 and 7 of the Covenant. However, in this case, it found that, while the author disagreed with the State party's findings, he had not demonstrated that the domestic proceedings were arbitrary or amounted to a denial of justice. Therefore, his claims were deemed insufficiently substantiated and inadmissible.

CCPR/C/140/D/3646/2019

John Falzon v. Australia

Deportation to Malta of a long-time non-Australian citizen with criminal background

Substantive issues: Accused or convicted persons; administrative arrest or detention; aliens' rights; arbitrary arrest or detention; arbitrary or unlawful interference; family rights; freedom of movement; freedom of movement-own country; nationality; ne bis in idem; parole or release on parole

Facts: The author, John Falzon, a national of Malta, arrived in Australia as a child with his family and has lived there since 1956. He has been married to an Australian citizen for 32 years, and all of his extensive family (five brothers, two sisters, three children, and ten grandchildren) reside in Australia and hold Australian citizenship. He has always regarded himself as Australian. In 1994, he was granted an Absorbed Person Visa and a Class BF Transitional Visa, allowing him to permanently reside in Australia. The author was convicted of drug trafficking in 1995 and sentenced for repeat offences in 2008 to 11 years in prison. In 2016, shortly before the possibility of parole, his visa was cancelled following section 501(3A) of the Migration Act, and he was placed in administrative detention. The State party based its decision on the author's failure to become an Australian citizen and his severe violations of Australian law. The author applied for judicial review of the revocation of his visa, but his appeal was ultimately rejected by the High Court. In 2018 he was deported to Malta. The author claims that the State party violated his rights under article 9 (1), article 12 (4) concerning the right to enter one's own country, article 14 (7) relating to the prohibition of double jeopardy, and articles 17 and 23 (1) concerning family rights.

Admissibility: The Committee held that the alleged violation of double jeopardy under article 14 (7), read in conjunction with articles 9, 12 (4), and 17 of the Covenant, was inadmissible under article 3 of the Optional Protocol since administrative proceedings for the expulsion of non-citizens, as well as administrative proceedings following a criminal conviction, fall outside the *ratione materiae* of articles 14 and 14 (7). The claims under articles 9 (1), 12 (4), and 17, read in conjunction with articles 2 (2) and 23 (1), were sufficiently substantiated and therefore admissible.

Merits: The Committee found that the deportation was unreasonable and violated article 12 (4) of the Covenant. It considered that since the author had spent over 60 years in Australia and that his entire family, with whom he had a close connection, resided in Australia, Australia was, despite not having Australian nationality, his own country. On this basis, the Committee rejected the State party's argument that the author had never demonstrated allegiance to Australia through his actions, such as applying for citizenship (for which he was eligible). The Committee reaffirmed that States parties are under an obligation not to arbitrarily prevent individuals from returning to their own countries and that domestic laws must, in any event, be reasonable. The Committee noted that the State party had failed to duly inform the author that criminal reoffending could result in the cancellation of his visa and had not sufficiently considered his personal circumstances—specifically, that he had no ties to Malta and no knowledge of its culture or national language. Furthermore, the Committee regarded the deportation as disproportionate compared to the aim of protecting the Australian population from harm, as the State party had failed to consider other less severe measures.

The Committee also found that the author's detention pending deportation by the State party violated article 9 (1) in light of the unlawful nature of the deportation. The deportation detention was, therefore, arbitrary and did not meet the requirements of reasonableness, necessity, and proportionality. Furthermore, since the author's release from deportation detention was conditioned upon his voluntary departure from Australia, the Committee held that this condition did not constitute a reasonable alternative.

Recommendations: The State party should:

(a) to ensure that the author has the opportunity to re-enter Australia and to provide him with adequate compensation;

(b) prevent similar violations in the future.

Separate opinions: Committee members Mr. Carlos Gómez Martínez, Ms. Marcia Kran, Ms. Kobauyah Tchamdja Kpatcha, and Mr. Koji Teraya issued a dissenting opinion. The opinion challenged the conclusion of violation under article 12 (4), asserting, in light of the criminal background of the author, that his removal by the State party was neither arbitrary nor a manifest error nor a denial of justice. They reiterated the Committee's jurisprudence on article 12 (4), giving due weight to the assessment by a State party regarding the facts and evidence in deportation proceedings. The dissenting opinion stressed that the State party conducted an adequate assessment, considering the author's circumstances as well as the government's obligations vis-à-vis the Australian community. They furthermore criticised the majority's position, whose emphasis on the lack of connection to Malta resulted in *de facto* recognition of the author as an Australian national despite his failure to apply for it. Accordingly, the dissenting opinion found no violation of article 12 (4) of the Covenant.

Committee member Mr. Hernán Quezada Cabrera issued a concurring opinion. While agreeing with the majority regarding the violation of articles 12 (4) and 9 (1) of the Covenant, he disagrees with the majority's decision not to examine article 17 in conjunction with articles 2 (2) and 23 (1) of the Covenant separately, without adequate reasoning for that. In light of the importance of articles 17 and 23 for the protection of privacy and family life, he points out that the decision could be read in such a way that the violation of article 17 is subsumed by articles 12 (4) and 9 (1).

Committee member Mr. Rodrigo A. Carazo also issued a concurring opinion. While he agreed on the merits of the majority opinion, he was of the view that the prescribed remedy to grant the opportunity to re-enter Australia is not far-reaching enough. The remedy section should have included the obligation to reintegrate the author into his *ex-ante* condition.

Deadline for implementation: 18 November 2024

CCPR/C/142/D/2749/2016

M.I. et al. v. Australia

Interception and offshore detention of unaccompanied minors seeking asylum in Australia

In *M.I. et al. v. Australia*, 24 unaccompanied minors were intercepted at sea by Australia and were first detained in an Australian territory in the Indian Ocean. Pursuant to memoranda of understanding signed between Australia and the Republic of Nauru, the authors were then transferred to Nauru and detained at a Regional Processing Centre. The authors argued that Australia had violated their rights under the Covenant, particularly as to their rights under article 9 of the Covenant on arbitrary detention. Australia countered, in large part, by arguing that the alleged violations in Nauru were not within Australia's jurisdiction. The Committee considered this case in light of its earlier jurisprudence on the exercise of jurisdiction by a State party, as well as General Comment No. 31, which defines the principle of "power or effective control" when establishing the exercise of jurisdiction. In view of these standards, and the fact that Australia had, for instance, arranged for the construction of the Regional Processing Centre in Nauru and had a substantial role in financing and supporting its operations, the Committee found that Australia did have jurisdiction over the asylum seekers and had violated their rights under the Covenant.

This case reflects an important pronouncement on the extent of a State's human rights obligations with respect to asylum seekers, including when the individuals are forcibly redirected and detained abroad. As the Committee's Views indicate, offshore detention agreements will not absolve States parties of their obligations to asylum seekers, because States may continue to have jurisdiction over asylum seekers if they have power or effective control over the operation of the offshore detention facility. In reaching these decisions, the Committee underscored the enduring extraterritorial obligations of States parties under the Covenant, and developed its jurisprudence with respect to the outer reach of a State party's jurisdiction. Notably, the Committee also dealt with a parallel case on this topic in 2024, in *M. Nabhari v. Australia* (CCPR/C/142/D/3663/2019).

Substantive issues: Mandatory immigration detention of minors in Australia and their forcible transfer to Nauru; freedom from torture or cruel, inhuman or degrading treatment or punishment; arbitrary detention

Facts: The authors of the communication are M.I. and 23 others. Twenty-two of the authors are nationals of Afghanistan, Iran, Iraq, Pakistan and Sri Lanka, and two are stateless persons coming from Myanmar. At the time of submission of the communication, all authors were unaccompanied minors. The authors claim that they were fleeing persecution in their home countries and, while en route to Australia by sea, were intercepted by Australian authorities and brought to Christmas Island between mid-2013 and early 2014. The authors were mandatorily detained until their forcible transfer to the Nauru offshore Regional Processing Centre by Australian authorities in 2014. The authors' transfer to Nauru was based on a memorandum of understanding between Nauru and Australia. The authors applied for asylum in Nauru and all but one applicant, who had appealed the decision, were granted refugee status in Nauru.

The authors claim that Nauru is a difficult place to live, with overcrowded accommodations, insufficient sanitation, high temperatures and humidity that impede rest and recreational activities, and limited access to telephones and the internet. As a result, the authors claim that most of them

began to suffer from health problems in Nauru in the form of deterioration of physical and mental well-being. The authors also contend that the State party had jurisdiction and effective control over them from the time of their interception at sea, during their detention and refugee status determination in the Nauru Regional Processing Centre, and in the event that they are resettled in a third country. The State party is responsible under international human rights law for the treatment of asylum-seekers, which it cannot avoid by transferring them to third States or by transferring and detaining them outside its territory.

The authors allege that the State party violated article 7 of the Covenant because the effects of the unacceptable detention conditions at the Nauru Regional Processing Centre, as well as the indefinite nature of the detention and the uncertainty surrounding the authors' fate amount to cruel, inhuman or degrading treatment. The authors further claim that their rights under article 9 (1) and 9 (4) have been violated, because mandatory immigration detention is arbitrary *per se* when detention is not based on an individualized assessment, and because their entitlement to seek a decision on the legality of their detention and to be released if the detention was found to be unlawful was not respected. The authors also claim a violation of article 10 (1) because they were not treated with humanity and respect for their inherent dignity at the Regional Processing Centre. In addition, the authors claim a violation of article 12 because their detention at Christmas Island and the Regional Processing Centre in Nauru limited their freedom of movement, and they were unable to choose their place of resettlement after they were recognized as refugees.

The authors likewise claim a violation of article 13, because they had no access to a procedure for the determination of their status in Australia and the lawfulness of their expulsion therefrom. The authors claim that the State party violated their rights under article 17 by subjecting them to arbitrary or unlawful interference with their privacy and family life. They also claim a violation under article 19 (2) because they were prevented from seeking, receiving and imparting information and ideas, and from being in contact with their relatives via telephone or Internet. The authors further claim that they were prevented from seeking information and from being in contact with their relatives, and that the State party failed to comply with its obligations with respect to the authors under articles 23 and 24, owing to the fact that they were unaccompanied minors. The authors claim that the State party imposed restrictions that were not in conformity with the law necessary in a democratic society, in the interests of national security or public safety, public order, the protection of public health or morals, or the rights and freedoms of others, in violation of article 21 of the Covenant. Finally, the authors claim that the State party violated its obligations under article 26 by not ensuring them equal treatment before the law.

Admissibility: The Committee noted the State party's objection, according to which the authors' claims regarding the conditions of their detention in Nauru should be inadmissible because the authors were not under the jurisdiction or effective control of the State party—namely, the Regional Processing Centre was governed by the laws of Nauru, and the Nauruan authorities had been taking decisions on the authors' asylum or refugee status. The Committee further noted the State party's objection that it had not exercised a level of control over the Nauru Regional Processing Centre that would amount to an exercise of jurisdiction or effective control by the State party.

However, the Committee noted that the authors had been transferred to Nauru by the State party pursuant to its Migration Act and memorandum of understanding with Nauru. Therefore, the authors' placement in Nauru pending the processing of their protection claims was a necessary and foreseeable consequence of their transfer by the State party. It also noted that in its General Comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, the Committee defined the principle of "power or effective control" when establishing exercise of jurisdiction. The Committee observed that the State party's

memorandum of understanding allowed for significant involvement in the detention operations in Nauru. In addition, the Committee noted the authors' arguments that the State party had, *inter alia*, contributed to the drafting of the legislation of Nauru establishing the Centre, procured and caused the creation of the Centre by requesting Nauru to host it, entered into a memorandum of understanding, and carried out certain aspects of the practical management of operations and administration at the Centre. Specifically, the State party arranged for the construction and establishment of the Centre, and entered into contracts for the delivery of garrison support and/or welfare services with a number of providers.

In light of these factors, the Committee considered that the State party exercised significant levels of control and influence over the operation of the Regional Processing Centre in Nauru, amounting to effective control during the period in 2014 when the authors were detained at the Centre. These elements of control went beyond a general dependence and support, leading to the conclusion that the authors were subject to the jurisdiction of the State party which they were detained at the Nauru Regional Processing Centre. The Committee considered that the authors' claims under articles 9 (1), 9 (4), and 7 of the Covenant were admissible under the Optional Protocol.

The Committee considered that the authors had not sufficiently substantiated that they were lawfully present in the territory of the State party to be able to invoke their rights under 12 and 13 of the Covenant. In addition, the authors' claims under articles 10 (1), 17, 19 (2), 21, 23 (1), 24 (1) and 26 were not sufficiently specific and are not supported by adequate facts. As a result, these claims were inadmissible under article 2 of the Optional Protocol.

Merits: The Committee considered the authors' claims that their immigration detention on Christmas Island was arbitrary and unreasonably prolonged, and that the conditions of detention and facilities on Christmas Island were inadequate for them and in violation of article 9 of the Covenant. The authors did not argue that their detention was unlawful under Australian law, and the Committee noted that the notion of arbitrariness must be interpreted more broadly to include elements of inappropriateness, injustice and lack of predictability and due process of law. Detention in the course of proceedings for the control of immigration is not arbitrary *per se*, but must be justified as being reasonable, necessary and proportionate in the light of the circumstances and reassessed as it extends in time.

The Committee recalled that in its General Comment No. 35 (2014) on the liberty and security of person, it stated that children should not be deprived of liberty, except as a measure of last resort and for the shortest appropriate period of time, taking into account their best interests as a primary consideration with regard to the duration and conditions of detention, and also taking into account the extreme vulnerability and need for care of unaccompanied minors. Noting that the authors spent between 2 and 12 months in immigration detention before being transferred to the Nauru Regional Processing Centre, the Committee considered that the State party had not demonstrated, on an individual basis, that the authors' uninterrupted and protracted detention was justified for an extended period of time. The State party had also not demonstrated that other less intrusive measures could not have achieved the same end, such as the transferal of the authors to community detention centers on the mainland, which are more tailored to meet the needs of vulnerable individuals. The Committee therefore considered that the placing of the authors, as unaccompanied minors, in immigration detention on Christmas Island was arbitrary and contrary to article 9 (1) of the Covenant.

With respect to the authors' claims that they did not have any effective domestic remedy to challenge the legality of their detention before domestic courts, the Committee recalled that judicial review of the lawfulness of detention under article 9 (4) of the Covenant must include the

possibility to order release if the detention is incompatible with the requirements of the Covenant. Further recalling its previous jurisprudence concerning review of the detention of non-citizens without valid entry documentation in Australia, the Committee considered that the State party had not demonstrated the availability of such a legal remedy for the authors, and had not shown that national courts have the authority to make individualized rulings on the justification for each authors' detention. The Committee therefore considered that the facts disclosed a violation of article 9 (4) of the Covenant.

The Committee considered the State party's assertion that it lacked jurisdiction or effective control over the authors when they were in the Nauru Regional Processing Centre. However, it held that the sole reason for the authors' administrative detention in Nauru was indisputably their unauthorized entry into Australia by irregular maritime means as asylum seekers. Taking note of reports on mandatory immigration detention, unsafe and prison-like conditions, and the absence of an opportunity to appeal the immigration detention decision, the Committee considered that the authors were detained arbitrarily in violation of their rights under articles 9 (1) and (4) of the Covenant.

With respect to article 7 of the Covenant, the Committee considered the authors' claims that the State party did not respect its non-refoulement obligations and exposed them to the effects of unacceptable detention conditions at the Nauru Regional Processing Centre, and that indefinite nature of the detention and the uncertainty surrounding their fate, which have amounted to cruel, inhuman or degrading treatment or punishment. In its General Comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, the Committee referred to the obligation of States parties not to extradite, deport, expel or otherwise remove a person from their territory where there were substantial grounds for believing that there was a real risk of irreparable harm, such as that contemplated by articles 6 and 7 of the Covenant. This risk must be personal, and there is a high threshold for providing substantial grounds to establish that a real risk of irreparable harm exists.

The Committee observed that the State party's immigration authorities considered individual claims by the authors, and while the authors disagreed with the conclusions of those pre-transfer assessments, they had not provided evidence to support a contention that such assessments were clearly arbitrary or amounted to a manifest error or a denial of justice. The Committee therefore concluded that the authors had not established that they were personally at risk of arbitrary deprivation of life, torture or other ill-treatment, which would have amounted to an irreparable harm as a necessary and foreseeable consequence of their transfer to Nauru. The Committee did not consider that the facts disclosed a violation of article 7 of the Covenant.

Recommendations: The State party should, *inter alia*:

(a) make full reparation to individuals whose Covenant rights have been violated;
(b) provide adequate compensation to the authors for the violations suffered during the periods of their detention on Christmas Island and in the Regional Processing Centre in Nauru;
(c) take all steps necessary to prevent similar violations from occurring in the future; and
(d) review and modify its migration legislation and policies and any bilateral offshore transfer arrangements for migrants as to their content, implementation and monitoring, to ensure their conformity with the requirements of the Covenant, including article 9.

Deadline for implementation: 29 April 2025

CCPR/C/142/D/3663/2019

M. Nabhari v. Australia

Prolonged administrative detention of an asylum claimant in Australia and in an offshore centre in Nauru

Substantive issues: Administrative detention; arbitrary arrest/detention; arbitrary/unlawful interference; family rights

Facts: The author of the communication is a national of Iran, and alleges that the State party has violated her rights under articles 9 (1), 17 (1) and 23 (1) of the Covenant. The State party signed memoranda of understanding with Nauru in 2012 and 2013, wherein Nauru agreed to serve as a regional offshore processing country, and to allow individuals to settle in Nauru if it was determined that they required international protection. However, these individuals would not be permitted to apply for asylum in Australia or be permanently resettled in Australia. The author arrived by boat to Christmas Island, a territory of the State party, in the company of her husband, stepfather, stepsister and male cousin, and without valid visas. The State party's authorities detained the author and her husband, and subsequently transferred them to Nauru. They were detained at the Nauru Regional Processing Centre, and the Nauru authorities recognized the author as a refugee. The author and her husband were then transferred to an immigration detention facility on mainland Australia, following the author's request for specialist medical treatment. The author and her husband were transferred to different facilities, and she and her husband were eventually allowed to reside in community detention. The author states that she has experienced psychological and physical health issues since her detention in Nauru, and has been long separated from her stepsister and stepfather.

The author claims that the State party violated article 9 (1) of the Covenant by failing to provide individualized justifications for administratively detaining her, despite the fact that she was granted refugee status in Nauru in 2017. The author contends that her detention has been punitive, and exceeds any legitimate interest of the State party in protecting its people and regulating migratory flows. Additionally, the author cannot challenge the lawfulness of her detention before a judicial authority. Finally, the author claims that the separation from her family violates her rights under articles 17 (1) and 23 (1) of the Covenant.

Admissibility: The Committee considered that the author's claims under articles 9 (1) were admissible in relation to the periods during which she was detained on Christmas Island, in the Regional Processing Centre in Nauru, and on mainland Australia until 4 November 2019. States parties are required by article 2 (1) of the Covenant to respect and ensure Covenant rights to all persons who might be within their territory, and to all persons subject to their jurisdiction. This includes anyone within the power or effective control of that State party, even if not situated within the territory of the State party. The Committee observed that the State party funded the detention operations in Nauru, was authorized to manage them, participated in monitoring them, and selected companies responsible for various services at the detention centre. The State party therefore exercised numerous elements of effective control over the detention operations of the Centre. The Committee considered that while the author was detained at the Centre, she was subject to the jurisdiction of the State party, and the fact of her detention there is attributable to the State party.

However, the Committee considered that the author's claim under article 9 (1) was inadmissible with respect to the period when she was settled in the community in Nauru and was living in a house. The author did not sufficiently substantiate that she had been detained in Nauru during that period, and did not adequately describe her living situation following her release from the Regional Processing Centre. In addition, the author did not provide sufficient elements to establish the applicability of articles 17 or 23 (1) of the Covenant, and those claims are therefore inadmissible under article 2 of the Optional Protocol.

Merits: The Committee considered that the State party has violated the author's rights under article 9 (1) of the Covenant. The Committee noted that the author was detained for more than seven months on Christmas Island, and spent over four years and five months detained in Nauru. She was subsequently detained at various facilities in mainland Australia for approximately 11 and a half months. The State party did not identify individualized and specific reasons that would have justified the need to deprive the author of her liberty for such a protracted period of time. Whatever justification the State party may have had for an initial detention, such as the ascertaining of the author's identity or other issues, the State party has not demonstrated on an individual basis that the author's prolonged and indefinite justification was justified. The Committee further noted that the author lacked the legal safeguards to effectively challenge her indefinite detention. For these reasons, the Committee considered that the State party arbitrarily detained the author in violation of article 9 (1) of the Covenant.

Recommendations: The State party should, *inter alia*:

(a) make full reparation to individuals whose Covenant rights have been violated;

(b) provide the author with adequate compensation for the periods of her detention on Christmas Island, in the Regional Processing Centre in Nauru and on mainland Australia until 4 November 2019;

(c) take all steps necessary to prevent similar violations from occurring in the future; and

(d) review and modify its migration legislation and policies and any bilateral offshore transfer arrangements for migrants as to their content, implementation and monitoring, to ensure their conformity with the requirements of the Covenant, including article 9.

Deadline for implementation: 23 April 2025

Separate opinions: Committee member Ms. Hélène Tigroudja partially dissented from the Committee's views. She agrees with the general conclusion on the admissibility of the claims, on the merits and on the remedies. However, Ms. Tigroudja stresses that the jurisdictional link between Australia and the offshore detention centres in Nauru should convey a clear message to all States parties to the Covenant that agreements seeking to externalize the treatment of asylum-seekers might fall under the jurisdiction of the Committee, and States may be held accountable under the Covenant. In addition, the dissenting member highlights that the guarantee of non-repetition included in the Committee's Views is in line with concerns expressed by the Office of the United Nations High Commissioner for Refugees regarding the offshoring of asylum processing.

BELARUS

CCPR/C/140/D/2987/2017

Valentina Akulich v. Belarus

Death in police custody following the use of force amounting to torture and lack of medical assistance in Belarus

Substantive issues: Cruel, inhuman or degrading treatment or punishment; torture – prompt and impartial investigation

Facts: The author, Valentina Akulich, a Belarusian national, submitted the communication on behalf of her deceased son, Aleksandr Akulich who died in police custody. On 22 May 2012, the police arrested Mr. Akulich while intoxicated and placed him in a temporary detention facility in the Svyetlahorsk district police department. On 24 May 2012, the Svyetlahorsk District Court sentenced him to five days of administrative detention. On 25 May 2012, Mr. Akulich began hallucinating and behaving erratically in his cell. His cellmates complained, prompting officers to monitor him by video camera. At 12:30 a.m. on 26 May 2012, two officers removed him from the cell, claiming they intended to assess his condition and call an ambulance if necessary. Mr. Akulich resisted, and the officers used rubber batons to subdue him. They handcuffed him to metal bars, during which he hit himself against the bars. The officers later removed the handcuffs, but Mr. Akulich ran into the corridor, where they restrained him again. At 1:05 a.m., an ambulance was called, arriving five minutes later, but Mr. Akulich was already deceased. Medical-forensic reports concluded that his death resulted from chronic alcohol intoxication, withdrawal delirium, and cerebral oedema alongside 18 bodily injuries deemed minor and unrelated to his death.

On 26 June 2012, the Svyetlahorsk District Investigative Committee ruled the use of force lawful, a decision repeatedly overturned but reaffirmed after multiple reviews between 2012 and 2015. In 2015, an investigator again refused to open a case. The author unsuccessfully challenged these rulings, arguing that disproportionate force and delayed medical aid contributed to her son's death, constituting a violation of article 7 of the Covenant.

Admissibility: The Committee found the communication admissible under article 5 (2) (b) of the Optional Protocol, rejecting Belarus's argument that the author failed to exhaust domestic remedies. It noted that the three-year delay in opening a criminal case and the repeated overturning of decisions without substantive progress, despite the author's diligent attempts effected an unreasonable prolongation rendering the remedies ineffective. The Committee also declared the claims under article 7, read alone and with article 2 (3), as sufficiently substantiated and accordingly admissible.

Merits: The Committee found that Belarus violated article 7 of the Covenant due to the unnecessary and disproportionate use of force against Mr. Akulich. They noted that the police immediately resorted to violence despite knowing he was intoxicated, mentally unstable, and unarmed, framing their treatment as in contravention with article 7. The Committee also found a violation in the failure to provide timely medical assistance. They put that the officers recognised signs of alcohol withdrawal psychosis but delayed calling an ambulance for at least 30 minutes, despite knowing

his distress, resulted in a delay that prolonged his suffering and contributed to the severity of his condition.

The Committee also held that Belarus failed to conduct an effective investigation, violating article 7 read with article 2 (3). They expounded that despite numerous inquiries and court interventions, domestic authorities failed to examine whether the force used was necessary or proportionate and limited their findings to procedural compliance rather than substantive review. This lack of a criminal investigation deprived the author of victim status and procedural rights, preventing an impartial review of her son's death.

Recommendations: The State party should:

(a) conduct a prompt, independent, and impartial criminal investigation into the case;
(b) prosecute those responsible if wrongdoing is established;
(c) provide the author with adequate compensation for the violation of her son's rights;
(d) take measures to prevent similar violations in the future.

Separate opinions: Committee member Ms. Hélène Tigroudja issued a partially dissenting opinion, agreeing with the finding of violations but putting that the Committee should have also considered a violation of article 6 of the Covenant (right to life). She noted that the author effectively claimed that the failure to provide medical care resulted in her son's death, showcasing a shortcoming of the State in meeting its positive obligation to protect the right to life. She mentioned that the Committee had the discretion to consider article 6 and should have done so even if the author did not explicitly invoke it.

Deadline for implementation: 11 September 2024

CCPR/C/140/D/3140/3173/2018

K. Chernov and A. Karankevich v. Belarus

Disproportionate fines for participation in unauthorized peaceful demonstrations in Belarus

Substantive issues: Freedom of assembly; freedom of opinion and expression

Facts: The authors of the communications are six nationals of Belarus. The authors of communications No. 3140/2018, 3151/2018 and 3173/2018 participated in an unauthorized peaceful demonstration to protest a Presidential Decree on Prevention of Social Dependency. They were apprehended by police, spent a night in pre-trial detention, and were found guilty of administrative offences and sanctioned to fines between 230 and 460 roubles. According to the national statistics agency, the fines amount to approximately 35-70% of the average monthly salary in the State party. The authors of communications No. 3147/2018, 3169/2018, and 3170/2018 likewise participated in an unauthorized peaceful demonstration, spent two nights in pre-trial detention, were found guilty of administrative offences, and were sanctioned to fines in the amount of 345 roubles each. The authors' appeals were unsuccessful.

All authors claim that the State party has violated their rights under articles 19 and 21, read in conjunction with article 2 (2) and (3), of the Covenant by imposing unnecessary limitations on their freedoms of expression and assembly. In addition, all authors claim that the domestic courts were not impartial and fair while adjudicating their cases, and failed to apply provisions of the Covenant, in violation of article 14 (1), read in conjunction with article 2 (2) and (3), of the Covenant.

Admissibility: The Committee considered that the authors' claims under articles 19 and 21 were admissible because they were sufficiently substantiated. However, because the authors had already alleged a violation of their rights under articles 19 and 21 of the Covenant, the Committee did not consider an examination of whether the State party had violated its general obligations under article 2 (2), read in conjunction with articles 19 and 21, to be distinct from its examination of the violation of the authors' rights under articles 19 and 21 of the Covenant. The authors claims under articles 14 (1), 19 and 21 of the Covenant, read in conjunction with article 2 (2), were therefore inadmissible. The Committee considered that the authors' claims under articles 14 (1), 19 and 21 of the Covenant, read in conjunction with article 2 (3), were inadmissible because the authors had failed to substantiate those claims for the purposes of admissibility.

Merits: The Committee considered that the restrictions and sanctions imposed on the authors, although based on domestic law, were not justified pursuant to the conditions set out in article 19 (3) of the Covenant. Sentencing the authors to heavy administrative fines for participation in peaceful meetings with an expressive purpose raised serious doubts as to the necessity and proportionality of the restrictions on the authors' rights under article 19 of the Covenant. The State party also failed to demonstrate that the measures selected were the least intrusive in nature or proportionate to the interest being protected. As a result, the Committee concluded that the authors' rights under article 19 had been violated.

The Committee concluded that the State party's domestic courts did not provide any justification or explanation as to how, in practice, the authors' participation in such peaceful assemblies had violated the interests of national security or public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others. The State party also did not provide any justification for restricting the authors' rights under article 21 in its submissions

before the Committee. Therefore, the Committee concluded that the State party had violated the authors' rights under article 21 of the Covenant.

Recommendations: The State party should, *inter alia*:

(a) make full reparation to individuals whose Covenant rights have been violated;

(b) provide the authors with adequate compensation, including reimbursement of the fines and any legal costs incurred by them;

(c) take all steps necessary to prevent similar violations from occurring in the future; and

(d) revise its normative framework on public events, consistent with its obligation under article 2 (2), with a view to ensuring that the rights under articles 19 and 21 of the Covenant may be fully enjoyed in the State party.

Deadline for implementation: 17 September 2024

CCPR/C/140/D/3196/2018; CCPR/C/140/D/3209/2018

Natalya Berezhnaya and Lyudmila Gershankova v. Belarus

Death penalty following unfair trial and failure to comply with interim measures

Substantive issues: Death penalty, torture and ill-treatment; habeas corpus; right to a fair hearing by an independent and impartial tribunal; right to be presumed innocent; fair trial – legal assistance; right not to be compelled to testify against oneself or to confess guilt

Facts: The authors, Natalya Berezhnaya and Lyudmila Gershankova, submitted the communication on behalf of their sons, Semyon Berezhnoi and Igor Gershankov, both Belarusian nationals. The two men were sentenced to death by the Mogilev Regional Court on 21 July 2017 after being convicted of multiple murders, attempted murder, robbery, and fraud. Their appeals were rejected by the Supreme Court in December 2017, and subsequent requests for supervisory review and presidential pardon were denied. The authors claim that their sons' trial was unfair and that their convictions were based on self-incriminating statements obtained through torture. They were beaten, threatened, and denied access to legal counsel during interrogations. Mr. Berezhnoi was allegedly told that his common-law wife would be arrested if he did not confess, while Mr. Gershankov signed multiple confessions dictated by police, some of which were not even included in the case file. Despite complaints, the authorities refused to investigate their torture allegations. The authors further argue that the trial was biased and violated the presumption of innocence. Their sons were held in metal cages during proceedings, forced to wear uniforms marked "death row inmate," and escorted in humiliating positions. Media reports, based on materials released by investigative authorities, depicted them as guilty before the verdict, making it difficult to secure adequate legal representation. On 29 June and 13 July 2018, the Committee issued interim measures, requesting Belarus not to carry out the executions while the case was under review. However, on 29 November 2018, the authors' counsel informed the Committee that both men had been executed, despite the pending proceedings.

In the present communication, the authors allege violations of articles 6, 7, 9 (1), (2), (3), and (4), 14 (1), (2), (3) (a), (b), (d), (e), (g), and (5) of the Covenant, arguing that the State's failure to ensure a fair trial led to an arbitrary deprivation of life and that their sons were subjected to psychological suffering and inhuman treatment while on death row.

Admissibility: The Committee declared the communication admissible under articles 6, 9 (3), and 14 (2) of the Covenant, finding that the claims were sufficiently substantiated. However, it dismissed claims under articles 7, 9 (1), (2), (4), and 14 (1), (3) (a), (b), (d), (g), and (5) as insufficiently substantiated and accordingly inadmissible.

Merits: The Committee found violations of articles 6, 9 (3), and 14 (2) of the Covenant. It determined that Berezhnoi and Gershankov were arrested on 26 March 2015 but were not brought before a judge until 9 November 2016, that is, 580 days later, far exceeding the 48-hour limit, constituting a clear violation of article 9 (3). It also found that their presumption of innocence under article 14 (2) was violated, as they were held in metal cages, forced to wear "death row inmate" uniforms, and subjected to humiliating escort procedures, while pre-trial materials released by investigative authorities created public bias against them. Further, since their death sentences resulted from an unfair trial, the Committee held that their executions amounted to an arbitrary deprivation of life, violative of article 6. Additionally, it also found that Belarus committed a serious violation of article 1 of the Optional Protocol by ignoring interim measures and proceeding with the executions despite the ongoing proceedings before the Committee.

Recommendations: The State party should:

(a) provide adequate compensation to the authors for the loss of their sons and any legal costs incurred;
(b) prevent similar violations in the future;
(c) comply with the Committee's interim measures in the future and respect their obligations under the Optional Protocol.

Deadline for implementation: 17 September 2024

CCPR/C/141/D/JC/1

D. Lupach v. Belarus

Charges and fines brought against a journalist for not having State accreditation as foreign media

Substantive issues: Freedom of expression

Facts: The author of the communication is a national of Belarus and a freelance journalist. The author has carried out interviews on various topics in Belarus, and posted recordings thereof on different foreign websites. At each occasion, he was found guilty by domestic courts for unlawful production and distribution of mass media products, and for acting as a journalist of a foreign mass media in the territory of Belarus without being accredited by the Ministry of Foreign Affairs, as required by the law of the State party. Various fines were imposed on the author, and his appeals to regional courts were unsuccessful. The author claims that the State party has violated his rights under article 14 of the Covenant, on the right to fair trial and equality before the courts, and his right to freedom of expression under article 19 (2) of the Covenant.

Admissibility: The Committee considered that the author's claims under article 19 (2) of the Covenant were admissible. However, the Committee considered that the author's allegations under article 14 of the Covenant were of a general nature, and were therefore inadmissible due to insufficient substantiation under article 2 of the Optional Protocol.

Merits: The Committee considered that, by sanctioning the author for posting media materials on foreign websites without being accredited in Belarus as a foreign journalist, the State party violated his rights under article 19 (2) of the Covenant. The Committee had found a violation of article 19 (2) of the Covenant in similar cases, involving the same laws and practices of the State party in earlier communications, and nothing led the Committee to a different conclusion on admissibility and merits here.

Recommendations: The State party should, *inter alia*:

(a) make full reparation to individuals whose Covenant rights have been violated;

(b) take appropriate steps to reimburse the current value of the fines and any legal costs incurred by the author in relation to the numerous domestic proceedings against him; and

(c) take all steps necessary to prevent similar violations from occurring in the future.

(d) revise its normative framework, particularly its Law on Mass Media, consistent with its obligation under article 2 (2) of the Covenant, and with a view to ensuring that the rights under article 19 may be fully enjoyed in the State party.

Deadline for implementation: 13 January 2025

CCPR/C/142/D/2065/2011

Darya Kvasha v. Belarus

Arbitrary arrest and alleged police brutality in a domestic dispute case

Substantive issues: Torture or cruel, inhuman or degrading treatment or punishment; arbitrary arrest and detention; humane treatment and respect for dignity

Facts: The author of the communication is Darya Kvasha, a Belarusian national. She alleges that she was arbitrarily arrested and subjected to ill-treatment by the police on 18 April 2010 wherein she was detained following a complaint by her husband, who accused her of aggressive behaviour and threatening him with a knife. She was taken to a police station, where she was allegedly subjected to humiliating treatment, including a body search by a male officer, being handcuffed, gagged, splashed with cold water, and physically restrained. The medical report of 20 April 2010 noted minor injuries on her arms. The author challenged the decision not to initiate criminal proceedings, but her complaint was initially dismissed by the Frunze District Prosecutor. Despite an appeal that led to a referral for further investigation, the Frunze District Prosecutor again decided not to open the case. Subsequent appeals were also rejected, and investigations by the police and Ministry of the Interior concluded that the officers acted lawfully.

The author claims violations of her rights under articles 7, 9, and 10 of the Covenant, arguing that the State party failed in its obligation to protect her from inhuman treatment, arbitrary arrest, and unlawful detention.

Admissibility: The Committee admitted the claims under articles 7, 9, and 10 of the Covenant, rejecting the State party's arguments on the failure to exhaust domestic remedies under article 5 (2) (b) of the Optional Protocol.

Merits: Regarding article 7, the Committee noted that severity and nature and purpose of the treatment form two decisive elements in deciding violation under the article. Although the author alleged degrading treatment, the available evidence, including the medical report, did not establish that the force used by the police reached the severity required to constitute cruel, inhuman, or degrading treatment. Under article 9, the Committee found that the author's arrest was based on article 17 (1) of the Code of Administrative Offences and related to a domestic dispute, concluding that it was lawful and not arbitrary. As for article 10, the Committee determined that the use of force and restraints was a response to her behaviour and did not amount to a violation of her right to humane treatment. Accordingly, the Committee found no violations of articles 7, 9, or 10.

CCPR/C/142/D/JC-1

V. Amelkovich and G. Kostusev et al. v. Belarus

Detention and fines for participation in unauthorized peaceful protests

Substantive issues: Freedom of expression; right to peaceful assembly

Facts: The authors are nationals of Belarus and participated in, or called for participation in, unauthorized peaceful protests between 2016 and 2020. They were apprehended and charged with an administrative offence, and were sentenced by district courts to administrative fines or short-term detention ranging from 5 to 15 days. Their appeals to higher courts were unsuccessful. The authors have not attempted to lodge further supervisory review appeals.

All authors contend that the State party has violated their rights under articles 19 (freedom of expression) and 21 (right of peaceful assembly) of the Covenant. The authors of communications No. 3690/2019, No. 3831/2020, No. 3839/2020, No. 3840/2020, No. 3841/2020, No. 3897/2021, No. 3898/2021, No. 3935/2021, No. 3946/2021, No. 3974/2021, No. 3979/2021 and No. 4054/2021 also claim that the State party has violated their rights under articles 19 and 21, read in conjunction with article 2 (2) and (3), of the Covenant. In his comments to the State party's observations on admissibility and the merits, the author of communication 3974/2021 raised a new claim under article 9 (1) of the Covenant, alleging arbitrary deprivation of liberty for participation in a peaceful protest. Finally, the authors of communications No. 3690/2019, No. 3831/2020, No. 3840/2020 and No. 3841/2020 claim that the State party has violated their rights under article 14 (1), on the right to fair trial and equality before the courts, read in conjunction with article 2 (2) and (3), of the Covenant.

Admissibility: The Committee considered that the claims of all authors under articles 19 and 21 of the Covenant are admissible. Contrary to the State party's argument that the authors had failed to seek a supervisory review, the Committee recalled its jurisprudence that such review constitutes an extraordinary remedy, and the State party must show that there was a reasonable prospect that such requests would provide an effective remedy. In the absence of new information from the State party, and recalling prior jurisprudence, the Committee considered that the authors had exhausted all available domestic remedies.

The authors' claims were inadmissible insofar as they alleged a violation under articles 19 and 21, read in conjunction with article 2 (3), and a violation of article 14 (1), read in conjunction with article 2 (3). In the absence of further information, the authors have failed to sufficiently substantiate those claims. In addition, the Committee considered that the authors' claims alleging a violation of articles 19 and 21 of the Covenant, read in conjunction with article 2 (2), were inadmissible under article 3 of the Optional Protocol. The Committee noted that the authors had alleged a violation of their rights under articles 19 and 21 of the Covenant, and the Committee does not consider the examination of whether the State party has already violated its general obligations under article 2 (2), read in conjunction with articles 19 and 21, to be distinct from an examination of the violation of the authors' rights under articles 19 and 21.

Finally, the new claim raised by the author of communication No. 3974/2021 was inadmissible as an abuse of the right of submission under article 3 of the Optional Protocol, because the author has not explained why the new claim could not have been raised in his initial submission.

Merits: The Committee considered that the State party had violated the rights of the authors under articles 19 and 21 of the Covenant by sanctioning the authors for their participation in unauthorized peaceful protests. The Committee noted that it has found a violation of articles 19 and 21 of the Covenant in similar cases, in respect of the same laws and practices of the State party. There was nothing in the facts or legal claims of these communications that would lead the Committee to a different view regarding the merits of the authors claims.

Recommendations: The State party should, *inter alia*:

(a) make full reparation to individuals whose Covenant rights have been violated;

(b) take appropriate steps to reimburse the current value of the fines and any legal costs incurred by the authors in relation to the domestic proceedings against them, as well as to compensate the authors who were subject to administrative arrest, the amount commensurate with the time spent in detention;

(c) take all steps necessary to prevent similar violations from occurring in the future; and

(d) revise its normative framework, in particular the Public Events Act, consistent with its obligation under article 2 (2) of the Covenant, with a view to ensuring that the rights under articles 19 and 21 may be fully enjoyed in the State party.

Deadline for implementation: 6 May 2025

CCPR/C/141/D/JC/2

Leonid Kulakov, Viktor Rubtsov et al. v. Belarus

Sanctions for participation in unauthorized peaceful protests under Belarus's Public Events Law

Substantive issues: Freedom of expression; right to peaceful assembly

Facts: The authors of the communications are 16 Belarusian nationals who either participated in or publicly called for peaceful protests between 2016 and 2020. The authors were arrested and charged under article 23.34 of the Code of Administrative Offenses for violating regulations on mass gatherings given that the protests were held without prior authorization, as required by Belarus's Public Events Act. They were subjected to administrative sanctions, including fines and short-term detention (5–10 days), and their appeals in domestic courts were unsuccessful.

The authors claim that these sanctions violated their rights under article 19 of the Covenant relating to freedom of expression and article 21, which guarantees the right to peaceful assembly. They argue that their peaceful participation in protests and public calls for engagement were legitimate expressions of political and social opinion. The authors assert that requiring prior authorization for peaceful assemblies imposes an undue restriction on these fundamental rights. They further contend that supervisory review procedures in Belarus are ineffective and do not constitute a remedy that must be exhausted.

Admissibility: The Committee found the authors' claims under articles 19 and 21 of the Covenant to be sufficiently substantiated for purposes of admissibility and rejected the State party's argument that the authors failed to exhaust domestic remedies by not pursuing supervisory review. Similarly, it found the claims under article 2 (2), concerning the State party's general obligation to adopt necessary measures, to be incompatible with the Covenant and therefore inadmissible under article 3 of the Optional Protocol.

Merits: The Committee found that penalizing individuals for participating in peaceful protests—solely on the grounds that the events were unauthorized—violates the rights to freedom of expression and peaceful assembly under articles 19 and 21. The Committee emphasized that these rights may only be restricted under very specific conditions—such as to protect national security, public order, or the rights of others—and even then, only when restrictions are strictly necessary and proportionate. It recalled that it had found similar violations in past cases involving the same domestic legal framework and saw no reason to depart from its established jurisprudence.

Recommendations: The State party should:

(a) provide the authors with an effective remedy;
(b) take appropriate steps to reimburse the current value of the fines and any legal costs incurred by the authors in relation to the domestic proceedings against them;
(c) take all steps necessary to prevent similar violations from occurring in the future
(d) revise its normative framework, in particular its Law on Mass Media, consistent with its obligation under article 2 (2) of the Covenant, with a view to ensuring that the rights under articles 19 and 21 may be fully enjoyed in the State party.

Deadline for implementation: 17 January 2025

CANADA

CCPR/C/142/D/3618/2019

M.D. v. Canada

Deportation of a Tamil asylum-seeker to Sri Lanka despite allegations of past torture and risk of persecution found inadmissible due to non-exhaustion of remedies

Substantive issues: Freedom from torture or cruel, inhuman or degrading treatment or punishment

Facts: The author, M.D., a Sri Lankan Tamil, claims he would face torture or death if deported to Sri Lanka due to his perceived links with the Liberation Tigers of Tamil Eelam (LTTE). Born in Jaffna in 1987, he and his family were arrested and mistreated multiple times between 2002 and 2009. He was detained, beaten, and tortured on several occasions by the Sri Lankan police and pro-government militias, often released only after bribes were paid. In July 2009, he was abducted by the Tamil Karuna faction, accused of helping the LTTE, and escaped after six days of detention, fleeing Sri Lanka. Upon arrival in Canada in April 2012, M.D. applied for refugee status, but the Immigration and Refugee Board rejected his claim in September 2015, finding that while his account was consistent, his arrests were part of general sweeps of Tamils rather than targeted persecution. His subsequent judicial review request was dismissed in 2016, and his pre-removal risk assessment was denied in 2018 on the grounds that he faced no personal risk. In April 2019, following a series of bombings in Sri Lanka, the author's father and brother were arrested under the Prevention of Terrorism Act, reinforcing his fear of persecution upon return. He also participated in Tamil Genocide Remembrance Day in Canada in May 2019, further heightening his concerns. On 24 May 2019, he submitted his communication to the Committee, and on 28 May 2019, the Committee requested interim measures to prevent his deportation.

M.D. alleges violations of articles 6 (1) and 7 of the Covenant, arguing that his return to Sri Lanka would expose him to torture and extrajudicial killing and that Canadian authorities failed to properly assess new evidence of risk.

Admissibility: The Committee declared the communication inadmissible under article 5 (2) (b) of the Optional Protocol for failure to exhaust domestic remedies. It noted that the author did not apply for a second pre-removal risk assessment (PRRA), despite his claim of new evidence, nor did he seek an administrative deferral of removal or apply for permanent residence on humanitarian and compassionate grounds. The Committee observed that such remedies could have been effective in preventing his removal, and doubts about their effectiveness did not absolve the author from exhausting them. The Committee also found that M.D. failed to submit his new evidence including letters from a Sri Lankan lawyer and a member of Parliament confirming his family's arrests, to Canadian asylum authorities before bringing the case to the Committee, preventing Canada from addressing the claims domestically. Given the availability of unexhausted domestic remedies, the Committee declared the communication inadmissible and did not assess the merits of the case.

CHAD

CCPR/C/140/D/3806/2020

M. Tsarsi and M. S. Abdelkadre et. al. v. Chad

Warrantless arrest and excessively long detention in Chad

Substantive issues: Arbitrary detention

Facts: The authors of the communication are three nationals of Chad and one national of Cameroon, all of whom allege a violation of their rights under article 9 of the Covenant. The authors were arrested without a warrant and without being informed of the charges against them, in connection with a case involving the international trafficking of aircraft and military weapons. One author was interviewed without the assistance of a lawyer, and the remaining authors were interviewed without being informed of the charges against them and without having access to a lawyer. Following 67 days in detention, the authors were transferred to a remand prison, were informed of the charges brought against them, and were placed under a detention order. The authors' lawyers made requests to the State party's authorities for access to their case files, which went unanswered. While in detention, the authors' health and finances deteriorated, and they were subjected to intimidation by prison officers. The Working Group on Arbitrary Detention issued an opinion finding in favour of the authors, and considered that the authors' arrest and detention were arbitrary. The authors claim a violation of article 9 of the Covenant on account of their arbitrary and unlawful detention.

Admissibility: The Committee considers that the communication is admissible under the Optional Protocol. The fact that the authors' case was examined by an international investigation or settlement body—here, the Working Group on Arbitrary Detention—does not preclude the Committee from considering the communication, unless the State party has made a reservation explicitly prohibiting successive appeals. The State party had not entered such a reservation. In the absence of objections by the State party regarding the exhaustion of domestic remedies, there is no obstacle to the admissibility of the authors' communication.

Merits: The Committee considers that the facts disclose a violation of article 9 of the Covenant. The Committee observes that the authors were arrested without a warrant and were only informed of the charges against them only more than two months after their arrest, when the authors were brought before a Supreme Court judge. The State party failed to demonstrate that the arrests were reasonable and necessary, or that the authorities had decided without delay on the lawfulness of the detention. The Committee further observes that the authors' lawyers were unable to gain access to the authors' files in order to challenge the grounds and charges on which they were arrested, and the investigating judge likewise had not received any files concerning the authors. Finally, the Committee observes that, although the authors are no longer in detention, no domestic court has ruled on their detention in the five years that passed since their pretrial detention and subsequent release. In light of these considerations, and taking note of the opinion of the Working Group on Arbitrary Detention, the Committee concludes that there has been a violation of article 9 of the Covenant.

Recommendations: The State party should, *inter alia*:

(a) provide authors with an effective remedy by making full reparation to individuals whose Covenant rights have been violated;

(b) take appropriate steps to provide the authors with adequate compensation and appropriate measures of satisfaction; and

(c) take all steps necessary to prevent similar violations from occurring in the future.

Deadline for implementation: 11 September 2024

Separate opinions: Committee member Mr. Carlos Gómez Martínez issued a dissenting individual opinion where he did not find that the authors' communication was admissible. The Working Group on Arbitrary Detention had already settled the case and issued its opinion before the Committee began to examine this communication in order to decide on its admissibility. Acknowledging that article 5 (2) (a) of the Optional Protocol may be subject to different interpretations, he considers that its effect is to prevent a second decision from being taken on a matter identical to that already settled in a previous decision. Thus, the dissenting member found that this communication was not admissible under article 5 (2) (a) of the Optional Protocol, and was additionally inadmissible for abuse of the right provided for in article 3 of the Optional Protocol.

CZECH REPUBLIC

CCPR/C/140/D/3197/2018

E.M. v. Czech Republic

Death of a person with a psychosocial disability following a police intervention did not constitute violation of articles 6 and 7

Substantive issues: Right to life; freedom from torture and cruel, inhuman or degrading treatment

Facts: The author, E.M., a Czech national, submitted the communication on her behalf and on behalf of her deceased son, D.H., of Roma origin. D.H. had been diagnosed with paranoid schizophrenia, and on 26 November 2011, his parents called emergency services due to his distress. When police and medical personnel arrived, D.H. allegedly threatened them but later opened the door unarmed. Police forcibly entered, restrained him face down, and administered sedatives. He suffered cardiac arrest and was resuscitated multiple times, but later fell into a coma and died on 1 December 2011. The author challenged the investigation into her son's death, alleging that police used excessive force, possibly a taser gun, and that the sedative dosage was excessive. She lodged criminal complaints, which were dismissed by the General Inspectorate of Security Forces and the District Public Prosecutor's Office. On appeal, the decision was upheld. She did not file a constitutional complaint, arguing it would have been ineffective given the legal context at the time.

In the present communication, the author alleges violations of articles 6 and 7 of the Covenant, arguing that her son was subjected to arbitrary lethal force, disproportionate police intervention, and an inadequate investigation into his death.

Admissibility: The Committee found the communication admissible under article 5 (2) (b) of the Optional Protocol, rejecting the State party's claim that the author had failed to exhaust domestic remedies by not filing a constitutional complaint. Given the evolving jurisprudence on the right to an effective investigation at the time, the Committee accepted that such a complaint would not have had reasonable prospects of success. Further, it dismissed the State party's argument that the author abused the right of submission under article 3, concluding that the communication had been filed within five years of the decision on the last domestic remedy, in accordance with the Committee's rules of procedure, thus rendering it admissible under the same provision.

Merits: Regarding article 6, the Committee found no evidence to support the author's claim that the police used excessive force, including a taser, or that the sedatives administered caused D.H.'s death. They noted that forensic reports concluded that his death resulted from malignant brain oedema following cardiac arrest, with no indication of external violence. Similarly, under article 7, the Committee acknowledged D.H.'s vulnerability but found no proof that the police intervention amounted to cruel, inhuman, or degrading treatment. The investigation into his death was deemed procedurally adequate, with multiple forensic assessments and legal reviews. As the author failed to present sufficient evidence that police actions were unlawful or arbitrary, the Committee dismissed the claims as unsubstantiated and accordingly inadmissible under article 2 of the Optional Protocol.

ECUADOR

CCPR/C/142/D/3628/2019

Norma v. Ecuador

Forced motherhood, intersectional discrimination, and denied reproductive autonomy in the case of adolescent pregnancy

In October 2024, the Committee issued three landmark Views in *Susana v. Nicaragua*, *Lucía v. Nicaragua*, and *Norma v. Ecuador*, addressing adolescent pregnancy from sexual violence and the denial of access to abortion and related services.

In *Norma v. Ecuador*, where therapeutic abortion was legally permissible under certain conditions, the Committee found that the State's failure to provide accessible services, among other systemic shortcomings, resulted in findings of gender-based violence and intersectional discrimination. Consistently, the Committee affirmed in all three Views that denying women-specific health services, including reproductive health, is a form of gender-based violence against women and girls, aligning its stance with other UN treaty bodies.[1] Notably, the protection of reproductive autonomy under article 17 (privacy) was not only reaffirmed but extended in *Norma* to include interference with a woman's decision to place her child for adoption in situations of forced pregnancy.

These Views strongly underscore the State's positive obligations to prevent violence, protect victims, provide adequate healthcare, and ensure effective investigations and remedies. This is reflected in the Committee's extensive recommendations for systemic reforms, urging legislative amendments for abortion access, decisive actions against gender-specific violence, and specialized training for relevant personnel. Collectively, these decisions significantly advance the jurisprudence on reproductive rights, discrimination, and States' duties to protect young women under the Covenant.

Substantive issues: Right to an effective remedy; right to life; personal integrity; liberty and security of person; private and family life; right to information; special protection measures for children; equality and non-discrimination

Facts: The author is a 13-year-old Ecuadorian girl who was repeatedly raped by her father, resulting in pregnancy. She had previously been removed from his custody due to allegations of sexual abuse against another child, but was later returned to his care, where the abuse continued. Unaware of her pregnancy due to a lack of sex education, she only discovered her condition at 27 weeks. Seeking an abortion, she was told it was too late, leading to severe psychological distress, including suicidal thoughts. During her pregnancy and childbirth, the author indicates that she received inadequate support, information, or alternatives from the healthcare system. Some medical staff allegedly treated her with hostility, exerted pressure for a cesarean section, and encouraged bonding with the child despite her expressed wish to pursue adoption. She reports

1 The Committee on Economic, Social and Cultural Rights General Comment No. 22 (2016), para. 34; the Committee against Discrimination against Women General Recommendation 24 (1999) on women and health, para. 11; General Recommendation 35 (2017) on gender-based violence against women, updating general recommendation 19, para. 18.

receiving only minimal psychological counselling and navigating motherhood largely without assistance. Additionally, the author states that the justice system did not offer timely protection and delayed investigations into the reported sexual abuse. The authorities did not arrest the accused despite DNA evidence confirming his paternity, and the author was never informed about the closure of her case. Forced into early motherhood, she struggled with economic hardship, had limited education opportunities, and was denied government support, exacerbating her vulnerability and long-term suffering.

The author claims that the State party's actions and omissions in regard to the criminal proceedings and the forced maternity violated her rights under article 2 (3) read in conjunction with articles 3, 6, 7, 9, 17, 19, 24 (1) and 26 of the Covenant.

Admissibility: The Committee found the communication admissible, rejecting the State party's argument that domestic remedies had not been exhausted, as no timely or effective legal avenue for abortion was available. Specifically, the Committee noted the author's argument that the *acción de protección* (protection action) was not *de facto* available to her and would not have been effective or expeditious enough for an abortion, a point the State party failed to sufficiently rebut with evidence of its effectiveness in similar, timely cases. It also dismissed claims that access to reproductive health services fell outside the Covenant's scope, affirming that the case involved multiple protected rights, as the lack of access to such services can impair the enjoyment of rights explicitly guaranteed by the Covenant. While the claim under article 9 (1) was deemed insufficiently substantiated, the allegations under articles 6, 7, 17, and 19, read alone and in conjunction with articles 2 (3), 3, 24 (1) and 26, were considered sufficiently substantiated, allowing the case to proceed on the merits.

Merits: The Committee first addressed article 6 (1) (right to life), read alone and in conjunction with article 2 (3) (right to an effective remedy), and article 24 (1) (special protection for children). It recalled that the right to life cannot be understood restrictively and demands positive measures from States to protect it. The Committee considered that the State party's initial failure to protect the author from foreseeable sexual violence by her father, given his known history and her prior placement under State protection (INNF), allowed the violations to commence and persist. Subsequently, once the author became pregnant as a result of this preventable rape, her expressed desire to terminate the pregnancy was ignored.

The Committee noted that article 150 of Ecuador's Comprehensive Organic Penal Code (COIP) at the time recognized that a pregnancy could be legally interrupted if it posed a risk to the life or health of the pregnant person. Medical experts and indeed the State party itself (through its 2018 law recognizing pregnancies in under-15s as high risk) acknowledged that pregnancy and childbirth at age 13 constitute a significant risk of maternal mortality. Despite this, the State party took no effective measures to make this legal provision practically applicable to the author's case. The Committee reiterated that States must provide safe, legal, and effective access to abortion when the life and health of the pregnant woman or girl are endangered, or when carrying the pregnancy to term would cause considerable pain or suffering, especially if the pregnancy is a consequence of rape or incest, and must eliminate existing obstacles to such access.

Furthermore, recalling its General Comment No. 36, the Committee emphasized that the right to life includes the right to enjoy a life with dignity. The forced continuation of the pregnancy, the denial of access to abortion, and the subsequent lack of support severely impacted the author's life project and her right to a life with dignity. The State party did not dispute that the author had to abandon her education due to the rapes and her imposed maternal role, nor that she was forced into precarious, unskilled labor as an adolescent to support her child, or that she was denied a

human development bonus to which she was entitled. These omissions and failures constituted a violation of article 6 (1), read alone and in conjunction with articles 2 (3), and 24 (1).

The Committee then found a violation of article 7 (prohibition of torture or cruel, inhuman or degrading treatment), read alone and in conjunction with article 2 (3), and article 24 (1). The Committee considered that the author suffered a high level of anguish from a combination of acts and omissions attributable to the State party. This included the State's failure in its duty to protect her from foreseeable rape; the severe suffering caused by the sexual violence and the resulting forced pregnancy, which led to suicidal thoughts; the denial of access to a legally permissible abortion, forcing a child to carry a pregnancy to term; the revictimization by health and police officials; the lack of an effective criminal investigation depriving her of reparation; and the absence of necessary and adapted comprehensive care, including adequate psychological support, despite official acknowledgment of her need for long-term specialized attention. The Committee recalled that article 7 protects against moral suffering, a protection particularly crucial for minors. It referenced the jurisprudence of the CRC and the State party's own Constitutional Court, which recognized that denying abortion access in cases of rape can constitute torture or cruel, inhuman, or degrading treatment. The fact that the aggressor was her father, a person in a position of authority, aggravated the trauma. The State's failure to ensure timely psychological support, focusing instead on a "mother-child bond" against her will, and the *de facto* impunity for the aggressor due to investigative failures, further compounded her suffering in violation of article 7.

A violation of article 17 (right to privacy), read alone and in conjunction with article 24 (1), was also established. The Committee reiterated its jurisprudence that a woman's decision to seek an abortion is a matter of private life. It explicitly extended this protection to encompass the obstruction of a girl's or woman's decision to give a child up for adoption when she has been forced to carry a pregnancy to term. The State party's refusal to act in accordance with the author's decision to end her pregnancy, particularly when domestic law (article 150 COIP) appeared to permit abortion in her specific circumstances (risk to health for a 13-year-old), and its subsequent denial of her wish to give her child up for intra-family adoption, constituted an arbitrary interference with her privacy rights.

The Committee further found a violation of article 19 (right to information), read alone and in conjunction with article 2 (3), and article 24 (1). The author was denied essential information at multiple stages: she lacked sexual education to identify the violence or her pregnancy sooner; she was not informed of her right to a therapeutic abortion under existing law; she received misleading information about her right to give her child for adoption to a relative (which was permissible under the Code for Children and Adolescents); and she was not informed about the contraceptive implant placed without her consent. Recalling that article 19 includes the right to receive quality, evidence-based sexual and reproductive health information, the Committee concluded that this lack of information prevented her from making informed decisions and directly contributed to her forced pregnancy and motherhood.

Finally, the Committee addressed the violations of articles 3 (equality of men and women) and 26 (non-discrimination), read in conjunction with the other violated articles. The derogatory comments by authorities and the refusal to provide legally available reproductive health services reflected discriminatory treatment and gender-based stereotyping of the author's reproductive role. The Committee observed that both the sexual violence itself and the lack of access to specific health services for women constitute forms of gender-based violence and discrimination. Thus, the facts of the case demonstrated a form of intersectional discrimination based on the author's gender and age.

Given these extensive and interconnected violations, the Committee concluded that the State party had also breached its overarching obligation to ensure an effective remedy under article 2 (3), read in conjunction with all the aforementioned violated substantive rights (articles 3, 6, 7, 17, 19, 24 (1), and 26).

Recommendations: The State party should:

(a) make full reparation to the author for the harm suffered, including through adequate compensation;
(b) repair the damage to her life project, including support to enable her to finish high school and pursue higher education;
(c) guarantee access to education at all levels for her child;
(d) provide specialised psychological care for her and her child born of sexual violence until the author and the specialist deem it necessary; and
(e) carry out a public acknowledgement of responsibility
(f) under an obligation to take measures to prevent similar violations in the future; requesting the State party:
(g) to make the necessary regulatory adjustments to ensure that all women victims of sexual violence, including all girls who are victims of sexual violence such as incest or rape, have effective access to abortion services;
(h) to take action to combat sexual violence in all sectors, including through education and awareness-raising
(i) to take all necessary measures to ensure that all women victims of
(j) sexual violence, including all girls who are victims of sexual violence such as incest or rape, have effective access to abortion service
(k) to take all necessary measures to ensure that all women victims of sexual violence have effective access to abortion services

Separate opinions: In his concurring opinion, Committee member Mr. Rodrigo A. Carazo rejects the notion that human rights violations in cases like this are limited to Latin America, emphasizing that they occur worldwide. Singling out one region is not only stigmatizing but also undermines global awareness and efforts to address the issue universally.

More information:

- **Centre for Reproductive Rights** - UN Ruling: Ecuador and Nicaragua Must Legalize Abortion to End Violations of Girls' Human Rights
- **Ms. Magazine** - U.N. Landmark Ruling Condemns Ecuador and Nicaragua for Forcing Girls Into Motherhood
- **Planned Parenthood Press Statement** - United Nations Human Rights Committee Issues Historic Ruling to Protect Girls from Forced Motherhood, Setting Global Precedent across 170+ Countries

FINLAND

CCPR/C/140/D/4415/2023

O.K. v. Finland

Inadmissibility of claims regarding the deportation of a member of the Jehovah's Witness faith to the Russian Federation, where the activities of Jehovah's Witnesses are banned

Substantive issues: Cruel, inhuman or degrading treatment or punishment; discrimination on the basis of religion; freedom of religion; minorities; cultural rights

Facts: The author of the communication is a national of the Russian Federation, and claims that her deportation to the Russian Federation would result in a violation of her rights under article 7 of the Convention, both alone and in conjunction with articles 18(1) and (3), and articles 26-27. The author belongs to a Christian denomination of Jehovah's Witnesses and is active in her faith. In 2017, pursuant to a decision of the Supreme Court of the Russian federation, the activities of Jehovah's Witnesses were banned and the Administrative Centre of Jehovah's Witnesses was declared an extremist organisation. The author continued to discreetly practice her faith, including by organizing religious meetings. In connection with one such meeting, a criminal investigation was opened against the author. The author was placed on a list of criminal extremists, and the police repeatedly searched for the author, including by coming to her house. Subsequently, the author travelled to Finland and applied for asylum on the basis of religious persecution. The Finnish Immigration Service rejected the author's asylum application, concluding that she would not face a risk of imprisonment in the Russian Federation, and the author's subsequent appeal and request for appeal were unsuccessful. In September 2021, officials informed the author's attorney that upon her return to the Russian Federation, the author would be summoned for questioning and would be imprisoned. The author then applied again for asylum in Finland, invoking new and favourable jurisprudence of the Supreme Administrative Court of Finland. This application was again rejected, and the author's appeal was unsuccessful. The author was orally informed that she had a few weeks to voluntarily leave Finland.

The author claims that her deportation would violate her rights under the Covenant because she has a well-founded fear of being persecuted for her religious beliefs in the Russian Federation, where several hundred Jehovah's Witnesses have been arrested, prosecuted, and convicted for practicing the faith. The author contends that the State party's migration authorities failed to apply the correct legal standard when assessing her claims, because they did not consider the rapidly deteriorating situation for Jehovah's Witnesses in the Russian Federation, in order to properly evaluate the level of risk that the author would face upon her return.

Admissibility: The Committee considered the communication inadmissible under article 2 of the Optional Protocol. The Committee detailed the author's applications for asylum, including the arguments and documentation considered by the State party's authorities. In the absence of a response from the author regarding the State party's observations on the admissibility of the communication, as well as a lack of information provided in proceedings before the State party's authorities, the author had failed to provide adequate details to substantiate her claim that she would face a personal risk of irreparable harm of the type contemplated under article 7 of the Convention, read alone or in conjunction with articles 18, 26, or 27.

GERMANY

CCPR/C/140/D/3232/2018

M.O. v. Germany

Discrimination of a non-citizen regarding access to education and judicial remedy for the denial of such access

Substantive issues: Restrictions on the exercise of two public service positions

Facts: The author, an Afghan national residing in Germany with a residence permit, applied unsuccessfully for admission to medical studies despite meeting the formal eligibility criteria. Admission is first conducted through the "within capacity" process, in which non-German and non-EU nationals may apply only within a restricted "foreigners quota." Those not admitted at this stage may then seek placement through the "extra capacity" process, which concerns spots not initially listed as available. The administrative court rejected the author's challenge to his denial, holding that non-nationals are not entitled to consideration under the "extra capacity" procedure.

The author claims that, by excluding him from admission based on nationality in the second step, the State party violated his rights under article 26, read in conjunction with articles 2 (1) and 2 (3) of the Covenant. The State party contends that the author's claim is inadmissible due to his failure to exhaust domestic remedies, as he did not complain before the Federal Constitutional Court.

Admissibility: The Committee found the claim under article 26, read alone and in conjunction with articles 2 (2) and 2 (3) of the Covenant, to be inadmissible. The Committee reiterated that domestic remedies must be exhausted unless they have no prospect of success, such as when dismissal is inevitable under domestic law or established jurisprudence, but mere doubts about their effectiveness do not exempt this requirement. The Committee stated that by failing to file a complaint with the Federal Constitutional Court and furthermore not sufficiently explaining how the 1988 Constitutional Court decision—which he referred to in his communication—was relevant to his case, the author did not fulfil his obligation to exhaust domestic remedies. Additionally, the author did not provide any argument demonstrating that he had no access to the complaint procedure of the Constitutional Court, nor that recourse to this procedure would have been ineffective.

Separate opinions: Committee members Mr. Laurence R. Helfer and Mr. Imeru Tamerat Yigezu issued a joint opinion concurring with the majority opinion, highlighting that Germany should have and could have raised the author's failure to exhaust domestic remedies earlier, specifically in the admissibility decision adopted by the Committee on 24 October 2019. They stress that the Committee should discourage the splitting of inadmissibility grounds in proceedings under the Optional Protocol to improve the efficiency of its limited resources.

More information: In the broader context of this case, the Committee, in December 2019, under article 4 (2) of the Optional Protocol and Rule 101 (2), concluded that Germany's reservation to the Committee's competence, which excluded violations of article 26 of the Covenant, violated the object and purpose of the Optional Protocol. Germany subsequently revoked its reservation on 1 October 2023 (see UNTC Optional Protocol to the International Covenant on Civil and Political Rights Footnote 11).

GREECE

CCPR/C/141/D/3582/2019

D.K. v. Greece

Failure to provide timely access to accurate court minutes

Substantive issues: Right to a fair trial; right to defence

Facts: The author, D.K., a Greek national, was a professor and former rector of Panteion University. In 1998, an investigation into the university's financial management led to criminal charges against him and others for being accessory to forgery, misrepresentation, fraud, and misappropriation of public funds. He was found guilty in 2007 and sentenced to 14 years in prison. In 2012, the conviction was upheld on appeal and he began serving his sentence. He was later released for health reasons. He unsuccessfully appealed to the Supreme Court, which upheld his conviction in 2015. The author argued that, throughout his trial and appeals, court minutes were incomplete, misrepresented key witness statements, and were inaccessible for extended periods (29 months after the first-instance trial and 21 months after the second-instance appeal). He submitted petitions to correct the court records. Some of which were partially accepted, but key parts of his defence remained omitted. He further claimed that the courts failed to consider a 2011 ruling by the European Court of Human Rights (ECtHR), which found that public officials had violated his presumption of innocence. His subsequent complaint before the ECtHR was declared inadmissible in 2016.

In the present communication, the author alleged violations of article 14 (1) and (3) (b) of the Covenant, arguing that the lack of timely access to accurate court records deprived him of fair trial and of the ability to prepare an adequate defence.

Admissibility: The Committee found the communication admissible under article 5 (2) (b) of the Optional Protocol, rejecting the State party's argument that the author had failed to exhaust domestic remedies. It noted that while the author's petition to correct the minutes of the second-instance proceedings remained pending, the final decision of the Supreme Court on 21 December 2015 effectively exhausted all his available remedies. The Committee also dismissed the State party's claim that the submission constituted an abuse of the right of submission due to delay, finding that the communication was filed within two years of the publication of the Supreme Court's decision on 6 April 2016, which did not amount to an unreasonable delay.

However, the Committee ruled the communication partially inadmissible under articles 2 and 3 of the Optional Protocol to the extent that it concerned the accuracy and completeness of the trial minutes. It held that determining whether specific statements or evidence were omitted from the record required factual reassessment of domestic judicial decisions, which falls outside the Committee's competence unless manifest arbitrariness or denial of justice is established. Nevertheless, the Committee found the author's claims regarding the lack of timely access to trial records in connection with his right to a fair trial and defence sufficiently substantiated, declaring this part of the communication admissible.

Merits: The Committee found a violation of article 14 (3) (b) of the Covenant, concluding that the significant delays in accessing trial records and the omission of key defence arguments restricted the author's ability to prepare his appeal and cassation effectively. It emphasised that the right to a fair trial includes timely access to records necessary for preparation of defence, which was not ensured in this case. Given the finding of violation, the Committee did not separately consider the claim under article 14 (1).

Recommendations: The State party should:

(a) provide the author with adequate compensation for the violation of his fair trial rights;

(b) prevent similar violations and implement measures to ensure a more timely and accurate system for recording criminal trial proceedings and guarantee timely access to trial minutes in future cases.

Separate opinions: Committee member Mr. Carlos Gómez Martínez issued a dissenting opinion expounding that the claim was insufficiently substantiated and should have been ruled inadmissible under article 2 of the Optional Protocol. He maintained that the author's claim regarding the incompleteness of the trial minutes was speculative and unproven, and that the Committee should not have disregarded the Greek Supreme Court's finding that the records were adequate.

Committee member Mr. José Manuel Santos Pais issued a partially dissenting opinion concurring with the finding of a violation under article 14 (3) (b) but submitting that the Committee should have also found a violation under article 14 (1) and recommended a retrial. He noted that the delayed and incomplete trial records, combined with the failure to properly address the author's claims at the appellate level, amounted to a broader violation of the right to a fair trial that should have been recognised.

Deadline for implementation: 15 January 2025

ITALY

CCPR/C/142/D/3328-2019-3579-2019

Antonio Albanese et al. v. Italy

Exclusion from parole for life-sentenced prisoners who do not cooperate

Substantive issues: Cruel, inhuman and degrading treatment; essential aims of the penitentiary system

Facts: The authors are 252 Italian nationals, who have been convicted and sentenced to life imprisonment for mafia-related offences. They challenge the application of a law that automatically excludes parole for those who are convicted for serious mafia or terrorism offences unless they cooperate in securing prosecutions of other alleged members of criminal organizations. The Italian Constitutional Court previously ruled that this regime does not infringe the Italian Constitution, and all applications filed by authors in order to access probation measures and challenge this absolute presumption have been rejected and/or declared inadmissible. Many of the authors had completed rehabilitation programmes and served over 26 years in prison. However, due to their refusal to cooperate, often due to fear of personal safety, they were deemed automatically ineligible for parole. The authors allege violations of articles 7 and 10 (1) and (3) of the Covenant, arguing that the automatic and irreversible exclusion from release based on non-cooperation amounted to inhuman treatment and undermined the rehabilitative purpose of incarceration.

Admissibility: The Committee discontinued the communications as to authors who had died, been released, benefited from alternative measures to detention, or expressed a wish to withdraw their communications. The communications were also inadmissible as to three authors who had not provided the date of their final judgment for life imprisonment, or had not been sentenced to life imprisonment. Additionally, the communications of 204 authors who received a final judgment by 21 March 2013 were inadmissible because they were submitted over five years from the exhaustion of domestic remedies. The Committee also found that the authors had failed to sufficiently substantiate article 7 claim on torture, inhuman and degrading treatment, which were therefore inadmissible.

The Committee noted that the challenged law links the possibility of parole to an individual's decision to cooperate with the authorities, rather than on reformation and social rehabilitation. This precludes judges and tribunals from making an individual assessment as to whether the continuing detention of a prisoner is based on legitimate penological grounds. Therefore, the claim based on article 10 (1) and (3) of the Covenant for the remaining authors was admissible.

Merits: The Committee noted that, in the context of mafia-type structures, members are bound by a code of silence and individuals may choose not to cooperate due to a risk to life and safety. Therefore, cooperation is not necessarily a free personal choice. The challenged law linked the failure to cooperate to an irrebuttable presumption of dangerousness to society, and failed to consider other forms of rehabilitation progress. The Committee considered that the lack of possibility for judicial review, as well as the exclusion from parole in the absence of cooperation, upset the essential aim of the penitentiary system and ran contrary to article 10 (1) and (3) of

the Covenant. The Committee concluded that the State party had violated the rights of the 26 remaining authors under article 10 (1) and (3) of the Covenant.

Recommendations: The State party should, *inter alia*:

(a) provide the authors with an effective remedy;
(b) make full reparation to individuals whose Covenant rights have been violated; and
(c) take steps to prevent similar violations through an appropriate review mechanism in the future.

Deadline for implementation: 22 April 2025

Separate opinions: Committee member Mr. Carlos Gómez Martínez agreed with the Committee's Views, but partially disagreed with the measures adopted in paragraph 11. The authors had not requested any measures in their communications, beyond a declaration of a violation of their rights, and it was inappropriate for the Committee to specify an obligation of non-repetition on the part of the State party. If adopting *ex officio* measures not requested by the authors, the Committee should have clarified that its measures do not imply the immediate release of the perpetrators, and allow the authorities to assess whether there is justification for their continued imprisonment.

Committee member Ms. Hélène Tigroudja agreed with the Committee's conclusion that the lack of a possibility of judicial review and of a realistic prospect for parole eligibility violates article 10 of the Covenant. However, she did not share the Committee's decision to declare the claim under article 7 inadmissible. She reasoned that the Committee would have been more consistent with its own stance, and with prior jurisprudence of the European Court of Human Rights, by declaring both articles admissible and by concluding that the anguish and mental suffering caused by the lack of realistic prospect to be eligible for parole triggers violations of article 10 and article 7 of the Covenant.

KAZAKHSTAN

CCPR/C/140/D/3039/2017

N.S. v. Kazakhstan

Criminal prosecution of a journalist for libel and restrictions on freedom of expression

Substantive issues: Fair trial; freedom of expression; legal assistance; effective remedy

Facts: The author is N.S., a Kazakh journalist who was prosecuted for criminal libel after an article critical of government contracting was published in the online newspaper *Respublika* under the pseudonym Bahyt Ilyasova in December 2013. A former member of parliament, M.I., filed a libel complaint, claiming that N.S. was the true author, and on 6 February 2014, the regional police investigation department summoned the author and asked about Ilyasova, wherein she denied knowing her. Subsequently, however, a forensic linguistic analysis ordered by the authorities concluded that Ilyasova was a pseudonym of N.S., and she was the true author. M.I. then brought criminal libel charges against her before Aktobe City Court No. 2. The court appointed a lawyer for N.S., but she says the lawyer never contacted her. Hearings were scheduled, but N.S. claims she was not properly informed. When she failed to appear, the court ordered her forced appearance and froze her assets in response to a civil claim by M.I. Before the next hearing, N.S. left the country. As a result, the court suspended the case, issued a search and arrest warrant, and transferred it to the prosecutor's office. N.S. later found out about these actions online. After receiving refugee status in Ukraine, she hired a lawyer and tried to appeal, but the courts refused to consider her case due to the outstanding warrant.

In the present communication, the author alleges violations of articles 2 (3), 14 (1), 14 (3) (a), 14 (3) (d) and 19 of the Covenant, arguing that she was denied a fair trial, legal assistance, and the ability to appeal the charges, and that her prosecution for libel violated her right to freedom of expression.

Admissibility: The Committee found the communication inadmissible under article 2 of the Optional Protocol. It noted that the author's claim under article 2 (3), read with article 14 (1), was insufficiently substantiated, as her departure from Kazakhstan had led to the suspension of proceedings in accordance with domestic law. Regarding article 14 (3) (a) and (d), the Committee observed that the criminal proceedings had not progressed to trial and that no formal charges had been presented against the author. Since the procedural guarantees under these provisions apply only after formal charges are brought, the Committee found these claims inadmissible. On the article 19 claim, the Committee recalled General Comment No. 34 (2011), which discourages criminal defamation laws. However, since the case had not resulted in a final judicial decision, the Committee determined that it could not assess whether the law had been wrongly applied, rendering the claim inadmissible under article 2 of the Optional Protocol.

Separate opinions: Committee members Mr. Rodrigo A. Carazo and Ms. Hélène Tigroudja issued a joint dissenting opinion, asserting that the Committee failed to account for the author's recognised

refugee status in Ukraine, thereby wrongly treating her as if she were evading a fair criminal trial. They further contended that the decision conflicted with international and regional trends toward decriminalizing defamation and libel, rendering the inadmissibility ruling both legally flawed and inconsistent with evolving human rights standards.

Committee member Mr. Hernán Quezada Cabrera issued a partially concurring opinion agreeing with the outcome but finding the reasoning inadequate, particularly regarding the author's lack of access to procedural remedies. He noted that the court's refusal to hear her appeal due to the outstanding arrest warrant raised concerns under article 14 (1), as it effectively blocked her right to challenge the proceedings.

CCPR/C/140/D/3044/2017-3045/201

M. Adylova and S. Aldabergenov v. Kazakhstan

Administrative detention and fines for individuals participating in unauthorized peaceful demonstrations in Kazakhstan

Substantive issues: Fair trial; freedom of expression; freedom of assembly

Facts: The authors of the communication are eight nationals of Kazakhstan who are civic activists. The authors of communications No. 3044/2017 and No. 3045/2017 claim that they intended to participate in a demonstration concerning the lease of agricultural land to China, and posted information about it on their social media accounts beforehand. The authors were arrested and sentenced to 15 day's administrative detention for breaching an article of the administrative offences code on organizing and holding peaceful assemblies. The courts found that the authors had not received authorization for the event and had violated procedure by posting information about an unauthorized public event. The authors' appeals and requests for prosecutorial review were dismissed. The authors claim that their right to freedom of expression under article 19 (2) of the Covenant, and their right to freedom of peaceful assembly under article 21 of the Covenant, were violated by the sanctions imposed on them. They further claim that the courts ignored their arguments and did not consider international principles concerning freedom of expression and freedom of peaceful assembly, in violation of articles 14 (3) (b) and 14 (3) (c) of the Covenant.

The author of communication No. 3063/2017 is a journalist who was arrested when leaving a city area where a demonstration was being held. She was sanctioned by a specialized administrative court and fined, as it was determined that she had been the organizer of the meeting. The court found that the author was encouraging people not to leave and to continue the unauthorized demonstration. The author's appeal and requests for supervisory review were rejected. The author claims that her right to freedom of expression under article 19 (2) of the Covenant, and her right to freedom of peaceful assembly under article 21 of the Covenant, was violated by the sanctions imposed on her.

The author of communication No. 3072/2017 published information on his social media account about an unauthorized meeting to be held in support of two human rights defenders who had been arrested. The author was arrested as he was approaching the location of the event, and an administrative court sentenced him to a sanction of 10 days' administrative detention after concluding that the author had become an organizer of the event. The author's appeals and requests for review were rejected. The author claims violations of his rights under articles 19 (2) and 21 of the Covenant, and a general violation of article 14 of the Covenant, based on similar arguments.

Admissibility: The Committee considered the claims in communications No. 3044/2017, No. 3045/2017 and No. 3072/2017, that the authors' rights under articles 14, 14 (3) (b) and 14 (3) (c) of the Covenant had been violated, because domestic courts did not consider their arguments and did not consider their cases in the light of articles 19 and 21 of the Covenant. The Committee considered that the authors had failed to sufficiently substantiate the claims, and they were therefore inadmissible. In addition, the Committee considered that the author of communication No. 3063/2017 failed to provide arguments to substantiate how her right to exercise her freedom of expression under article 19 (2) of the Covenant was breached in the factual context of her case. Therefore, that author's claim under article 19 (2) of the Covenant was inadmissible.

The Committee considered that the remainder of the authors had sufficiently substantiated their claims under article 19 (2) and that all the authors had sufficiently substantiated their claims under article 21 of the Covenant for the purposes of admissibility.

Merits: The Committee considered that the facts disclose a violation of article 19 (2) in relation to the authors of communications No. 3044/2017, No. 3045/2017 and No. 3072/2017 and of article 21 of the Covenant with regard to the authors of all the communications. The Committee concluded that sentencing the authors of communications No. 3044/2017, No. 3045/2017 and No. 3072/2017 to a sanction of deprivation of liberty for 10 or 15 days, for sharing invitations to a peaceful but unauthorized public event, was not a necessary and proportionate measure pursuant to the conditions set out in article 19 (3) of the Covenant. As a result, the Committee concluded that those authors' rights under article 19 (2) had been violated.

In addition, the Committee noted that the State party had sanctioned the authors for violating an authorization regime for organizing a peaceful assembly, which itself raises issues of compatibility with the Covenant. The State party did not attempt to demonstrate that the sanctions of a fine, or 10 or 15 days of administrative detention, were necessary and proportionate under article 21 of the Covenant. The Committee therefore concluded that the State party had violated article 21 of the Covenant with regard to all authors.

Recommendations: The State party should, *inter alia*:

(a) make full reparation to individuals whose Covenant rights have been violated;

(b) take appropriate steps to provide the authors with adequate compensation and reimbursement of the imposed fine for the author of communication No. 3063/2017 and any legal costs incurred by all of the authors; and

(c) take all steps necessary to prevent similar violations from occurring in the future.

Deadline for implementation: 15 September 2024

CCPR/C/141/D/2548-2677/2015

D. Koshkarbayev and D. Insenova v. Kazakhstan

Administrative citations and fining of peaceful protestors in violation of freedom of peaceful assembly

Substantive issues: Freedom of expression; freedom of assembly

Facts: The authors of the communication are two nationals of Kazakhstan, Mr. Koshkarbayev and Ms. Insenova. In response to the devaluation of Kazakhstan's national currency, a peaceful protest in the city center was announced. Mr. Koshkarbayev filmed the protest on his phone, stopped to speak with the participants, and stayed at the protest out of solidarity. He was detained by the police and cited for violating legislation on organizing and holding peaceful assemblies. On the same day, an administrative court found Mr. Koshkarbayev guilty and sentenced him to a fine. Mr. Koshkarbayev's appeal was denied and his requests for supervisory review were dismissed.

Ms. Insenova protested against bank lending policies in Almaty, and was detained and cited by the police. An administrative court found Ms. Insenova guilty of the administrative offence as to the first protest and sentenced her to a fine. Ms. Insenova's appeal was denied and her requests for a supervisory review were dismissed. Following a second protest, the administrative court also found Ms. Insenova guilty of the offence of violating the legislation on organizing and holding peaceful assemblies, and sentenced her to a fine. Her appeals and requests for supervisory review were, again, unsuccessful.

Both authors claim that the State party has violated their right of peaceful assembly under article 21 of the Covenant. Ms. Insenova claims that the State party has violated her right to freedom of expression under article 19 of the Covenant, as well as her right to fair trial under article 14 of the Covenant because she claims that the courts did not take into account her arguments based in domestic and international law, and were not impartial in considering her cases. Finally, Mr. Korshkarbayev claims that the State party violated his right to fair trial under article 14 (3) (d) and (g) because the police and the administrative court refused to provide him with counsel and to allow journalists to attend his court hearing.

Admissibility: The Committee noted that, per the State party's submission, Mr. Koshkarbayev participated in all court hearings and had been informed in writing by the courts about the right to counsel, which he did not exercise. The Committee therefore considered that Mr. Koshkarbayev's claim that the State party had violated his right to fair trial under article 14 (3) (d) and (g) was inadmissible. The Committee further considered that Ms. Insenova's claim as to her right to a fair trial under article 14 of the Covenant was inadmissible, because the author had failed to sufficiently substantiate these allegations for the purposes of admissibility.

The Committee considered that the remaining claims were admissible, insofar as they raise issues under article 19 with respect to Ms. Insenova's right to freedom of expression, and issues under article 21 with respect to the right of peaceful assembly of both authors.

Merits: With respect to the claim regarding the right to peaceful assembly raised by both authors, the Committee observed that the State party has not demonstrated that sanctioning the authors with fines for participating in a peaceful assembly was necessary in a democratic society to pursue a legitimate aim, or was proportionate to such an aim in accordance with the requirements article 21 of the Covenant. The State party therefore failed to justify the restriction on the authors' right of peaceful assembly and violated article 21 of the Covenant.

The Committee observed that sentencing Ms. Insenova to fines for participating in peaceful expressive events raised serious doubts as to the necessity and proportionality of the restrictions on the author's rights under article 19 of the Covenant. The State party failed to invoke any specific grounds to support the necessity of such restrictions, and did not demonstrate that the measures were the least intrusive in nature, or proportionate to the interest that it sought to protect. The Committee concluded that the rights of Ms. Insenova under article 19 of the Covenant had been violated. The Committee therefore considered that the facts disclosed a violation by the State party of the rights of both authors under article 21 of the Covenant, and the rights of Ms. Insenova under article 19 (2) of the Covenant.

Recommendations: The State party should, *inter alia*:

(a) make full reparation to individuals whose Covenant rights have been violated;
(b) take appropriate steps to provide the authors with adequate compensation and reimbursement of the imposed fines and any legal costs incurred by them; and
(c) take all steps necessary to prevent similar violations from occurring in the future.

Deadline for implementation: 12 January 2025

CCPR/C/141/D/3079/2017

A.Z. v. Kazakhstan

Eviction of a former military service member and alleged violations of fair trial and family rights in Kazakhstan

Substantive issues: Freedom of expression; freedom of assembly

Facts: The author is a Kazakh national and former military serviceman who was provided with a state-owned service apartment in 2004 after being discharged due to illness. In 2006, he sued the Ministry of Defence for compensation equivalent to the apartment's value and was awarded 325,920 tenge, but he later returned the funds as they were insufficient to buy a home. In 2013, the Ministry sought to terminate his lease without offering alternative housing, arguing that the lease was indefinite and compensation had been provided. Despite his legal challenge, the courts ruled against him, leading to his eviction in 2014. A year later, authorities offered him temporary housing in a structurally unsafe building slated for demolition, where he and his family were forced to move due to a lack of options.

The author claims that his eviction from state-provided housing violated his rights under article 17 of the Covenant and argues that Kazakh law provides specific grounds for terminating service housing leases, which were disregarded by the courts in favour of general civil law provisions allowing unilateral termination. The author alleges a violation of article 14 (1), claiming that the courts failed to provide an independent and impartial hearing by omitting key legal arguments in their decisions, and a violation of article 6, arguing that his forced relocation to unsafe housing slated for demolition endangered his life and that of his family.

Admissibility: The Committee found the claim under article 6 to be inadmissible, as the author never complained about the State of the housing to the national courts and therefore failed to exhaust local remedies. Additionally, the Committee held that the claims under article 14 (1) and 17 were insufficiently substantiated and, therefore, inadmissible. The Committee emphasised that it does not reassess domestic legal findings unless they are clearly arbitrary, manifestly erroneous, or amount to a denial of justice. While the author argued that the courts wrongly applied general civil law instead of specific housing regulations governing service housing leases and omitted key legal arguments, the Committee found no sufficient evidence to support his claims and justify a reassessment by the Committee.

KYRGYZSTAN

CCPR/C/140/D/2761/2016

O.K. and N.S. v. Kyrgyzstan

Criminal prosecution and house arrest of Jehovah's Witnesses amid allegations of religious persecution in Kyrgyzstan found inadmissible

Substantive issues: Prohibition of torture and cruel or inhuman treatment or punishment; right to liberty and security of person; fairness of proceedings; freedom of religion; and discrimination on the ground of religious beliefs

Facts: The authors, O.K. and N.S., Jehovah's Witnesses from Kyrgyzstan, claim they were falsely prosecuted as part of broader religious persecution. They were arrested in March 2013 in Osh on fraud charges, placed in police custody, and later put under house arrest, which lasted for over two years, covering their trial and appeal proceedings. During this period, police raided Jehovah's Witness gatherings, detaining and allegedly threatening attendees with torture and rape. In August 2015, officers brutally beat a worshipper and detained six others, who were also beaten in custody. Despite a criminal complaint, no investigation was opened.

The authors' trial faced repeated delays due to judicial recusals and procedural challenges before they were acquitted in October 2014 for lack of evidence. The Osh Regional Court upheld the acquittal in October 2015. However, following prosecutorial appeals, the Supreme Court quashed their acquittals in February 2016, ordering a retrial, arguing that the lower courts had prematurely dismissed the evidence. At the hearing, the Supreme Court allegedly accepted fabricated evidence without allowing the authors to review it. Fearing reprisals, the authors sought interim measures from the Committee, which were granted in April 2016. Despite this, the State proceeded with the retrial, but the case was ultimately dismissed due to the statute of limitations in April 2016.

In the present communication, the authors allege violations of articles 7, 9 (1), 14 (1) and (3) (b) and (c), 18 (1), (2) and (3), 26, and 27 of the Covenant, arguing that they were subjected to arbitrary detention, unfair prosecution, and religious discrimination.

Admissibility: The Committee found the communication inadmissible under articles 2 and 5 (2) (b) of the Optional Protocol, concluding that the authors failed to exhaust domestic remedies. While the authors challenged the Supreme Court's decision to order a retrial, the Committee noted that no final decision had been reached regarding their conviction or acquittal. Since they requested case dismissal due to the statute of limitations, they deprived themselves of the opportunity to demonstrate how procedural flaws impacted their trial. Regarding articles 9 (1) and 18, the Committee found that the authors failed to raise these claims domestically or show that remedies were unavailable. For article 14 (3) (c), it noted the trial faced delays but found no evidence they were excessive or due to judicial misconduct.

LATVIA

CCPR/C/141/D/3148/2018

A.L. v. Latvia

Prolonged political disqualification due to criminal proceedings in Latvia

Substantive issues: Right to take part in the conduct of public affairs and to have access to public service

Facts: The author is a Latvian politician and Chair of the Board of the political party *Latvijai un Ventspilij*. He has served as Mayor of Ventspils and Chair of Ventspils City Council since 1988 and was repeatedly re-elected. He also chaired the Board of Ventspils Freeport Authority, a public entity overseeing the port's operations. In 2005, criminal proceedings were initiated against him for multiple offences. As a security measure, he was initially detained but later placed under house arrest. In 2007, a prosecutor imposed a prohibition on him holding his public positions, arguing that continuing in office could enable him to interfere with the investigation or commit further offences. Despite multiple legal challenges, courts repeatedly upheld the employment ban, considering it necessary and proportionate. The appeal to the Constitutional Court was unsuccessful.

The author claims that the employment ban violates his right under article 25 (a) and (c) to participate in public affairs and to have access to public service because it is unjustified and disproportionate.

Admissibility: The Committee found the communication inadmissible under articles 2 and 3 of the Optional Protocol, concluding that the author failed to substantiate his claims under article 25 (a) and (c) of the Covenant. It determined that the security measure was lawful, necessary, and proportionate, aimed at preventing obstruction of justice in an ongoing criminal case. In reaching this decision, the Committee noted that the author's prohibition from holding two public service positions was imposed due to charges related to abuse of office, therefore, the State party was able to provide a legitimate justification. The measure was regularly reviewed by national courts, and the author had not demonstrated that these decisions were arbitrary or a denial of justice. The Committee found that the restriction did not prevent him from engaging in public affairs, as he could still attend council meetings and vote.

CCPR/C/141/D/3595/2019

V.K. v. Latvia

Minority rights and national language policy in the context of name transliteration

Substantive issues: Right to privacy and family life; discrimination on the basis of language; right to use own language

Facts: The author, a Latvian national of Russian ethnicity, sought to have his son's first name and surname transliterated from Russian to the Roman alphabet on his birth certificate, as permitted under section 19 (2) of the Official Language Law. The Civil Registry Office denied the request, stating that names could only be recorded in Latvian. The author's appeals were dismissed by various courts between 2013 and 2017. While the transliterated surname was eventually included, the courts upheld the rejection of the first name. The Supreme Court ruled that transliteration was only allowed to prevent inconsistencies in official documents, not as a general right. It distinguished the case from *Raihman v. Latvia*, as the son's name had not been previously used in its original form on official documents. The Constitutional Court declined to hear the case in 2017.

The author claims that the State party's refusal to include the transliteration of his son's first name on official documents violates articles 17, 26, and 27 of the Covenant. He argues that this constitutes an arbitrary interference with privacy, amounts to discrimination against the Russian-speaking minority, and restricts the right to use one's language within the community, creating unnecessary difficulties in daily life and identity verification.

Admissibility: First, the Committee determined that the author possesses victim status, as his son was directly and personally affected by the authorities' decisions to reject his request and that the author himself was affected as he was acting on behalf of his minor son in pursuit of the alleged violation of their right to privacy and family life. Second, the Committee declared the author's claims under article 17, 26 and 27 of the Covenant to be insufficiently substantiated and therefore inadmissible under article 2 of the Optional Protocol. The Committee rejected the author's reference to *Raihman v. Latvia*, as the current case did not concern the unilateral change of an original name but rather a request to have an additional transliterated record in official documents. The author failed to substantiate how the refusal to transliterate his son's first name would adversely affect his daily life and additionally noted that the State authorities approved the author's transliteration of his son's surname on official records. Additionally, in regards to article 27, the author failed to substantiate how the refusal to include the transliteration of the name would amount to a denial of the use of their own language within their community.

LITHUANIA

CCPR/C/142/D/3844/2020

S.F. v. Lithuania

Dismissal of a railway union leader: freedoms of expression and association claims deemed inadmissible

Substantive issues: Freedom of association; freedom of opinion and expression; work/ employment rights

Facts: The author, a Latvian national and president of the Solidarity Trade Union of Lithuanian Railways Workers, worked for Lithuanian Railways until 2015. Fearing reprisals due to his union leadership and activism, he refused to sign inspection forms, instead writing, "I do not accept responsibility." His concerns stemmed from past experiences, including organizing protests against union persecution and corruption, which led to government repression and his dismissal. Though reinstated, he feared further retaliation. In 2015, he again refused to sign forms, believing delayed departures could be used to frame him for accidents. On 28 September 2015, he was dismissed again, and his appeals were unsuccessful.

The author claims that the State party violated his freedom of expression and freedom of association under articles 19 and 22 of the Covenant.

Admissibility: The Committee found the author's claim under article 19 of the Covenant to be inadmissible. While the Committee acknowledged that the author's signature refusing responsibility was a protected opinion under article 19 of the Covenant, the author failed to provide any objectively reasonable justification and that neither he faced sabotage or false accusation in his 20 years before nor that he raised these concerns to his employer. Therefore he could not justify complying with his ordinary and essential job duties.

Furthermore, the Committee rejected the claimed violation of article 22, as his dismissal resulted directly from his refusal to perform an essential element of his professional duties. Additionally, the Committee found no evidence indicating that his dismissal resulted from his role or activities in a trade union nor has he provided indications that, during the disciplinary proceedings, he faced arbitrariness or bias that could have resulted from his trade union role.

MALDIVES

CCPR/C/140/D/3011/2017

A.K. v. Maldives

Death sentence imposed on Maldivian national after an unfair trial and denial of pardon

Substantive issues: Death penalty; torture, cruel, inhuman or degrading treatment or punishment; right to fair trial

Facts: The author, A.K., submitted the communication on behalf of his brother, Mohamed Nabeel, a Maldivian national sentenced to death for murder. Nabeel was arrested in March 2009, and during a police interrogation on 8 April 2009, he provided a self-incriminating statement without legal representation, which he later retracted at trial, claiming he had signed it out of fear. Despite this, the statement was used to convict him and he was sentenced to death on 22 November 2010 by the Criminal Court. His appeals to the High Court (2015) and Supreme Court (2016) were dismissed. The author claims that Nabeel's trial was unfair, as he was denied legal representation during the police investigation, and his sister's testimony, which she later retracted, was also used as evidence. Additionally, since a 2014 regulation removed the President's power to grant clemency, the right to seek pardon or commutation was transferred to the victim's family, making it effectively unattainable. On 24 July 2017, the Committee requested interim measures to halt Nabeel's execution while it reviewed the case. The State party argued that the trial adhered to domestic law, that Nabeel had declined legal representation at the police stage, and that his confession was freely given. It also cited a *de facto moratorium* on the death penalty since 1954, but did not rule out future executions.

In the present communication, the author alleges violations of articles 6 (1) and (4), read alone and with article 14, and article 7 of the Covenant, arguing that Nabeel's death sentence resulted from an unfair trial and that his prolonged uncertainty on death row constitutes cruel, inhuman, or degrading treatment.

Admissibility: The Committee declared the communication admissible under articles 6 (1) and (4), read alone and with article 14 (3) (d) and (g); but dismissed claims under article 7 as insufficiently substantiated, finding no evidence of specific mistreatment or psychological harm from execution threats. It also rejected the article 14 (3) (b) claim, noting that neither Nabeel nor his counsel requested more time for defence preparation, and extensions were granted when needed. The Committee admitted the claims under article 14 (3) (d) and (g), as Nabeel lacked legal representation for over eight months, including during his self-incriminating statement.

Merits: The Committee found violations of articles 6 (1) and (4), read alone and in conjunction with article 14 (3) (d) and (g). It concluded that Nabeel's rights under article 14 (3) (g) were violated, as no investigation was conducted into his claim that his confession was made under duress, and the burden of proving voluntariness was wrongly placed on him rather than on the State. It also found a violation of article 14 (3) (d), as effective legal representation is essential in capital cases, and Nabeel should not have been interrogated without a lawyer, particularly given his later retraction of the statement at trial. The Committee held that these fair trial violations rendered his death sentence arbitrary, violating article 6 (1). It further found that the mandatory death

penalty for intentional murder under the 2014 regulation was inconsistent with the Covenant, as it is settled that sentencing courts must consider individual circumstances before imposing capital punishment. This too was deemed violative of article 6 (1). Regarding article 6 (4), the Committee noted that within the guarantees of the provision, all death row prisoners must have a real opportunity to seek pardon or commutation, and such decisions should not be arbitrarily influenced by private individuals. Here, then, the transfer of clemency decisions from the executive to the victim's family violated international standards, and the article.

Recommendations: The State party should:

(a) take immediate steps to quash Nabeel's conviction and sentence and grant him a retrial with full fair trial guarantees;
(b) provide adequate compensation for the violations suffered;
(c) prevent future violations from occurring;
(d) amend its legal framework to ensure courts consider mitigating factors in capital cases and that all individuals sentenced to death can seek pardon or commutation.

Deadline for implementation: 14 September 2024

Separate opinions: Committee members Mr. José Santos Pais, Mr. Carlos Gómez Martínez, Ms. Kobauyah Tchamdja Kpatcha, and Mr. Koji Teraya issued a joint partially dissenting opinion, agreeing with the violations under articles 6 and 14 (3) (d) but disputing the finding under article 14 (3) (g). They argued that Nabeel's claim of fear alone was insufficient to establish coercion and that video evidence suggested he voluntarily read and signed his statement, making the violation determination unconvincing. They also questioned the confession's impact on his conviction, asserting that the available evidence made it uncertain whether it was decisive, thereby casting doubt on the Committee's reasoning.

MEXICO

CCPR/C/142/D/3149/2018

A.M.A v. Mexico

Challenge to gender parity measures in Mexican public service appointments dismissed

Substantive issues: Access to public service; discrimination; gender-based discrimination; quality before courts and tribunals; equality before the law; participation in the conduct of public affairs; effective remedy

Facts: The author is a Mexican citizen who participated in the 2014 selection process for electoral councillors conducted by Mexico's National Electoral Institute. The process advanced the top 25 male and top 25 female candidates based on exam scores. The author took the exam and scored higher than 18 of the 25 selected women but did not advance, as he was not among the top 25 men. He filed a lawsuit, arguing that separate gender-based lists violated his rights to non-discrimination and equality under the Covenant. On 26 August 2014, the High Chamber of the Electoral Tribunal dismissed his case, with no right to appeal. Despite his higher score, two women with lower scores were later appointed as councillors. Therefore, the author claims that the State party by the parity design violated his right to equality before the law under articles 3 and 14, violation of the *pro personae* principle under article 5, as well as the equal access to public service under article 25 of the Covenant.

Admissibility: The Committee declared the author's claimed violation of article 2 and 5 of the Covenant to be inadmissible, as the provisions lay out general obligations for State party's and cannot be invoked independently. Furthermore, the author failed to substantiate how the proceedings before the national court violated his right under article 14 (1) and was therefore subsequently declared inadmissible.The Committee also held that the author failed to sufficiently substantiate his claims of gender based discrimination under articles 3, 25 and 26 (read alone or in conjunction with article 2 (1), (2) and (3)) of the Covenant and is therefore inadmissible under article 2 of the Optional Protocol.

The Committee reiterates its jurisprudence that article 25 (c) of the Covenant grants only equal access to public service on general terms and that not every differential treatment constitutes discrimination under article 26, insofar as it is based on reasonable and objective criteria and serves a purpose that is legitimate under the Covenant. Additionally, it emphasizes that States parties must ensure that the law guarantees women the rights contained in article 25 of the Covenant on equal terms with men. The Committee rejected the author's argument that parity quotas constituted differential treatment, as the same selection rules applied to both genders. It also dismissed the claim that educational equality makes parity measures unnecessary, reaffirming that affirmative action is a legitimate tool under the Covenant to address historical discrimination. The Committee noted that women remained underrepresented in decision-making roles despite educational parity and that, during the relevant period, fewer women took the exam. It emphasized that structural factors—such as social and economic inequalities, power dynamics, and stereotyped roles—contribute to gender disparities. Finally, it found that the absence of gender parity in other sectors does not justify its absence in the electoral context.

NICARAGUA

CCPR/C/142/D/3626/2019

Susana v. Nicaragua

Total abortion ban violates reproductive authority and constitutes systematic gender-based discrimination (1)

In October 2024, the Committee issued three landmark Views in *Susana v. Nicaragua*, *Lucía v. Nicaragua*, and *Norma v. Ecuador*, addressing adolescent pregnancy from sexual violence and the denial of access to abortion and related services.

In *Susana* and *Lucía*, the Committee determined that Nicaragua's legislative framework imposing a total ban on abortion, ensuring a complete lack of access, inherently constituted gender-based discrimination under articles 3 (gender equality) and 26 (equality before the law and non-discrimination) of the Covenant. This directly linked such bans to discrimination, a jurisprudential evolution from primarily framing similar harms under article 7 (cruel, inhuman or degrading treatment) or 17 (unlawful interference with privacy or family).[2]

The Committee explicitly recognized that the violations in these cases amounted to intersectional discrimination, based on gender, age, and their socio-economic and rural background. These Views strongly underscore the State's positive obligations to prevent violence, protect victims, provide adequate healthcare, and ensure effective investigations and remedies. This is reflected in the Committee's extensive recommendations for systemic reforms, urging legislative amendments for abortion access, decisive actions against gender-specific violence, and specialized training for relevant personnel. Collectively, these decisions significantly advance the jurisprudence on reproductive rights, discrimination, and States' duties to protect young women under the Covenant.

Substantive issues: Right to an effective remedy; right to life; personal integrity; liberty and security of person; private and family life; right to information; special protection measures for children; equality and non-discrimination

Facts: The author of the communication is a Nicaraguan national who was raised in extreme poverty by her maternal grandparents. The author was sexually abused by her grandfather from age six and got pregnant at the age of 13. The complaint for sexual violence with local authorities remained unanswered. Adolescent pregnancy (age 9-14) accounts for 5% of the yearly pregnancies in Nicaragua (2010-2015). Nicaragua has had an absolute ban on abortion since 2006, eliminating the previous exception for abortions of girls who were victims of sexual crimes. Additionally, despite governmental efforts, sexual violence remains largely unpunished, with only about 10% of reported aggressors facing criminal charges.

During maternity labour, hospital staff provided no prenatal care, testing, or mental health support, despite knowledge of her sexual abuse, and forced her to keep and breastfeed the baby. By 2018, the initial police complaint had been closed for "lack of interest," and although it was reopened,

2 *Mellet v. Ireland* (CCPR/C/116/D/2324/2013), para. 7.12. Ireland (CCPR/C/116/D/2324/2013), para. 7.12.

no investigation occurred. The author suffered harsh stigma and fled her community. The forced pregnancy and motherhood harmed her physical, mental, and social well-being, curtailed her education, and limited her future prospects.

The author alleges that the State's inaction in the criminal proceedings and the imposition of forced maternity violated her right to an effective remedy under article 2 (3), in conjunction with her rights to equality (article 3), life (article 6), freedom from cruel or inhuman treatment (article 7), liberty and security (article 9), privacy (article 17), information (article 19), special protection (article 24 (1)), and non-discrimination (article 26).

Admissibility: The Committee found that the author had exhausted domestic remedies for claims concerning abortion access and the lack of an effective investigation, rendering them admissible. It deemed article 9 (1) unsubstantiated and decided to address the claim of an autonomous violation of articles 3 and 26 together with the other substantive articles. Concluding that the remaining claims under articles 2 (3), 3, 6, 7, 17, 19, 24 (1), and 26 were sufficiently substantiated.

Merits: The Committee finds that the State party's total criminalization of abortion and its failure to act upon clear indications of sexual violence violated multiple rights of the author. First, under article 6, read alone and in conjunction with articles 2 (3) and 24 (1), the Committee notes that forcing the author, a minor, to carry the pregnancy to term without protection or support posed a foreseeable risk to her life and well-being. Second, it concludes that prolonging the forced pregnancy, denying abortion access, and neglecting to investigate or punish the violence inflicted upon her amounted to cruel and inhuman treatment, contravening article 7, also read alone and with articles 2 (3) and 24 (1).

Additionally, the Committee determined that the absolute ban on abortion constituted an unreasonable and arbitrary interference with the author's privacy, infringing article 17, read alone and in conjunction with articles 2 (3) and 24 (1). Furthermore, by withholding crucial information about reproductive health, including the availability of adoption or any other supportive measures, the State party breached the author's right to access information under article 19. Finally, the Committee holds that the State's persistent inaction and lack of effective legal or social remedies, coupled with the disproportionate burden placed on the author due to her gender and her status as a child, amounted to a form of discrimination in violation of articles 3 and 26. Consequently, it finds that these omissions and restrictive measures also contravened the State party's overarching obligation to ensure an effective remedy under article 2 (3).

Recommendations: The State party should:

(a) make full reparation to the author for the harm suffered, including through adequate compensation:
(b) repair the damage to her life project, including support to enable her to access education in the form she considers most appropriate;
(c) guarantee access to education at all levels for her child;
(d) provide specialised psychological care for her and her child born of sexual violence until the author and the specialist deem it necessary;
(e) carry out a public acknowledgement of responsibility; and
(f) take measures to prevent similar violations, with the Committee requesting the State to:
(g) review its legal framework and ensure that all women and girls victims of sexual violence, including all girls who are victims of sexual violence, such as incest or rape and/or in

cases where there is a risk to their health, have access to the service of termination of pregnancy

(h) take action to combat sexual violence in all sectors, including through education and public awareness, as well as in the area of the administration of justice;

(i) health professionals and justice operators on comprehensive care in cases of sexual violence; and

(i) develop appropriate adoption policies.

Deadline for implementation: 29 April 2025

More information:

- **Centre for Reproductive Rights** - UN Ruling: Ecuador and Nicaragua Must Legalize Abortion to End Violations of Girls' Human Rights
- **Ms. Magazine** - U.N. Landmark Ruling Condemns Ecuador and Nicaragua for Forcing Girls Into Motherhood
- **Planned Parenthood Press Statement** - United Nations Human Rights Committee Issues Historic Ruling to Protect Girls from Forced Motherhood, Setting Global Precedent across 170+ Countries

CCPR/C/142/D/3627/2019

Lucía v. Nicaragua

Total abortion ban violates reproductive authority and constitutes systematic gender-based discrimination (2)

In October 2024, the Committee issued three landmark Views in *Susana v. Nicaragua*, *Lucía v. Nicaragua*, and *Norma v. Ecuador*, addressing adolescent pregnancy from sexual violence and the denial of access to abortion and related services.

In *Susana* and *Lucía*, the Committee determined that Nicaragua's legislative framework imposing a total ban on abortion, ensuring a complete lack of access, inherently constituted gender-based discrimination under articles 3 (gender equality) and 26 (equality before the law and non-discrimination) of the Covenant. This directly linked such bans to discrimination, a jurisprudential evolution from primarily framing similar harms under article 7 (cruel, inhuman or degrading treatment) or 17 (unlawful interference with privacy or family).[3]

The Committee explicitly recognized that the violations in these cases amounted to intersectional discrimination, based on gender, age, and their socio-economic and rural background. These Views strongly underscore the State's positive obligations to prevent violence, protect victims, provide adequate healthcare, and ensure effective investigations and remedies. This is reflected in the Committee's extensive recommendations for systemic reforms, urging legislative amendments for abortion access, decisive actions against gender-specific violence, and specialized training for relevant personnel. Collectively, these decisions significantly advance the jurisprudence on reproductive rights, discrimination, and States' duties to protect young women under the Covenant.

Substantive issues: Right to an effective remedy; right to life; personal integrity; liberty and security of person; private and family life; right to information; special protection measures for children; equality and non-discrimination

Facts: The author, a Nicaraguan citizen, was 13 years old when she was repeatedly raped by a Catholic priest from her parish. The abuse began in early 2013 when the priest manipulated and coerced her into private meetings, escalating to multiple instances of rape over more than a year. He also forced her to take emergency contraception, which she later could not afford. In 2014, after experiencing symptoms of illness, she was diagnosed as 14 weeks pregnant. Despite her distress and desire to continue her education, Nicaragua's total abortion ban, without exceptions for victims of sexual violence or risk for the health of the mother, meant she was forced to carry the pregnancy to term.

Throughout her pregnancy, she received inadequate medical and psychological support. Healthcare providers failed to follow protocols for detecting and reporting sexual violence, did not refer her case to authorities, and pressured her into accepting motherhood. She endured social stigma, bullying at school, and harassment from the priest's acquaintances. The doctors disregarded an initially recommended cesarean section, leading to complications during delivery, including a bladder tear that resulted in chronic health issues. Additionally, her family filed a rape complaint in October 2014, the investigation was delayed by six months, and the authorities did not carry out the arrest warrant even after a DNA test confirmed the priest's paternity. A brief

3 *Mellet v. Ireland* (CCPR/C/116/D/2324/2013), para. 7.12. Ireland (CCPR/C/116/D/2324/2013), para. 7.12.

follow-up by officials in 2018 led to no further action, leaving the author without any meaningful State support or remedy.

The author alleges that the State's inaction and forced continuation of her pregnancy violated her right to an effective remedy under article 2 (3), in conjunction with the rights to life (article 6), freedom from cruel or inhuman treatment (article 7), liberty and security (article 9), privacy (article 17), information (article 19), the special protection due to minors (article 24 (1)), and equality and non-discrimination (articles 3 and 26).

Admissibility: The Committee determined that the communication was admissible. Regarding the exhaustion of domestic remedies, the Committee noted that Nicaragua's total prohibition on abortion meant no effective remedy was available to the author to seek a termination of pregnancy. Furthermore, the authorities had failed to act effectively on the criminal complaint concerning the sexual violence since it was lodged in 2014. The State party did not identify any effective and available remedies that the author could have pursued. The author's allegation of a separate violation under article 9 (1) was deemed unsubstantiated. Claims under articles 3 and 26 were considered by the Committee to be closely linked to other substantive claims and were therefore examined in conjunction with them. The remaining allegations were found to be sufficiently substantiated for examination on the merits.

Merits: The Committee found a violation of article 6 (1) of the Covenant, read alone and in conjunction with articles 2 (3), and 24 (1). It observed that the State party's failure to guarantee access to sexual and reproductive health services, including abortion, exposed Lucía, a minor, to a reasonably foreseeable risk of maternal mortality and morbidity inherent in pregnancy and childbirth at her young age. Her right to a life with dignity was also impaired because, by denying her access to abortion or information about her options (including adoption), the State party imposed forced motherhood without providing necessary protective measures or subsequent support for her profoundly affected life project, particularly given her status as a child. The Committee underscored that the right to life necessitates positive State measures, including ensuring full access to sexual and reproductive health. It reiterated its jurisprudence on the obligation of States to provide safe, legal, and effective access to abortion, especially when the pregnancy results from rape or incest or endangers the life or health of the pregnant woman or girl. The decade-long delay in the criminal investigation and the failure to execute the arrest warrant for the identified aggressor, despite knowledge of ongoing pressures on the author and her family, demonstrated a severe omission in the State party's reinforced duty to protect a child victim of violence. These failings were incompatible with the author's right to life, including a life with dignity.

With respect to article 7 of the Covenant, read alone and in conjunction with articles 2 (3), and 24 (1), the Committee determined that the author endured severe physical and mental suffering amounting to cruel, inhuman, or degrading treatment. This suffering stemmed from the State's failure to prevent the sexual violence, the subsequent impunity for the perpetrator, the imposition of forced pregnancy and motherhood due to the absolute prohibition of abortion, the lack of an effective investigation into the rape, her revictimization, and the inadequate comprehensive care adapted to her status as a minor. The characteristics of the aggressor (a priest wielding authority) exacerbated the trauma. The Committee recalled that article 7 encompasses moral suffering, particularly critical for minors, and that denial of abortion access when a woman's physical or mental health is at risk, especially for a child victim of sexual abuse by a person in authority, can violate this provision. The insufficient psychological support, focused merely on "acceptance of motherhood," and the prolonged failure to arrest the perpetrator despite a warrant and knowledge of his whereabouts, further constituted an aggravating factor. The Committee considered that impunity appeared linked to the priest's societal role.

The Committee also found a violation of article 17 of the Covenant, read alone and in conjunction with articles 2 (3) and 24 (1). It reaffirmed that a woman's decision regarding the termination of pregnancy falls within the ambit of private life protected by article 17. The State party's absolute criminalization of abortion, denying Lucía any capacity to decide about her reproductive autonomy, constituted an unreasonable and therefore arbitrary interference with her right to privacy, especially considering her age and her status as a victim of sexual violence.

Furthermore, a violation of article 19 of the Covenant, read alone and in conjunction with articles 2 (3) and 24 (1), was established. The author was denied necessary sexual and reproductive health education and, crucially, was not provided with truthful information about options such as adoption, despite her circumstances. This lack of information hindered her ability to make informed decisions about her sexual and reproductive health and directly contributed to her forced motherhood.

Finally, the Committee considered the author's claims under articles 3 and 26 of the Covenant, read in conjunction with articles 2 (3) and 24 (1). The lack of institutional response and the derogatory and stereotyped comments from authorities indicated discriminatory treatment questioning her morality. The total ban on abortion itself constituted sex-based differential treatment, reflecting gender-based stereotyping of women's reproductive roles. The failure to protect against sexual violence, the imposition of forced pregnancy and motherhood, and the lack of access to women-specific health services were forms of gender-based violence and discrimination. The Committee thus found a form of intersectional discrimination based on gender and age.

Given these extensive and interconnected violations, and considering the absolute prohibition of abortion and the systemic failures in the investigation, the Committee concluded that the State party had also breached its overarching obligation to ensure an effective remedy under article 2 (3) of the Covenant, read in conjunction with articles 3, 6, 7, 17, 24 (1), and 26.

Recommendations: The State party should:

(a) make full reparation to the author for the harm suffered, including adequate compensation;
(b) repair the damage to her project;
(c) guarantee access to education at all levels for her child;
(d) provide specialised psychological care for her and her child born, until such time as the author and the specialist deem it necessary;
(e) carry out a public acknowledgement of responsibility; and
(f) take measures to prevent similar violations, with the Committee requesting the State to:
(g) review its legal framework and ensure that all women and girls victims of sexual violence, including all girls who are victims of sexual violence, such as incest or rape and/or in cases where there is a risk to their health, have access to the service of termination of pregnancy
(h) take action to combat sexual violence in all sectors, including through education and public awareness, as well as in the area of the administration of justice;
(i) health professionals and justice operators on comprehensive care in cases of sexual violence; and
(j) develop appropriate adoption policies.

Deadline for implementation: 28 April 2025

More information:

- **Centre for Reproductive Rights** - UN Ruling: Ecuador and Nicaragua Must Legalize Abortion to End Violations of Girls' Human Rights
- **Ms. Magazine** - U.N. Landmark Ruling Condemns Ecuador and Nicaragua for Forcing Girls Into Motherhood
- **Planned Parenthood Press Statement** - United Nations Human Rights Committee Issues Historic Ruling to Protect Girls from Forced Motherhood, Setting Global Precedent across 170+ Countries

NORWAY

CCPR/C/141/D/3588/2019

Jovsset Ante Sara v. Norway

Culling order imposed on young Sámi herder threatens the viability of reindeer husbandry and violates cultural rights

The Committee's Views in *Jovsset Ante Sara v. Norway* represent a vital development in the protection of indigenous cultural rights under article 27 of the Covenant. The case reinforces the principle that economic viability is intrinsic to the exercise of cultural practices, particularly for indigenous peoples whose identities are closely tied to traditional livelihoods. In recognising that reindeer husbandry for the Sámi is not merely economic but deeply cultural, the Committee clarified that States must carefully assess the cumulative and individual impact of conservation measures on cultural sustainability, and not apply policy tools in a rigid or undifferentiated manner. This decision marks a significant evolution from the Committee's earlier views in *Kalevi Paadar et al. v. Finland* (CCPR/C/110/D/2102/2011), where it found no violation in a similar context involving reindeer herding restrictions. By contrast, Jovsset Ante Sara sets a higher threshold of justification for State interference, affirming that cultural rights should not be protected in the abstract, but must be preserved with a view to maintaining practical viability and meaningful consultation. It, thus, offers a more nuanced and protective reading of article 27 than before, with implications for indigenous self-determination, minority rights, and environmental regulation moving forward.

Substantive issues: Right to enjoy one's own culture

Facts: The author, Jovsset Ante Sara, is a young Sámi reindeer herder from Norway who practises traditional reindeer husbandry, a livelihood central to Sámi identity and culture. In 2010, at the age of 17, he inherited his mother's *siida* unit and began managing his own herd. In 2013, under the 2007 Reindeer Husbandry Act, the Norwegian authorities issued a compulsory culling order requiring him to reduce his herd from 350 to 75 reindeer. He contested this decision through the domestic court system.

The cull was imposed as part of a broader national policy to reduce overgrazing, aimed at promoting ecological sustainability within Sámi pastoralist regions. However, the author argued that the reduction made his herd economically non-viable, particularly for young or small-scale herders like himself, and thereby threatened his ability to maintain a traditional livelihood. Both the Sámi Parliament and the Sámi Reindeer Herders' Association supported his objection, consistently stating that a minimum of 200 reindeer was necessary for sustainable and independent reindeer herding.

While the domestic Court of Appeal ruled in his favour, holding that the culling order violated his cultural rights, the Supreme Court of Norway overturned this decision, finding the measure justified and proportionate to national environmental and policy objectives. The Court held that although the measure interfered with the author's cultural rights, it pursued a legitimate aim of

preventing overgrazing and protecting the collective viability of Sámi reindeer husbandry, and it was accordingly, lawful.

In the present communication, the author alleged that Norway's refusal to grant an exemption to the culling order, despite his small-scale operation and cultural reliance on the practice, constitutes a violation of article 27 of the Covenant, which protects the rights of minorities to enjoy their own culture. He argued that the policy was applied inflexibly, without sufficient consideration of his individual circumstances, and contrary to recommendations by Sámi institutions.

Admissibility: The Committee found the communication admissible under article 27, concluding that the author had exhausted domestic remedies and had sufficiently substantiated his claim, meeting the requirements of article 5 (2) (a) and (b) of the Protocol. It noted that the alleged interference—compelling a herd reduction to the point of economic inviability—was closely linked to the author's ability to practise his culture.

Merits: The Committee concluded that Norway had violated article 27 of the Covenant, which guarantees the right of persons belonging to minorities to enjoy their own culture. While acknowledging that the State had a legitimate interest in promoting sustainable environmental practices and preserving reindeer pastures, the Committee found that Norwegian authorities had failed to justify the necessity and proportionality of the culling order in the specific circumstances of the author's case.

It noted that the author's herd was already among the smallest in the region, and that he had demonstrated a commitment to sustainable reindeer husbandry. The culling order, therefore, posed a disproportionate burden on him and jeopardised the economic and cultural viability of his herding activities. The Committee was especially concerned that no exemption mechanism existed in the law to safeguard small-scale or young herders, despite the consistent position of representative Sámi institutions that at least 200 reindeer are required to maintain a viable livelihood.

Moreover, the Committee stressed that States have a duty under article 27 to ensure that measures impacting minority cultures are both necessary and proportionate, and that they meaningfully consult with indigenous institutions. In this case, Norway disregarded the expertise and advocacy of Sámi bodies, failing to conduct an individualised assessment of the impact of the culling order on the author's right to enjoy his culture. The Committee reaffirmed that, where minority livelihoods are rendered economically unviable, this may amount to a denial of cultural rights, especially when less restrictive alternatives were available but not considered.

Recommendations: The State party should:

(a) review the decision ordering the culling of the author's reindeer herd, taking into account the Committee's Views;

(b) provide appropriate compensation for the harm suffered;

(c) take steps to ensure its legislation and policies affecting Sámi herders comply with article 27, including reviewing the provisions of section 60 of the Reindeer Husbandry Act in order to ensure that they are complying.

Deadline for implementation: 15 January 2025

Separate opinions: Committee members Ms. Marcia Kran, Mr. José Manuel Santos Pais, and Mr. Koji Teraya issued a joint dissenting opinion. They agreed that the cultural rights of the Sámi are

protected under article 27 but disagreed with the finding of a violation. They emphasised that the culling system was established after broad consultations and applied proportionally across herders. In their view, the State had balanced the collective interests of sustainable reindeer herding and had not arbitrarily interfered with the author's rights, especially since the Act allowed *siidas* to distribute the culling among themselves before State-imposed reductions took effect. They also noted that Sara inherited a small *siida* unit and that his expectation of operating a sustainable business with so few reindeer was not realistic in an overgrazed system.

More information:

- A similar case from 2014 (CCPR/C/110/D/2102/2011) was brought against Finland before the Committee concerning Sami's minority rights in regards to reindeer. There, no violation was found, affecting that this case reflects an evolution in jurisprudence.

PHILIPPINES

CCPR/C/141/D/3581/2019

M.L.D v. Philippines

Jurisdictional immunity of international organizations and State obligations to ensure fair trial under the Covenant

Substantive issues: Access to justice; right to a fair trial; right to privacy; non-discrimination; access to a remedy

Facts: The author is an Australian national, an Asian Development Bank (ADB) employee from 2007 to 2015, who was terminated for alleged poor performance. She contested this before the ADB Administrative Tribunal, citing unfair dismissal and gender discrimination, but her claims were dismissed in 2017. She argues that the tribunal lacks independence since its judges' terms depend on the ADB president, the respondent in all cases. She also claims due process violations, including denial of an oral hearing and improper consideration of evidence. With ADB's immunity preventing legal action in Philippine courts, she sought government intervention in 2017 but received no response.

The author claims that the lack of a competent, independent, and impartial tribunal, along with the State party's failure to intervene, violated her rights under article 14 (1), read with article 2 (3) of the Covenant. By not addressing or preventing gender-based discrimination, the State party denied her an effective remedy, violating articles 2 (1), 3, and 26. Additionally, by failing to take action under the Headquarters Agreement to ensure justice in her case, the State party violated her rights under article 17, read with article 2 (3).

Admissibility: The Committee rejected the State party's objection that the author failed to exhaust local remedies by not initiating privacy-related proceedings in national courts. The Committee held that due to the ADB's immunity, the author had no effective domestic remedies or reasonable alternative dispute resolution within the ADB available. Thus, it considered the claims under article 14 (1) (right to a fair trial) and article 17 (right to privacy), both read with article 2 (3) (right to an effective remedy), admissible.

The State party also argued that the author was outside its jurisdiction, but the Committee rejected this, noting that the issue of jurisdiction was central to the dispute. Since the author had no access to an independent tribunal due to ADB's immunity, her submission was not an abuse of the right of submission.

The Committee found the author's claims under articles 2 (1), 3, and 26 unsubstantiated and therefore inadmissible.

Merits: The Committee concluded that the facts of the case did not disclose a violation of article 14 (1), read in conjunction with article 2 (3), of the Covenant. The Committee acknowledged that the termination by the ADB left the author without legal protection, as the Bank's immunity prevented her from accessing national courts, and its internal dispute resolution mechanisms lacked independence and due process safeguards.

The Committee reaffirmed that, while international organizations enjoy jurisdictional immunity to ensure their independent functioning, such immunity must not deprive individuals of access to justice. It emphasized that States cannot be absolved of their obligations under the Covenant simply because legal authority has been transferred to an international organization. However, it also noted that internal dispute resolution mechanisms within international organizations may have different fair trial standards than national courts, as long as they remain objective, necessary, and free from arbitrariness.

The Committee found that the author had access to ADB's internal dispute mechanisms and that the tribunal reviewed her claims, issued a reasoned decision, and determined that oral hearings and witness testimony were not necessary. The Committee saw no evidence that these proceedings were arbitrary or amounted to a denial of justice.

RUSSIAN FEDERATION

CCPR/C/140/D/3022/2017

R. Bratsylo and V. Golovko et al. v. Russian Federation

Forced imposition of Russian nationality for Ukrainian nationals in Crimea, and transfer to the Russian Federation for completion of a prison sentence

The Committee's Views in this case represent an important pronouncement on questions related to the imposition of nationality and the rights of individuals following the occupation of Crimea by the Russian Federation. The authors of the communication are nationals of Ukraine, and were detained at a remand center in Crimea when it came under the occupation of the Russian Federation in 2014. Notably, the Committee considered that nationality constitutes an important component of one's identity and that protection against arbitrary or unlawful interference with one's privacy includes protection against the forceful imposition of a foreign nationality. In assessing these and other claims raised by the authors, the Committee's Views highlight not only the intersection of nationality with the rights guaranteed under the Covenant, but the restrictions on the retroactive application of criminal law of a State following its occupation of new territory.

Substantive issues: Arbitrary detention; retroactive application of criminal law; right to remain in one's country; right to privacy; discrimination on the ground of national origin

Facts: The authors of the communication are Roman Bratsylo, Valery Golovko, and Sergey Konyukhov, and all are nationals of Ukraine. The authors were detained at a remand centre in Crimea when it came under the occupation of Russia in February and March of 2014. Russia subsequently adopted a law proclaiming Crimea to be part of its territory, and Russian law began to be enforced in Crimea from 1 April 2014. Under this law, nationals of Ukraine and stateless persons who were permanent residents of Crimea automatically obtained Russian citizenship, and those who did not wish to become Russian citizens could opt out by personally presenting a declaration to a Federal Migration Service office within one month—i.e. between 18 March and 18 April 2014. However, the instructions on this procedure were only issued on 1 April 2014, and only two such offices had been established in Crimea by 9 April 2014. In addition, persons in detention were not notified of the nationality-related changes, and the few who found out about this law were not allowed to opt out.

Mr. Bratsylo was on trial for criminal offenses when the occupation began, and his detention was extended on new charges under the criminal code of the State party. He was sentenced and transferred from Crimea to the State party to serve his prison sentence. Mr. Golovko and Mr. Konyukhov were convicted and sentenced for offenses under the Ukrainian Criminal Code, and appealed in December 2013. On 31 July 2014, their appeals were considered by a court of appeal established by Russia, and the prosecutor moved to reclassify their charges under the Russian criminal code. Mr. Golovko submitted an unsuccessful cassation appeal. Still, following another cassation appeal from the prosecutor to the Supreme Court of the Republic of Crimea, their sentences were reduced by six months. Mr. Konyukhov and Mr. Golovko were transferred from Crimea to a prison in a province of the State party, and neither discovered that they had become Russian citizens until after the deadline to opt out.

The authors claim that the State party violated their rights under article 9 of the Covenant because their detention, after the beginning of the occupation of Crimea, was arbitrary—namely, because the Russian Federation does not have jurisdiction to execute sentences handed down by Ukrainian courts. In addition, the authors argue that their expulsion from Crimea to Russia to serve their prison sentences violated their rights under article 12 of the Covenant, which confers the right to stay in one's own country and contains a prohibition against forceful removal or expulsion from the territory of one's nationality. The authors also claim that Russia violated their rights under article 15 by applying its criminal legislation to them retroactively, as well as their rights under article 26 of the Covenant by imposing Russian citizenship on the authors and transferring them to the State party, which resulted in a negative impact on residents of Crimea who identify as Ukrainian. The authors also refer to article 65 of the Fourth Geneva Convention on the Protection of Civilians in Areas of Armed Conflict, which states that the penal provisions enacted by the occupying Power are not to come into force before they have been published and brought to the knowledge of the inhabitants in their own language. Finally, Mr. Golovko and Mr. Kunyukhov claim that the imposition of Russian citizenship on them had a negative effect on their private lives, forcing them to be loyal to Russia and conferring in them a new identity linking them to an aggressor State, in violation of article 17 of the Covenant. Although Mr. Golovko and Mr. Kunyukhov initially claimed a violation of article 16 of the Covenant (recognition as a person before the law), they withdrew this part of the claim.

Admissibility: The Committee noted that both the authors and the State party acknowledged that the Russian Federation exercises effective control over the territory of the Crimean peninsula, which engages the State party's jurisdiction for the purposes of the Covenant and the Optional Protocol. The Committee noted the withdrawal of the authors' claim under article 16 and did not examine it. The Committee concluded that there were no effective remedies that the authors could have pursued concerning their claims under articles 9, 12, 15, 17 and 26 of the Covenant, and, accordingly, that the Committee was not precluded from examining them in the present communication. The Committee therefore considered that the authors' claims under articles 9, 12, 15, 17 and 26 of the Covenant were admissible, noting that Mr. Bratsylo has not invoked a claim under article 17 of the Covenant.

Merits: The Committee noted that the authors' claims under article 9 and article 15 of the Covenant were closely linked, because they claimed that the State party applied its criminal legislation to them retroactively, which led to their arbitrary detention and conviction. The Committee noted that arrest or detention authorized by domestic law may nonetheless be arbitrary. The Committee noted that the crimes for which the authors were sentenced by the State party's domestic courts were not committed in its territory or against citizens of the State party, that there was no international agreement that would have allowed the State party to prosecute the authors or to execute decisions of Ukrainian courts, and that it was the Criminal Code of Ukraine that was in force in the territory of Crimea at the time of the commission of the crimes.

The Committee further noted that the Covenant explicitly prescribes that no derogation can be made from article 15 of the Covenant, which sets forth the principle of legality in the field of criminal law. The Committee recalled that the Covenant applies in situations of armed conflict to which the rules of international humanitarian law are also applicable, and that both spheres of law are complementary. It referred to the Fourth Geneva Convention protecting the rights of civilians in areas of armed conflict, including articles 65 and 67 thereof, which confirm the principles of non-retroactivity of penal law. The Committee concluded that the detention of Mr. Bratsylo, starting from 16 April 2014, and Mr. Golovko and Mr. Konyukhov, starting from 31 July

2014, when new charges against them were brought under the State party's domestic law, and the retroactive application of the State party's criminal law were arbitrary and constituted a violation of the authors' rights under articles 9 (1) and 15 (1) of the Covenant.

The Committee further considered that the transfer of the authors from Ukraine to Russia to serve their prison sentences was arbitrary and thus amounts to a violation of their rights under article 12 (4) of the Covenant. The Committee noted the State party's submission that it considers Mr. Golovko and Mr. Konyukhov to be Russian citizens only, and that they cannot be transferred to Ukraine because the withdrawal of citizenship from a person who is currently serving a prison sentence is prohibited. The Committee concluded that the authors have established that Ukraine is their own country within the meaning of article 12 (4) of the Covenant, and, per General Comment No. 27, the concept of an individual's own country is not limited to nationality in a formal sense. The Committee reasoned that a State party must not, by stripping a person of nationality or by expelling an individual to a third country, arbitrarily prevent this person from returning to his or her own country, and the same applies in situations of forced imposition of nationality.

The Committee considered that nationality constitutes an important component of one's identity and that protection against arbitrary or unlawful interference with one's privacy includes protection against the forceful imposition of a foreign nationality. As to Mr. Golovko and Mr. Konyukhov, the Committee considered that the refusal procedure only allowed those wishing to opt out of Russian citizenship 18 days to do so. Mr. Golovko and Mr. Konyukhov were told that the deadline had passed when they attempted to refuse citizenship, and were told that national legislation prohibited them from renouncing their citizenship while serving a prison sentence. The Committee further noted the lack of information as to whether Mr. Golovko and Mr. Konyukhov were duly informed about the right to refuse Russian citizenship before the applicable deadline. The Committee therefore considered that the procedure for opting out of acquiring Russian citizenship and the short time frame within which Mr. Golovko and Mr. Konyukhov could have opted out constituted a violation of their rights under article 17 of the Covenant.

With respect to Mr. Golovko and Mr. Konyukhov's claims under article 26, the Committee noted that the State party had failed to provide reasonable justification to explain why the automatic naturalization applied only to citizens of Ukraine, or stateless persons with permanent residence in the territory of Crimea or the city of Sevastopol. In the absence of convincing explanations, the Committee considered that the differentiation of treatment received by Mr. Golovko and Mr. Konyukhov, by way of their automatic naturalization on the basis of their national origin, was not based on reasonable and objective criteria, and therefore constituted discrimination on the ground of national origin under article 26 of the Covenant. The Committee further noted that States parties may have a legitimate interest in the transfer of prisoners to avoid overcrowding in certain prisons; however, such transfers cannot be carried out with disregard to the disproportionate consequences that they can have for members of protected groups. The Committee further noted that the Fourth Geneva Convention requires that sentences be served in the territory under the State party's effective control. Mr. Golovko's, Mr. Konyukhov's, and Mr. Bratsylo's subsequent transfer from Crimea to the State party, despite their protected status, violated their rights under article 26 of the Covenant.

The Committee concluded that the facts disclosed a violation of the rights of Mr. Bratsylo under articles 9 (1), 12 (4), 15 (1) and 26 of the Covenant, and of Mr. Golovko and Mr. Konyukhov under articles 9 (1), 12 (4), 15 (1), 17 (1) and 26 of the Covenant.

Recommendations: Considering that the authors have already served their prison sentences and been released, the State party should, *inter alia*:

(a) make full reparation to individuals whose Covenant rights have been violated;

(b) provide the authors with adequate compensation;

(c) eliminate the consequences of the imposition of Russian citizenship on Mr. Golovko and Mr. Konyukhov;

(d) ensure that all the authors have the possibility of returning to their own country; and

(e) take steps to avoid similar violations in the future, including by reviewing its legislation on citizenship and the retroactive application of the criminal law to the territory of Crimea to ensure that it is in compliance with the Covenant.

Deadline for implementation: 23 September 2024

CCPR/C/141/D/2576/2015

Y. Gritsunov v. Russian Federation

Death penalty appeal and the right to legal counsel

Substantive issues: Fair trial - legal assistance

Facts: The author, a Russian citizen, was convicted for abduction and murder, and sentenced to death by the Rostov Regional Court on 16 January 1997. His cassation appeal was reviewed by the Supreme Court of the Russian Federation on 22 May 1997, which made minor changes but confirmed the sentence. On 3 June 1999, his death sentence was commuted to life imprisonment by a presidential decree. In May 2009, the author submitted a complaint to the Office of the Prosecutor General, claiming that his right to defence had been violated during the cassation appeal because his lawyer had not been present, while the prosecutor had. He subsequently lodged several unsuccessful requests for supervisory review between 2009 and 2013, which were rejected on the basis that, under the legislation in force at the time, the presence of a lawyer at the cassation hearing was not mandatory. The author claims that the State party violated his right to legal assistance under article 14 (3) (d) of the Covenant.

Admissibility: In a separate decision on admissibility adopted on 14 July 2016, the Committee found the author's claims under article 2 (1) and article 14 (5) of the Covenant inadmissible under the Optional Protocol due to lack of substantiation. It also determined that the communication did not amount to an abuse of the right of submission. However, the Committee considered the author's claim under article 14 (3) (d)—regarding the absence of legal counsel during his cassation hearing—sufficiently substantiated for examination on the merits.

Merits: The Committee considered that the author's cassation hearing, held in a capital case, formed a vital part of the criminal proceedings, as it involved a reassessment of both factual and legal issues. Although the author had legal representation at trial and his lawyer filed the cassation appeal, she was not present at the hearing. The State party argued that domestic law at the time did not require the defence counsel's presence unless specifically requested and that neither the author nor his lawyer had petitioned for notification of the hearing.

The Committee rejected this justification, emphasizing that in cases involving the death penalty, the right to legal assistance must be ensured at all stages of the proceedings, regardless of domestic procedural rules. It also found that the State party had taken no steps to inform the author of his right to be represented or to facilitate the lawyer's participation. The absence of legal counsel at such a decisive moment amounted to a serious procedural deficiency. Accordingly, the Committee concluded that the author's rights under article 14 (3) (d) of the Covenant had been violated.

Recommendations: The State party should:

(a) review the trial court's verdict in compliance with the provisions of the Covenant and taking into account the Committee's findings in the present views;

(b) provide the author with adequate compensation;

(c) under an obligation to take all steps necessary to prevent similar violations

Deadline for implementation: 4 January 2025

Separate opinions: Committee member Mr. Hernán Quezada Cabrera issued a concurring opinion, with which he expressed disagreement with the remedy to review the cassation appeal from 1997, which would be infeasible due to the considerable time that had elapsed.

Committee member Mr. José Manuel Santos Pais issued a dissenting opinion, arguing that the author abused his right to submission and that, therefore, his communication should have been declared inadmissible. Additionally, in his dissent on the merits, he found no violation of article 14 (3) (d) of the Covenant since the author and his lawyer had the opportunity to submit their cassation appeals in due course with all the arguments they deemed necessary for the defence.

CCPR/C/141/D/3068/2017

A.M. v. Russian Federation

Allegations of coerced confession amounting to torture alongside unfair trial in Russia

Substantive issues: Torture; unfair trial

Facts: The author, A.M., a Russian national, was arrested in July 2009 on suspicion of murder. His detention was not officially recorded for two days, during which he claims he was beaten by a police investigator to force a confession implicating his co-accused. His manager later visited him in custody, saw visible injuries, and called an ambulance and a prosecutor, but medical personnel classified the injuries as minor. The author submitted complaints of ill-treatment to the Novy Urengoy City Court, but received no response. During trial, the author claimed he was not allowed to inform the jury that his confession had been obtained under coercion. He also argued that key witnesses were not questioned, including two individuals whose testimonies allegedly supported his defence. In February 2010, he was convicted of murder and sentenced to 16 years in prison. In May 2010, his appeal to the Supreme Court was rejected, and further supervisory review appeals over the years were also dismissed.

In the present communication, the author alleges violations of articles 7, 10 (1), and 14 (3) (e) and (g) of the Covenant, arguing that he was tortured to extract a confession, denied the right to call and examine witnesses, and subjected to an unfair trial.

Admissibility: The Committee found the communication inadmissible under articles 2 and 5 (2) (b) of the Optional Protocol due to a lack of substantiation and failure to exhaust domestic remedies. It then addressed the claims under articles 7, 10 (1), and 14 (3) (g) separately. Regarding article 7, the Committee noted that the author failed to provide documentary evidence of his complaints to the prosecutor or courts. In the absence of such evidence, the claim was deemed insufficiently substantiated and thus inadmissible. On article 10 (1), the Committee found that the author did not clarify its relevance to the case and the claim was also declared inadmissible.

With respect to article 14 (3) (g), the Committee observed that the trial court had examined the circumstances of the author's interrogation and found no evidence of coercion. Since the author failed to provide specific evidence demonstrating that he had been compelled to testify against himself, the claim was considered insufficiently substantiated. Separately, the Committee determined that the author's claim under article 14 (3) (e) remained unsubstantiated. The trial court had provided clear reasons for refusing to summon additional witnesses and for admitting a video recording as evidence, citing concerns over procedural irregularities and authenticity. In the absence of any demonstration as to how these witnesses were essential to the author's defence, the claim was rendered inadmissible.

CCPR/C/141/D/3034/2017

A. Fedortsov v. Russian Federation

Deteriorating conditions of detention in a temporary detention facility

Substantive issues: Poor conditions of detention in a temporary detention facility

Facts: The author of the communication is a Russian national who was sentenced to one year and six months in prison in 2011 and, prior to his transfer to a prison colony, he was placed in a temporary detention facility and in a solitary confinement cell. The small cell reflected internal temperatures below 10°C, with 10-15cm of snow on the cell floor and window frames with no glass. Following complaints regarding the conditions of the cell through a lawyer, the author was transferred to different cells, and was eventually transferred to a prison colony to serve his sentence. The author was transferred again to the temporary detention facility, and he was moved to different cells following complaints regarding the conditions. The author alleges that the conditions of his detention deteriorated further, and he was no longer provided with medical attention despite his requests.

Subsequently, while serving his sentence in a prison colony, the author was charged with murder, and he was transferred to the same temporary detention facility after consecutive requests by the investigator. The author's appeals regarding the extension of his detention were rejected. The author was found guilty of murder and sentenced to life imprisonment, and this conviction was upheld by the State party's Supreme Court. The author's motion on the ground that one of his lawyers was unable to attend a judicial investigation hearing was dismissed, and his appeals were unsuccessful. Finally, the author submitted a civil claim for damage caused by the inhuman conditions of his detention in the temporary detention facility, but a city court concluded that the author had failed to substantiate his claim, and this decision was upheld on appeal.

The author claims that the State party violated his rights under articles 7, 9, 10 (1), and 14 (3) (b) and (d) of the Covenant. Under article 7, he refers to his right not to be subjected to cruel, inhuman, or degrading treatment, given the harsh conditions of his detention. Under article 9, he highlights his right to liberty and security, including protection against arbitrary detention and the right to have a court review his detention. He also invokes article 10 (1), which requires that anyone deprived of liberty be treated with humanity and respect. Lastly, he argues that article 14 (3) (b) and (d) were violated, as he was denied enough time and facilities to prepare his defence and was not properly assisted by a lawyer of his choice during the proceedings.

Admissibility: The Committee considers that the author's claims under article 10 regarding his conditions of detention at the temporary detention facility are admissible. However, the Committee considers that the author's claims under article 9, which pertain to arbitrary arrest and detention pursuant to court decisions, are inadmissible. The author was already serving a prison sentence when the decisions in question was adopted and, while the question of transfer of detainees might raise questions under the Covenant, the author has failed to substantiate how the choice of the place of his detention falls under article 9 of the Covenant. In addition, the Committee notes the author's claims that his detention in poor conditions was used to make him confess guilt, that his health deteriorated due to the poor conditions of detention, and that he was handcuffed arbitrarily whenever he was taken out of the cell, are inadmissible under article 7 for insufficient substantiation. The author's claims under article 14 (3) (b) are also inadmissible for lack of substantiation, insofar as they pertain to the author's inability to prepare his defense as a result of being detained in inhuman conditions. Finally, the Committee considers that the author's claim

under article 14 (3) (b), regarding the violation of his right to defense because only of his two contracted lawyers was present at a hearing, is inadmissible for lack of substantiation.

Merits: The Committee considers that the conditions of the author's detention in the temporary detention facility, as described by the author, amounted to inhuman and degrading treatment and constitute a violation of article 10 (1) of the Covenant. The Committee notes the author's detailed accounts, as well as the findings of State party's prosecutor and penitentiary service which noted the generally unsatisfactory condition of the building, the missing glass in many windows, the unsafe electricity isolation, missing parts of the floor, the humidity level and the presence of insects in the cells. The Committee considers that the author's conditions of detention violated his right to be treated with humanity, with respect for the inherent dignity of the human person.

Recommendations: The State party should, *inter alia*:

(a) make full reparation to individuals whose Covenant rights have been violated;
(b) take appropriate steps to provide the author with adequate compensation; and
(c) take all steps necessary to prevent similar violations from occurring in the future.

Deadline for implementation: 5 January 2025

CCPR/C/142/D/2932/2017; CCPR/C/142/D/3005/2017; CCPR/C/142/D/3047/2017; CCPR/C/142/D/3087/2017

S.P. et al. v. Russian Federation

Absence of legal counsel during cassation hearings and denial of fair trial guarantees by Russia

Substantive issues: Fair trial – legal assistance

Facts: The authors, S.P., A.P., V.K., and B.N., all Russian nationals, claim that their right to legal assistance during cassation proceedings was violated. Each was convicted of serious crimes, including murder and fraud, and filed cassation appeals, which were heard in their absence and without legal representation, while the prosecution was present. S.P. was convicted of murder in 2006 and sentenced to 24 years in prison. His cassation appeal was heard in 2007 without a lawyer, and his subsequent supervisory review appeal in 2010 was also decided in his absence. A.P. was acquitted in 2006, but had his acquittal overturned on cassation in his absence, leading to a retrial and a life sentence in 2010. His appeal regarding lack of legal counsel was dismissed in 2011. V.K. was convicted of murder in 2006, sentenced to 19 years, and had his cassation appeal denied without a lawyer present. He filed a new cassation appeal in 2016, which was rejected. B.N. was convicted of fraud in 2008, and his cassation appeal was heard in his absence despite requesting legal representation. His supervisory review appeal was dismissed in 2010, and subsequent complaints to the Constitutional Court and prosecutor's office were rejected.

All authors claim that their right to a fair trial under article 14 (3) (d) was violated. B.N. additionally claims violations of articles 14 (1), (5), and 26, arguing that similar cases were granted cassation reviews with legal assistance, while he was denied the same treatment.

Admissibility: The Committee declared the communications inadmissible under article 3 of the Optional Protocol, citing abuse of the right of submission due to excessive delays. It noted that the authors submitted their communications between 2016 and 2017, but their cassation proceedings occurred between 2006 and 2008, with supervisory reviews ending between 2010 and 2011. Given that the authors waited between six and eleven years before filing, the Committee found the delay unreasonable, particularly as they failed to provide convincing explanations. While the Committee does not impose strict time limits, it expects a justification for delays beyond five years, which the authors did not adequately provide. The Committee also dismissed claims of legal illiteracy and lack of access to legal resources, noting that some authors filed multiple domestic appeals and had legal representation. Additionally, it found that extraordinary review proceedings (e.g., supervisory appeals) do not reset the timeline for submission.

CCPR/C/142/D/2935/2017

V. Kalin and R. But et al. v. Russian Federation

Banning religious brochures of Jehovah's Witnesses in the Russian Federation

Substantive issues: Freedom of religion; freedom of expression; discrimination on the ground of religion

Facts: The authors are citizens of the Russian Federation and members of the Jehovah's Witnesses. Mr. Kalin is a Chairperson of the Administrative Centre of Jehovah's Witnesses in Russia, which imports religious literature on behalf of Jehovah's Witnesses in the Russian Federation. Mr. But and Mr. Kreydenkov are Jehovah's Witnesses living in Belgorod. In 2014, the Belgorod City Prosecutor's Office initiated proceedings to declare certain Jehovah's Witnesses' religious brochures as extremist materials. Despite expert findings indicating that the brochures did not contain calls to hostile or violent actions, the Oktyabrsky District Court designated two brochures, *Was Life Created?* and *The Son Is Willing to Reveal the Father*, as extremist, citing references to previously banned publications and passages suggesting religious superiority. Appeals were unsuccessful, and the publications were added to a federal list of extremist materials. The authors allege that the State party violated their rights under articles 18 (freedom of religion), 19 (freedom of expression), 26 (non-discrimination), and 27 (right as a minority group to profess and practice their religion) of the Covenant.

Admissibility: The Committee noted that the authors submitted their complaint in their personal capacity and did not claim rights on behalf of their organization, the Administrative Centre, as a separate legal entity. The Committee found that Mr. But and Mr. Kreydenkov exhausted all available domestic remedies, but that Mr. Kalin had failed to do so because he did not personally take part in domestic judicial proceedings. The Committee considered, however, that Mr. But and Mr. Kreydenkov had sufficiently substantiated their claims under articles 18 and 19, but not articles 26 and 27, of the Covenant for the purposes of admissibility. The Committee therefore considered that the communication was admissible under the Optional Protocol, as to the claims brought by Mr. But and Mr. Kreydenkov under articles 18 and 19 of the Covenant.

Merits: The Committee considered that imposition of a ban on the two religious publications in question was contrary to the freedom to manifest one's religion, and amounted to a violation of Mr. But's and Mr. Kreydenkov's rights under article 18 (1) of the Covenant. The freedom to own and use religious texts or publications forms part of the right to manifest one's beliefs, and the banning of religious publications constitutes a limitation of that right. A limitation on the right to manifest religion is to be strictly interpreted. The Committee found that the State party's Federal Act on Combating Extremist Activity contained a vague and open-ended definition of "extremist activity." In addition, prohibitions of displaying religion were incompatible with the Covenant, except in specific circumstances envisaged in article 20 (2) of the Covenant. The Committee considered that the State party did not provide information to lead the Committee to conclude that the banned brochures contained information contrary to article 20 (2) of the Covenant. Moreover, a general reference to protecting the rights of others and the State was insufficient to meet the requirements of article 18 (3), and the State party had therefore failed to justify the restrictions on the manifestation of the authors' religion.

Additionally, the Committee considered that the rights of Mr. But and Mr. Kreydenkov under article 19 (2) were also violated. By banning the two brochures, the State authorities interfered

with the right to seek, receive and impart information. Although article 19 (3) of the Covenant allows for certain restrictions, such restrictions must conform to the strict tests of necessity and proportionality. The onus is on the State party to demonstrate that the restrictions were necessary and proportionate. Since the State party was not able to provide information that the banned brochures contained information contrary to article 20 (2) of the Covenant, the Committee considered that the restrictions imposed on Mr. But and Mr. Kreydenkov, though based on domestic law, were not justified pursuant to the conditions set out in article 19 (3) of the Covenant. The Committee therefore considered that the facts disclosed a violation by the State party of the rights of Mr. But and Mr. Kreydenkov under articles 18 (1) and 19 (2) of the Covenant.

Recommendations: The State party should, *inter alia*:

(a) provide Mr. But and Mr. Kreydenkov with an effective remedy by making full reparation to individuals whose Covenant rights have been violated;

(b) remove the ban on the above-mentioned publications;

(c) take appropriate steps to provide Mr. But and Mr. Kreydenkov with adequate compensation;

(d) take all steps necessary to prevent similar violations from occurring in the future; and

(e) ensure that all relevant provisions of domestic law are made compatible with articles 18 and 19 of the Covenant.

Deadline for implementation: 22 April 2025

SLOVAKIA

CCPR/C/141/D/3193/2018

Aslan Achmetovič Jandiev v. Slovakia

Extradition to Russia despite a risk of torture and a pending asylum claim

Substantive issues: Freedom from torture and cruel, inhuman, or degrading treatment or punishment

Facts: The author, Aslan Achmetovič Jandiev, is a Russian national of Ingush ethnicity and Muslim faith who was accused of involvement in terrorism-related crimes in North Ossetia–Alania. He claimed that the charges were politically motivated due to his ethnicity and religious background and that he had been arbitrarily detained and tortured by Russian authorities between 2005 and 2007 as part of counterterrorism operations in Ingushetia. In 2006, after one such detention, he was hospitalized for a concussion caused by police beatings. Fearing further persecution, the author left Russia in 2008, travelling through Ukraine, Slovakia, Czechia, and Germany before being returned to Slovakia, where he applied for asylum under a false identity.

His initial asylum claim was rejected in 2010 by the Belgian authorities, and after being returned to Slovakia, he filed a second asylum application with his real name. The Slovak Migration Office rejected his asylum claim five times, with each decision annulled by domestic courts. Meanwhile, Russia requested his extradition in 2011, providing several diplomatic assurances that he would not be tortured and would receive a fair trial. Despite that, on appeal in 2017, the Slovak Supreme Court found that the author faced a foreseeable, real, and personal risk of torture in Russia questioning the reliability of these diplomatic assurances. They further noted that, since he had unsuccessfully sought international protection, the probability of him being further exposed to torture had increased. In 2016, however, the European Court of Human Rights (ECtHR) ruled that there were no substantial grounds to believe that his extradition would expose him to a real risk of torture, as Russia had been seen to respect guarantees in similar instances. In 2018, then, the Minister of Justice approved his extradition and the Slovak Constitutional Court, relying on ECtHR decision, upheld the action to allow extradition. Notably, on 21 June 2018, the Committee had issued a request for interim measures, instructing Slovakia to refrain from extraditing the author while it reviewed his case. The Committee had reiterated this request on 13 July 2018. However, on 17 July 2018, Slovakia proceeded with the extradition, sending the author to Russia where he was detained.

The author claims that his extradition violated article 7 of the Covenant, as he faced a credible risk of torture, and that Slovakia's failure to comply with the interim measures further constitutes a serious violation of its obligations under the Covenant and the Optional Protocol.

Admissibility: The Committee found the author to have exhausted all effective domestic remedies therefore finding the communication admissible under article 5 (2) (b). It rejected Slovakia's argument that the case was inadmissible due to *res judicata*, as new factual circumstances had emerged since the 2016 ECtHR ruling, including the Supreme Court's finding of a real risk of torture

and Slovakia's failure to respect interim measures. The Committee also declared the claims under article 7, read with article 2 (3), as sufficiently substantiated and accordingly admissible.

Merits: The Committee found that Slovakia violated article 7 of the Covenant by extraditing the author while his asylum proceedings were still pending, and despite clear evidence of a foreseeable, real, and personal risk of torture in Russia. It emphasised that Slovakia's reliance on diplomatic assurances from Russia were insufficient, given consistent reports of torture, especially against terrorism suspects, and that the lack of an individual risk assessment before extradition breached the State party's obligations under the Covenant. The Committee further determined that Slovakia's failure to comply with the interim measures by them constituted a serious violation of the Optional Protocol, undermining their ability to review the case effectively as well as denying the author the full protection of his rights under the Covenant.

Recommendations: The State party should:

(a) take steps to verify the author's current status and ensure continued monitoring of his detention conditions in Russia;
(b) provide adequate compensation to the author for the violation of his rights;
(c) implement safeguards to prevent similar violations in future extradition and asylum cases.

Deadline for implementation: 12 January 2025

SOUTH AFRICA

CCPR/C/140/D/3237/2018

W.L.W. v. South Africa

Differential treatment in mineral rights holders in South Africa

Substantive issues: Discrimination on the grounds of property; right to an effective remedy

Facts: The author acquired ownership of a farm known as "The Cascade" through a cessionary contract with the Kerneels Greyling Trust in 2011. This contract included a claim to royalties from iron ore deposits on the land. In 2002, South Africa enacted the Mineral and Petroleum Resources Development Act (MPRDA), restructuring mineral rights and designating resources as the common heritage of all citizens. The Act introduced the "use it or lose it" principle, requiring mineral rights holders to actively prospect or mine to retain their rights. The author contends that this transition disadvantaged holders of unused mineral rights, who had only one year to apply for new rights, often facing financial and logistical barriers.

However, under the MPRDA and the Chief Registrar's Circular No. 11 of 2004, such rights were removed from title deeds, nullifying the author's entitlement to claim royalties. Between 2010 and 2011, approximately 250 holders of old-order mineral rights, including the author, lodged claims for compensation with the Department of Mineral Resources, asserting that their rights had been expropriated. These claims were ultimately dismissed.

In 2013, South Africa's Constitutional Court ruled in *Agri South Africa v. Minister for Minerals and Energy* that the MPRDA did not constitute an expropriation, as the State did not acquire ownership of mineral rights. The author, affiliated with Agri South Africa, argues that this ruling precluded further legal action and eliminated his prospects of claiming compensation.

The author claims that the State party, by treating mineral rights holders differently and establishing a discriminatory legislative framework, violated article 2 and 26 of the Covenant.

Admissibility: The Committee found the claim under articles 2 and 26 of the Covenant to be inadmissible. The Committee recalled its jurisprudence on the obligation to exhaust domestic remedies, which does not apply when they objectively have no prospect of success. Doubts or assumptions about the effectiveness of domestic remedies do not absolve authors from exhausting them. The Committee notes that the cited Constitutional Court decision only dealt with compensation in cases of expropriation of rights and did not address the alleged differential treatment in the application of the Mineral and Petroleum Resources Development Act. Since the author has not pursued this claim of differential treatment before domestic authorities, he failed to exhaust local remedies.

Additionally, the Committee points out that at the time of his submission, the author was under an obligation to disclose his pending expropriation claim before domestic courts. In the eyes of the Committee, this failure may constitute an abuse of submission under article 3 of the Optional Protocol, making it unnecessary to consider the remaining inadmissibility grounds.

SPAIN

CCPR/C/140/D/3101/2018

Joaquín José Ortiz Blasco v. Spain

Spanish judge convicted on sole instance without the right to appeal

Substantive issues: Right to have a criminal judgment reviewed by a higher court

Facts: The author, Joaquín José Ortiz Blasco, a Spanish national and judge in the Administrative Division of the High Court of Justice of Catalonia, was tried in sole instance by the Supreme Court in 2012 for dealings and activities prohibited for public servants and abuse of public office. On 25 April 2014, the Supreme Court convicted him, imposing a fine of €13,500, a two-year suspension from public office, and liability for legal costs. The judgment was not subject to appeal. The author filed a motion for annulment, which the Supreme Court dismissed without addressing the merits. He then submitted an amparo appeal before the Constitutional Court, arguing that a conviction in sole instance violated his right to a second hearing. On 24 November 2015, the Constitutional Court dismissed the appeal, finding no violation of fundamental rights.

In his communication, the author alleges a violation of article 14 (5) of the Covenant on the right to appeal in criminal cases, arguing that Spain's continued failure to provide an appeal mechanism for officials tried in sole instance by the Supreme Court contradicts previous Committee rulings on the matter.

Admissibility: The Committee declared the communication admissible, rejecting Spain's argument that the case constituted an abuse of the right of submission, finding the author's claims under article 14 (5) to be sufficiently substantiated.

Merits: The Committee found a violation of article 14 (5), reaffirming that the right to appeal is fundamental and cannot be denied based on an individual's status or the court that initially tried the case. It submitted that while a State party's legislation may provide for the trial of an individual to be by a higher court by first instance, such does not eliminate the requirement for a higher-level review. Since Spain failed to provide any effective remedy for the author to seek a review of his conviction and sentence, the Committee concluded that his rights under article 14 (5) had been violated.

Recommendations: The State party should:

(a) provide an effective remedy by ensuring the author's conviction and sentence can be reviewed by a higher court in line with article 14 (5) of the Covenant;
(b) take all steps necessary to prevent similar violations from occurring in the future;
(c) ensure that the relevant legal framework is in conformity with the requirements of article 14 (5) of the Covenant.

Deadline for implementation: 9 September 2024

CCPR/C/140/D/4063/2021

F.C.S. v. Spain

Alleged violations of fair trial rights in the Spanish 'Gürtel' high-profile political corruption case

Substantive issues: Political activities; accused/convicted persons; criminal conviction; criminal offence; right to an effective remedy; equality before courts and tribunals; fair trial; undue delay; presumption of innocence; criminal procedure; competent, independent and impartial tribunal

Facts: The author, F.C.S., a Spanish national, is a business owner in the media sector. He was accused of leading a corruption scheme known as the Gürtel case, one of Spain's largest political corruption scandals. His conviction was based in part on voice recordings made between 2006 and 2007 without consent. During the investigation, the judge authorised the surveillance of conversations between the detained defendants and their lawyers for over 70 days, during which they discussed their legal strategy. The judge responsible for this surveillance was later prosecuted and convicted for an offence against the administration of justice. However, the High Court of Valencia ruled that the recordings had been removed from public archives and thus did not constitute a violation of the author's rights. On 8 February 2017, amidst media and political pressure, the Civil and Criminal Chamber of the High Court of Valencia convicted the author for criminal conspiracy, influence-peddling, embezzlement of public funds, and active bribery, sentencing him to several years in prison and substantial fines. He is currently serving his sentence in prison.

The author appealed to the Supreme Court but his appeal was dismissed. His subsequent amparo appeal before the Constitutional Court was declared inadmissible. He then submitted an application to the European Court of Human Rights (ECtHR), which was also dismissed for failing to meet the admissibility criteria under articles 34 and 35 of the European Convention on Human Rights.

In the present communication, the author alleges violations of article 14 (1), (2), (3) (c) and (g), and (5) of the Covenant, claiming that his trial was unfair, politically influenced, and marred by undue delays.

Admissibility: The Committee found the communication inadmissible under articles 2 and 5 (2) (a) and (b) of the Optional Protocol. It noted that the ECtHR had already examined the case in a manner that constituted some degree of consideration of the merits, rather than a mere admissibility review. Since the ECtHR found the author's claims to be manifestly ill-founded, the Committee held that, under its existing jurisprudence, this determination precluded further review under article 5 (2) (a).

Regarding the claim under article 14 (5), the Committee found that the Supreme Court had thoroughly reviewed the author's 14 grounds of appeal, including the fairness of proceedings, the legality of evidence, and sentencing issues. Further, they had done so by excluding certain evidence that prejudiced the author's right of defence, and considering other evidence. The Committee accordingly concluded that the author had not sufficiently substantiated his claims and declared them inadmissible under article 2 of the Optional Protocol.

SWEDEN

CCPR/C/140/D/2936/2017

J.. v. Sweden

Deportation to Afghanistan following lengthy asylum applications and proceedings in Sweden

Substantive issues: Arbitrary detention; arbitrary/unlawful interference; health; non-refoulement; refugees; right to life; torture; freedom of religion; freedom of opinion or expression

Facts: The author of the communication is a national of Afghanistan and has unsuccessfully applied for asylum and for a residence permit in the State party several times. The author's parents were granted residence permits. Over the course of the author's applications, he claimed, *inter alia,* that he would be killed by the Taliban or Da'esh on his return to Afghanistan, and that he dealt with health issues. The author initially claimed that he had not had any personal encounters with the Taliban, but later stated that the Taliban had destroyed his fruit stand and had raped him. The author's applications were rejected because, in relevant part, he had not demonstrated personal and concrete threats against him, and did not suffer from serious health problems. In February 2016, the author was deported, but was refused entry in Afghanistan and was returned to Sweden. The author later filed another application for asylum, invoking prior arguments and adding that he had become an atheist and would be persecuted and refused entry into Afghanistan. The application was rejected because the author had not plausibly demonstrated that his atheism was based on a genuine and personal conviction, or that anyone knew about it in Afghanistan, and because he did not sufficiently explain why he had waited so long to inform the asylum authorities that he was an atheist. The author's appeal was unsuccessful, and the Migration Court highlighted that the author's submissions could not be considered reliable because they had been significantly modified during the various proceedings. The Migration Court of Appeal rejected the author's request for leave to appeal.

The author alleges that, by deporting him to Afghanistan, the State party would violate his right to life under article 6, the right to freedom of religion under article 18, the right to freedom of expression under article 19, the prohibition on arbitrary and unlawful interference with privacy, family, home or correspondence under article 17, the prohibition on torture under article 7, and the right to liberty and prohibition on arbitrary detention under article 9.

Admissibility: The Committee recalled that, in its General Comment No. 31, it referred to the obligation of States parties not to deport or otherwise remove a person from their territory when there are substantial grounds for believing that there is a real risk of irreparable harm. However, considerable weight is given to the assessment conducted by the State party, unless it was clearly arbitrary or amounted to a denial of justice.

The Committee considered the author's claim under article 17 that his deportation would separate him from his parents and cause him hardship, and the claim that his deportation would violate articles 6 and 7 due to the state of the author's mental health. The Committee noted that the author came to Sweden as an adult, and the State party's migration authorities had reviewed the author's mental health and medical documentation. The Committee did not find that the assessment by

the State party's authorities was clearly arbitrary or erroneous or amounted to a denial of justice. The author further had not provided any information to substantiate the claim that he would face a personal risk of irreparable harm from Da'esh. Therefore, the author's claims under articles 6, 7, and 17 were inadmissible for insufficient substantiation. The Committee also considered that the author had not provided any details regarding his claims under articles 9 and 19 of the Covenant, and those claims were therefore inadmissible.

With respect to the alleged risk of harm by the Taliban, the Committee considered that the author had not provided an adequate explanation for the significant shifts in the nature of his claims, and therefore had not substantiated the argument that the assessment of his claims by the State party was clearly arbitrary or erroneous, or amounted to a denial of justice. Finally, regardless of the sincerity of the author's atheism, he had not provided evidence to indicate that he engages in behavior or activities in connection with his atheism that would expose him to a real and personal risk of treatment contrary to articles 6 or 7 if he were deported to Afghanistan. In addition, he failed to indicate how the migration authorities erred in assessing the risk he would face with respect to his atheism. Therefore, the author's claims under articles 6, 7 and 18 in relation to his atheism were inadmissible.

CCPR/C/140/D/3245/2018

Tatiana Kisileva v. Sweden

Denied residency permit for family reunification based on insufficient family dependency

Substantive issues: Right to family life; discrimination on the ground of nationality

Facts: Tatiana Kisileva, a Russian national born in 1945, applied for a residence permit in Sweden in 2014 for family reunification with her adult daughter and granddaughter, who had moved to Sweden in 2012. She argued that due to her advanced age, chronic illnesses, and depression, she was economically and emotionally dependent on her daughter. Her application was denied by the Swedish Migration Agency in 2015, a decision upheld by the Migration Court (2016) and Migration Court of Appeal (2016) on the grounds that she did not meet the criteria for exceptional ties under Swedish law. The authorities did not dispute her bond with her daughter but determined that the level of dependency required for reunification was not met.

The author claims that the State party's action violated her rights under article 2 (1), 17 and 26, claiming that the arbitrary denial of the residency permit interfered with her right to family life and that the migration system discriminates based on national origin.

Admissibility: The State party argued that the Committee could not consider the case because the European Court of Human Rights (ECtHR) had already examined it, and under article 5 (2) (a) of the Optional Protocol, the Committee is not allowed to consider cases that are being or have been examined by another international body. The Committee reaffirms its jurisprudence that if the ECtHR's inadmissibility decision is based on a substantive assessment, the matter is considered "examined" under article 5 (2) (a). However, when the ECtHR provides no reasoning or clarification, the case cannot be deemed to have been assessed on its merits. Since the ECtHR's decision in this instance lacked such reasoning, the Committee was not precluded under article 5 (2) of the Optional Protocol to consider the communication.

The Committee declared the claim under article 2 (1) and 26 to be inadmissible. Regarding article 2 (1), the Committee recalled its constant jurisprudence that the provision lays out general obligations and cannot itself substantiate a claim under article 5 (2) Optional Protocol. Concerning article 26, the author failed to dispel the State party's objection that she did not exhaust all local remedies nor sufficiently substantiate the claim under article 26. The Committee found the claim under article 17 sufficiently substantiated and, therefore, admissible.

Merits: The Committee found that the State party, by rejecting the application for family reunification, arbitrarily interfered in the right to family life under article 17. While the State's immigration laws pursue a legitimate objective, the key issue was whether the authorities' assessment was in line with the Covenant's principles and reasonable in the specific circumstances of the case. The Committee found that Swedish authorities failed to adequately consider several critical factors, including Kisileva's advanced age, deteriorating health, and limited mobility, which hindered her ability to travel and maintain a close relationship with her daughter and granddaughter. Additionally, the decision did not properly account for her economic dependence on her daughter, who was willing and able to support her financially and provide accommodation. Given these shortcomings, the Committee concluded that the authorities did not sufficiently evaluate Kisileva's circumstances, rendering the decision unreasonable under article 17 of the Covenant.

Recommendations: The State party should:

(a) provide the author with an effective re-evaluation of her application for family reunification, taking into account the Committee's findings in the present case; and

(b) take all necessary measures to prevent similar violations from occurring in the future

Separate opinions: Committee members Mr. Carlos Gómez Martínez, Mr. Rodrigo A. Carazo, and Ms. Marcia Kran separately issued dissenting opinions, arguing that the Committee should have followed its well-established jurisprudence, which states that considerable weight should be given to the assessment conducted by the State party. They emphasized that it is generally the role of the States parties' organs to review and evaluate facts and evidence unless the evaluation is found to be arbitrary or amounts to a denial of justice. They viewed the State party's assessment of the author's circumstances as sufficient and argued that the author did not sufficiently demonstrate that the assessment was arbitrary, amounted to a manifest error, or constituted a denial of justice. Therefore, members Mr. Gómez and Ms. Kran concluded that no violation of article 17 occurred. While member Mr. Carazo agrees with Mr. Gómez's dissent on the subject matter, however concludes that the State party may, upon request, re-evaluate the author's application.

Deadline for implementation: 25 September 2024

CCPR/C/141/D/3307/2019

C v. Sweden

Deportation of a whistleblower fearing retaliation

Substantive issues Effective remedy; cruel, inhuman or degrading treatment or punishment; fair trial; non-refoulement; refugees; torture

Facts: The author, a former security officer for Albania's Republican Guard, claims he faced threats after preventing an explosion involving a high-ranking official's car in 2013 and refusing to comply with unlawful orders. He alleges that powerful individuals, including the General Director of Anti-Corruption and the Minister of the Interior, repeatedly threatened him. After his dismissal in 2014, he and his wife (D) faced daily persecution, forcing them to separate for safety. Despite attempts to seek justice, authorities failed to act.

In 2015, the author testified in court against a criminal organization with State ties, further increasing his risk. Soon after, he, D, and their child (E) fled to Sweden and applied for asylum, but their request and subsequent appeals were denied, despite the author's claim of a credible fear of persecution. After a former Albanian prime minister publicly linked him to a political scandal in 2016, media coverage exposed his case, and his family in Albania was targeted—his brother was brutally attacked, and his parents' home was set on fire. In March 2017, the family requested a re-examination of their asylum case based on these new threats. Following the birth of their second child (F) in November 2017, they applied for asylum on her behalf. However, both applications were rejected, with the Migration Court and the Migration Court of Appeal refusing to overturn the decisions. Despite these developments, Swedish authorities rejected his request for asylum re-examination in 2017 and denied a separate asylum application for his second child (F) in 2018.

The author claims that the deportation of him, D, E and F by the State party to Albania would violate article 7, as he would face cruel and inhuman treatment by government and non-government actors. Additionally, the State party by making procedural errors violated the family's right to a fair hearing under article 2 (1) and (3) and 14 (1) of the Covenant.

Admissibility: The Committee declared the claims under article 2 (1) and (3) to be inadmissible, as the provision sets out general obligations for States parties and can not be invoked separately. The Committee deemed the claim under article 14 (1) inadmissible *ratione materiae*, as extradition, expulsion, and deportation do not constitute rights and obligations in a suit at law but fall under article 13, which governs procedures for an alien's obligatory departure.

The Committee found the author's claim under article 7 of the Covenant inadmissible due to insufficient substantiation. It reasoned that the Swedish migration authorities thoroughly assessed the family's protection claims across multiple proceedings from 2015 to 2022, providing the author with legal representation, interpretation services, and opportunities to present his case. The Committee determined that the author failed to demonstrate arbitrariness or procedural errors in the domestic authorities' decisions. Additionally, it noted inconsistencies in the author's statements, the lack of evidence supporting his alleged threats, and the absence of recent harm. Given these factors, the Committee concluded that the claim did not meet the high threshold required to establish a real risk of irreparable harm.

CCPR/C/141/D/3623/2019

Z.D. v. Sweden

Risk of deportation and indirect refoulement of a Burundian asylum-seeker from Sweden to Zambia

Substantive issues: Right to life; torture; cruel, inhuman, or degrading treatment or punishment

Facts: The author, Z.D., a Burundian national born in Rwanda, submitted the communication on behalf of herself and her daughter, M.M., born in Sweden in 2020. Having fled Burundi due to political persecution, she later traveled from Zambia to Sweden and now faces deportation to Zambia, where she fears imprisonment and forced removal to Burundi, risking torture, rape, or death. She argues that she has no real ties to Zambia and that asylum-seekers there face inhumane conditions, including overcrowded detention and lack of protection. Z.D. claims she was targeted by the Imbonerakure, the ruling party's youth militia, after her uncle, a high-ranking general, opposed the President's third-term bid and was linked to a failed 2015 coup. Facing threats and attacks, she fled to Zambia, where she obtained a Zambian passport with assistance and used it to apply for a Swedish visa. After arriving in Sweden in 2015, she sought asylum as a Burundian citizen, submitting identity documents and undergoing an interview in Kirundi, a language not spoken in Zambia. However, the Swedish Migration Agency rejected her claim in 2017, determining she was Zambian based on visa records and a Zambian national registration card. The Migration Court upheld this in 2018, dismissing her Burundian documents as easily falsifiable and of low probative value. A later attempt to prove her Burundian identity with an expired passport was also rejected.

The author alleges violations of articles 6 and 7 of the Covenant arguing that Sweden failed to assess the real risk of her being removed from Zambia to Burundi and the possibility that she would face serious harm if returned to either country.

Admissibility: The Committee found the communication admissible under article 5 (2) (b) of the Optional Protocol, rejecting the State party's argument that the author had not exhausted domestic remedies. It also dismissed the claim that the communication was manifestly ill-founded, considering that the author had sufficiently substantiated her fear of removal to Burundi following deportation to Zambia and the risk of inhumane treatment if detained in Zambia.

Merits: The Committee found violations of articles 6 and 7 of the Covenant, concluding that Sweden failed to conduct an adequate risk assessment before ordering Z.D.'s deportation. Regarding article 6, the Committee recalled that any removal exposing an individual to a real risk of death constitutes a violation. It found that Sweden had not assessed the risk of Z.D. 's onward removal from Zambia to Burundi, despite her claims of political persecution and the lack of protection for Burundian asylum-seekers in Zambia. Further, on article 7, the Committee reiterated that States must not deport individuals where substantial grounds exist to believe they face a real risk of torture or cruel, inhuman, or degrading treatment. It found that Sweden dismissed key evidence supporting Z.D. 's Burundian identity, including her Kirundi-language asylum interview and official documents, and failed to consider the dangers she would face if imprisoned or removed to Burundi. This lack of individualised assessment violated article 7.

Recommendations: The State party should:

(a) reassess the author's and her daughter's asylum claims in compliance with its obligations under the Covenant;
(b) provide adequate compensation for the violations suffered;
(c) implement safeguards to prevent similar violations in the future.

Separate opinions: Committee members Mr. Carlos Gómez Martínez and Ms. Marcia Kran issued a joint dissenting opinion asserting that the State party had not violated article 6 or 7 of the Covenant, as there was no manifest error or denial of justice in its decision to classify the author as a Zambian national. They put that an author's disagreement with the factual conclusions drawn by a State party, absent clear arbitrariness, does not meet the high threshold required to deem the State party's assessment inadequate or in violation of the Covenant.

Committee member Mr. Rodrigo A. Carazo issued a concurring opinion agreeing with the Committee's finding of a violation but emphasised that Sweden's failure lay in focusing solely on nationality rather than the potential risks the author faced in Burundi.

Committee member Mr. Hernán Quezada Cabrera also issued a concurring opinion, supporting the majority decision but questioning the Committee for not addressing the risks of imprisonment and inhumane detention conditions in Zambia, which the author had also raised.

Deadline for implementation: 12 January 2025

CCPR/C/141/D/4062-4191/2022

R.N. and Q.M v. Sweden

Deportation of Ahmadi Muslims to Pakistan despite fear of religious persecution

Substantive issues: Cruel, inhuman or degrading treatment or punishment; non-refoulement; refugees; torture

Facts: The authors, sisters and Ahmadi Muslims from Pakistan, claim persecution due to their faith. Their grandfather, a regional Ahmadi leader, was shot and injured but later granted asylum in Sweden. Their father, a local Ahmadi leader, was stabbed in 2010. Both sisters faced harassment in school. R.M. arrived in Sweden on a student visa in 2016, followed by Q.M. in 2018. Both applied for asylum after their visas expired, but their claims were denied. Authorities acknowledged the risks faced by Ahmadi Muslims but found no individual persecution, questioning inconsistencies in their accounts. In 2020, they sought reconsideration, citing a mob attack on their family home, but discrepancies in the timing of the attack led to rejection. R.M.'s later claim that applying for a Pakistani passport would expose her to further risk was also dismissed. Their appeal to the European Court of Human Rights (ECtHR) was deemed inadmissible in 2021, and Q.M.'s request to suspend deportation based on R.M.'s case was denied.

The authors allege that the State party, by exposing them to a real risk of persecution as Ahmadi Muslims upon their return to Pakistan, would violate the prohibition of torture in article 7 and their right to freedom of religion under article 18 of the Covenant.

Admissibility: The Committee found the authors' claim under article 7 of the Covenant inadmissible under article 2 of the Optional Protocol due to insufficient substantiation. While acknowledging reports of widespread human rights violations against Ahmadi Muslims in Pakistan, the authors failed to demonstrate a personal and real risk of torture or ill-treatment upon return or that the Swedish authorities' assessment had been arbitrary or amounted to a denial of justice.

It first considered whether it was barred from examining the case under article 5 (2) (a) of the Optional Protocol, given the prior application to the ECtHR. Since the ECtHR had declared the case inadmissible without stating the grounds, the Committee concluded it was not precluded from reviewing the communication. The Committee also found the claim under article 18 inadmissible, as it was raised only after the initial submission, and the authors offered no valid explanation for this delay.

In evaluating the article 7 claim, the Committee emphasised that a credible risk must be supported by specific, detailed evidence. It noted inconsistencies in the authors' accounts, including vague descriptions of threats, delays in seeking asylum, and the fact that they had not publicly practised their faith in Pakistan, unlike relatives with more prominent roles. Finally, the Committee observed that the authors had access to legal representation, interpretation, and several opportunities to present their claims, which were thoroughly assessed by the Swedish authorities. It found no indication of procedural unfairness or denial of justice.

CCPR/C/142/D/3605/2019

F.J.S. and D.P.S. v. Sweden

Threshold for determining individual risk in deportation cases to Venezuela

Substantive issues: Right to life; torture; cruel, inhuman or degrading treatment or punishment; arbitrary detention; conditions of detention; aliens' rights – expulsion; right to a fair trial; right to family life; freedom of opinion and expression; best interests of the child; access to public services; discrimination on the ground of political or other opinion

Facts: The authors, Venezuelan nationals, applied for asylum in the State party citing political persecution after their 2004 opposition to then-President Chávez led to their registration in a government blacklist, barring them from public employment and services. They faced economic hardship, food scarcity, and medical issues, with the father requiring diabetes medication and the mother suffering from severe depression. Their asylum claim was rejected in 2016, as authorities found no evidence of persecution, unrestricted travel, and available medical care. Appeals to domestic courts and the European Court of Human Rights were unsuccessful, as were subsequent efforts to halt their expulsion, with the Migration Agency ultimately reaffirming that they lacked a substantiated personal risk warranting protection.

The authors claimed that the family's deportation to Venezuela would amount to a violation of several of their rights under the Covenant. They cited articles 6 and 7, referencing threats to life, health, and the risk of inhuman treatment due to lack of medical care and mental health risks. Articles 9 (1) and 10 (1) were invoked over fears of arbitrary detention tied to their political past. They alleged discrimination under articles 2 and 26, and article 17 for interference with family and private life. Articles 13 and 14 were raised over procedural shortcomings in their asylum process, while article 19 concerned their right to free expression. Finally, they invoked articles 23 (1), 24, and 25 (c) to highlight risks to their children and exclusion from public services due to political views.

Admissibility: The Committee dismissed claims under articles 5, 9, 10, 13, and 14 as inadmissible. It found that article 5 could not be invoked by individuals, that the authors' detention was legally justified with procedural safeguards, that they had multiple opportunities to challenge their expulsion under article 13, and that immigration proceedings do not fall under article 14. The claims under articles 9 and 10 were deemed unsubstantiated, as the detention was lawful and proportionate given the risk of absconding.

Regarding the core claim under articles 6 and 7, the Committee reiterated that deportation must present a personal and substantial risk of irreparable harm. It noted that while Venezuela faced severe economic, social, and political crises, this alone did not entitle all citizens to international protection. The Committee emphasised that the authors needed to demonstrate a specific, individualised risk but had not done so. The State party's authorities had assessed that the authors were not high-profile political figures at risk of persecution, had previously been able to work and travel, and could potentially support themselves if deported. Additionally, the migration authorities determined that medical treatment was available in Venezuela, albeit with some difficulties, and that the authors had not provided sufficient evidence of being denied essential services. The Committee found no indication that the State party's assessment was arbitrary, amounted to a manifest error, or constituted a denial of justice. Consequently, it concluded that the authors failed to substantiate their claims under articles 6 and 7, rendering the communication inadmissible under article 2 of the Optional Protocol.

TÜRKIYE

CCPR/C/141/D/3923/2021; CCPR/C/141/D/3924/2021

İ.K. and E.T. v. Türkiye

Alleged lack of judicial independence in criminal and administrative proceedings following the 2016 coup attempt in Türkiye

Substantive issues: Fair trial; competent, impartial and independent tribunal

Facts: The authors, İ.K. and E.T., both Turkish nationals, claim that their right to a fair trial before an independent and impartial tribunal was violated due to political influence on the judiciary following the 2016 failed coup attempt.

İ.K., a former court clerk, was arrested in August 2016 on charges of membership in the Gülen movement, which Türkiye designated as a terrorist organisation (FETÖ). He was held without access to a lawyer for seven days and later placed in pre-trial detention. In March 2017, he was convicted and sentenced to nine years and nine months in prison, with the courts citing his alleged use of the ByLock messaging app and a witness statement. His appeals to the Court of Cassation and the Constitutional Court were rejected, with the latter allegedly failing to assess his arguments impartially.

E.T., a law graduate, was similarly dismissed from public service following the coup under Decree Law No. 672. Later, he was even barred from registering as a lawyer by the Istanbul Bar Association, despite a decision by the Union of Turkish Bar Associations allowing his registration. Following a motion by the Ministry of Justice, administrative courts ruled that E.T. was ineligible to practice law due to his prior dismissal from public service. His appeals, including to the Constitutional Court, were dismissed. He claims these dismissals demonstrate the lack of judicial independence in Türkiye. Both authors filed applications with the European Court of Human Rights (ECtHR) in 2019, which remained pending at the time of submission to the Committee.

In the present communication, the authors allege violations of article 14 of the Covenant, arguing that the lack of judicial independence in the State has deprived them of a fair trial.

Admissibility: The Committee declared the communications inadmissible under article 5 (2) (a) of the Optional Protocol, concluding that the same matters were already being examined by the ECtHR. It noted that both authors raised identical claims regarding the fairness and independence of judicial proceedings before the ECtHR and the Committee, satisfying the same matter requirement under article 5 (2) (a). As a result, the Committee was precluded from reviewing the communications. Given this finding, the Committee did not assess other grounds of inadmissibility.

CCPR/C/141/D/4275/2022

S.N.K. v. Türkiye

Alleged enforced disappearance of a Gülen movement supporter

Substantive issues: Arbitrary/unlawful detention; arbitrary/unlawful interference; cruel, inhuman or degrading treatment or punishment; discrimination; effective remedy; enforced disappearance; fair trial; family life; recognition as a person before the law; right to life

Facts: The author, S.N.K., a Turkish national, submitted the communication on her behalf and on behalf of her brother, Y.T., also a Turkish national. She alleges that the State forcibly disappeared Y.T. due to his association with the Gülen movement, which Türkiye designated as a terrorist organisation (FETÖ) following the failed coup attempt in 2016. Y.T., a former public servant, was dismissed from his position under an emergency decree and barred from future public employment. He was under two criminal investigations: one for involvement with the Gülen movement, and another for allegedly obtaining exam answers fraudulently to benefit movement supporters. Fearing arrest and torture, he and his family went into hiding. On 6 August 2019, Y.T. left home and has been missing since. His car was found abandoned four days later. Despite repeated requests by his family, the authorities failed to conduct an effective investigation. His wife and father lodged a complaint with the Constitutional Court, which dismissed it as manifestly ill-founded. They also filed an application with the European Court of Human Rights (ECtHR), which declared it inadmissible on 22 February 2022, finding that Turkish authorities had taken reasonable steps to locate him and that no State involvement in his disappearance was established.

In the present communication, the author alleges violations of articles 6 (1), 7, 9 (1), 16, 17, and 23 (1), read alone and in conjunction with articles 2 (3), 14, 20, and 26 of the Covenant, arguing that the State is responsible for Y.T.'s disappearance and that she has suffered anguish and distress due to the lack of action and transparency by the authorities.

Admissibility: The Committee declared the communication inadmissible under article 5 (2) (a) of the Optional Protocol, citing Türkiye's reservation that prevents it from reviewing cases already examined under another international procedure. It found that the ECtHR's 20-page decision had considered the merits of the same claims under articles 6, 7, and 9, meeting the criteria to preclude it from further review. Additionally, regarding claims under articles 16, 17, and 23 (1) (on behalf of Y.T.) and articles 7, 17, and 23 (1) (on behalf of the author) the Committee again dismissed the same as it found them to be closely linked to the disappeared person's situation and therefore cannot be examined independently without reassessing the matter already decided by the ECtHR.

Separate opinions: Committee members Mr. Hernán Quezada Cabrera and Ms. Hélène Tigroudja issued a joint concurring opinion expressing concerns about the Committee's reasoning for inadmissibility, arguing that the ECtHR's analysis was deficient and failed to apply its own established case law on enforced disappearances. They noted that the ECtHR shifted the burden of proof onto the victim's family rather than requiring Türkiye to demonstrate the steps taken to investigate Y.T. 's disappearance. Further, the ECtHR failed to account for Türkiye's broader repression of Gülen movement supporters affecting a climate of impunity for State-perpetrated enforced disappearances was a gross misstep. Despite these concerns, however, they agreed that the State's reservation legally precluded further review by the Committee.

CCPR/C/142/D/3592/2019

G.B.. v. Türkiye

Designation as a terrorist and removal from public service

Substantive issues: Arbitrary detention/arrest; arbitrary/unlawful interference; criminal charges; cruel, inhuman or degrading treatment or punishment; effective remedy; fair trial; freedom of association; freedom of expression; freedom of movement; national security; privacy; torture; unlawful attacks on honour or reputation

Facts: The author is a national of Türkiye. Following a coup attempt in 2016, the State party designated the Hizmet/Gülen movement a terrorist organisation (FETÖ), declared a state of emergency, and enacted a series of decrees. The author was dismissed from his position as an engineer for a state-owned company on the grounds that he was associated with FETÖ and the failed coup d'état. He was named as a terrorist in the annexes to a decree, barring him from future public service employment. Domestic authorities rejected the author's contestation of the dismissal. In 2017, a criminal investigation was launched against the author, and an arrest warrant was issued. The State party's authorities accused the author of belonging to FETÖ and providing financial support to the organisation. The author went into hiding to avoid arrest, his passport was cancelled, and his application for a new passport was rejected. The author contends that, as a result, he lives in isolation, cannot attend medical appointments for fear of being arrested, and struggles to pay rent. The author's application to the European Court of Human Rights was declared inadmissible for failure to exhaust domestic remedies.

The author alleges that the State party violated his rights under article article 2 (right to an effective remedy), article 7 (prohibition of cruel, inhuman or degrading treatment), article 12 (1) and (2) (freedom of movement and the right to leave any country), article 14 (1) (right to a fair trial), article 17 (1) (right to privacy, honour, and reputation), article 19 (2) (freedom of expression), and article 22 (1) (freedom of association).

Admissibility: The Committee considered that the communication was inadmissible under articles 2, 3, and 5 (2) (b) of the Optional Protocol. The Committee noted that the author could have filed, but did not file, an appeal to the State party's administrative courts to contest the decision regarding his dismissal from employment. The Committee further noted that the author did not file his complaint with the State party's Constitutional Court in a timely manner, and concluded that the author did not demonstrate due diligence in the exhaustion of domestic remedies regarding his dismissal. The author's claims alleging violations of articles 14 (1), 17 (1), 19 (2), and 22 (1) were therefore inadmissible under article 5 (2) (b) of the Covenant. The author's claim under article 17 (1) was likewise inadmissible, because his claim that his honour and reputation were unlawfully attacked by the inclusion of his name on a list of individuals associated with terrorism cannot be dissociated from the criminal proceedings against him, for which the author had not exhausted domestic remedies.

Additionally, the author had not substantiated his claim that the issuance of the arrest warrant without proof represented an impermissible restriction on his freedom of movement since he was forced as a result to live in hiding, and he had not substantiated the claim that he possessed a passport before the State party's decree cancelling the passports of dismissed public sector

employees. The author also did not allege to have contested the denial of his request for a passport before the administrative courts, and did not allege to have otherwise invoked his right to freedom of movement before domestic authorities, rendering his claims inadmissible under article 5 (2) (b) of the Covenant. Finally, the Committee considered that author's claims under articles 7, 17 (1), and 14 (1) of the Covenant are inadmissible because he had not sufficiently substantiated the claims with respect to the issuance of the arrest warrant.

CCPR/C/142/D/3668/2019

E.A. v. Türkiye

Inadmissibility of claims regarding the imprisonment of a diabetic individual suspected of ties to a terrorist organisation

Substantive issues: Arbitrary/unlawful detention; criminal charges; criminal conviction; criminal offence; criminal procedure; cruel, inhuman or degrading treatment or punishment; defence – adequate time and facilities; discrimination; fair trial; freedom of assembly; freedom of association; freedom of expression; freedom of religion; minorities – right to enjoy own culture; national security; *ne bis in idem*; right to life; security of person

Facts: The author, a national of Türkiye, was taken into custody, detained, and subsequently arrested for alleged links to the Hizmet/Gülen movement, which the State party designated as a terrorist organization (FETÖ) following the 2016 coup attempt. The charges against her were based on her alleged use of the ByLock messaging application and financial transactions with Bank Asya. She was convicted by a penal court and sentenced to a term of imprisonment. Since her arrest, she has been hospitalized multiple times due to type 1 diabetes and has experienced significant health deterioration, including a 10 kg weight loss. She attributes this decline to her detention in an unsanitary and overcrowded ward. At the time of the communication, her appeal before the Court of Cassation and her complaint before the Constitutional Court remained pending. Despite submitting multiple petitions, both for medical examination and for release on health grounds, she received no official response.

The author further claims that she was held in custody without charge for an unreasonably long period, was not promptly brought before a judge, and was imprisoned without legal justification. She also alleges violations of her rights under the Covenant, stating that she did not receive a fair trial and was prosecuted for lawful conduct, in breach of the principle of legality.

The author claimed violations of several articles of the Covenant: article 6 (right to life), as her deteriorating health and lack of adequate medical care put her life at risk; article 7 (prohibition of torture and inhuman treatment), due to poor prison conditions; article 9 (right to liberty), as she was held without charge for eight days and without sufficient evidence; and article 10 (humane treatment of detainees), due to overcrowded, unsanitary conditions. She also invoked article 14 (fair trial), citing lack of access to her case file and an inability to prepare a proper defense. Under article 15 (legality), she argued that her alleged actions were not criminal at the time. She also cited articles 18 and 19 (freedom of thought and expression), and articles 21, 22, 25, 26, and 27, alleging discrimination and punishment based on her perceived affiliation with the Gülen movement.

Admissibility: The Committee considers that the communication is inadmissible under articles 2 and 5 (2) (a) of the Optional Protocol. The author lodged an application to the European Court of Human Rights (ECtHR), after submitting the present communication to the Committee, and that application remains pending before the ECtHR. The Committee notes that the author referred to the same basic set of facts and allegations that are at issue in the present communication. Noting that the ECtHR is currently examining the author's application, the Committee considers that it is precluded from examining the author's claims under articles 6, 7, 9, 10, 14, 15, and 26 of the Covenant. Separately, the Committee considers that the author has not adequately described the basis of her claims under articles 18, 19, 21, 22, 25, or 27 of the Covenant, and declares those claims inadmissible due to insufficient substantiation.

TURKMENISTAN

CCPR/C/141/D/3097/2018

G. Kyarizon v. Turkmenistan

Detention and arrest of an individual accused of defrauding a state-owned horse company

Substantive issues: Torture; unlawful detention; conditions of detention; unfair trial; freedom of movement – own country; family rights

Facts: The author of the communication is a national of Turkmenistan who formerly served as the director of a state-owned horse breeding company. He was arrested without a warrant by officers of the Ministry of National Security and held incommunicado for at least eight days, during which time his family was not informed of his whereabouts. He claims he was subjected to psychological pressure and threats of torture to force him to confess to having defrauded the state-owned company, and after his younger brother was arrested and allegedly tortured, he was coerced into making a public confession on national television. Following the confession, he suffered a heart attack and partial paralysis. He was convicted of abuse of office and sentenced to six years in a general regime prison, but was later transferred without a court order to a strict regime facility, where he was held in harsh, unsanitary, and isolated conditions. He lost a significant amount of weight, was denied access to adequate medical care, and was not permitted contact with his family for several months. He was released in 2007 under an amnesty but remained under a travel ban until 2015. The author claims that his transfer to the strict regime prison was in reprisal for complaints submitted by his wife, and that authorities confiscated and demolished his house and horse stables. Despite the Committee's requests, the State party has failed to provide any information with regard to the admissibility or the merits of the author's claims.

The author alleged violations of the Covenant in connection with his arbitrary arrest, incommunicado detention, and harsh prison conditions. He invoked article 7 and 10 (1) for inhuman treatment and poor detention conditions, article 9 (1) and 9 (4) for being detained without a warrant or prompt judicial review, and article 12 (2) for being barred from leaving the country. He also cited article 17 for interference with his family life, and article 14 (1), (3) (g), and (5) for being denied a fair trial, including being forced to confess and lacking the right to appeal.

Admissibility: The Committee considers that the facts as presented by the author raise issues under articles 7, 9 (1) and (4), 10 (1) and 12 (2) of the Covenant. The Committee notes that the author's claim pertaining to being cut off from his family for five months in prison falls under article 10 (1), rather than article 17, of the Covenant, and will consider it under that article. The Committee notes that the author's claims under article 14 (5), 14 (1) and (3) (g) are inadmissible due to insufficient substantiation.

Merits: The Committee considers that the facts disclose a violation by the State of article 7, 9 (1) and (4), 10 (1) and 12 (2) of the Covenant. The Committee considers that the fact that the author was arrested without an arrest warrant and was held incommunicado for at least seven days makes his detention arbitrary. The length of custody without judicial authorization also should not

exceed a few days; therefore, the circumstances of the author's detention violate articles 9 (1) and (4) of the Covenant. The author has provided a detailed account of the conditions of his detention, and the Committee considers that the author's conditions of detention as described violated his right to be treated with humanity and with respect for the inherent dignity of the human person. The Committee finds that the author's poor state of health made the generally inadequate conditions of detention even more unbearable for the author, and as such, the author's detention in prison amounted to a violation of articles 7 and 10 (1) of the Covenant. The Committee further finds that holding the author in incommunicado detention, without the possibility of communicating with his family, violated his rights under article 10 (1) of the Covenant. Finally, with respect to the author's claims that he has been prevented from leaving Turkmenistan, the Committee finds that, in the absence of information from the State party to explain or justify the restriction, it can conclude that there has been a violation of article 12 of the Covenant.

Recommendations: The State party should, *inter alia*:

(a) make full reparation to individuals whose Covenant rights have been violated;
(b) provide the author with adequate compensation for the violation of his rights; and
(c) take all steps necessary to prevent similar violations from occurring in the future.

Deadline for implementation: 5 January 2025

Separate opinions: Committee members Mr. Carlos Gómez Martínez and Mr. José Manuel Santos Pais issued a joint partially dissenting opinion. They concurred with the Committee's finding as to a violation under articles 7, 9 (1) and (4), 10 (1) and 12 (2) of the Covenant. However, they express doubt as to whether any incommunicado detention, irrespective of its duration, is inconsistent with the obligation to treat detained persons humanely and with respect for their dignity. The members argue that there may be situations in which a detained person is not immediately able to communicate with his or her lawyer or a relative and this does not necessarily amount to a violation of his or her dignity or to inhuman treatment. As a result, they would prefer a reformulation of the third sentence of paragraph 6.4 of the Views: "*The Committee recalls that keeping a person in incommunicado detention for five months, as in the present case, is inconsistent with the obligation to treat detained persons humanely and with respect for their dignity.*"

UZBEKISTAN

CCPR/C/141/D/3155-3156-3158/2018

Ulana Tsoy et al. v. Uzbekistan

Unlawful registration-based restrictions in Uzbekistan for Jehovah's Witnesses (1)

Substantive issues: Interference with privacy and home; freedom of thought, conscience and religion; freedom of expression; freedom of assembly; freedom of association

Facts: All the authors are Jehovah's Witnesses who, in 2015, became subject to administrative liability under article 184(2) of the Uzbekistani Administrative Liability Code for possessing religious publications in areas where Jehovah's Witnesses were not registered. The police conducted warrantless searches or stops, confiscated religious materials (including Bibles), and brought administrative charges against the authors. Although the authors pursued legal remedies—filing cassation appeals and subsequently seeking supervisory reviews from the Prosecutor General—all of these efforts were either rejected or remained unanswered at the time their communications were submitted to the Committee. Throughout these events, the lack of local registration of Jehovah's Witnesses was consistently cited by courts to justify the conclusion that the authors' possession of religious publications was unlawful.

The authors claim that the search, seizure of private property, and subsequent administrative fine imposed by State authorities violated their rights under the Covenant. They invoke article 17 (protection against arbitrary interference with privacy and property), article 18 (1) (freedom of thought, conscience, and religion), article 19 (2) and (3) (freedom of expression), article 21 (right to peaceful assembly), and article 22 (1) and (2) (freedom of association), arguing that the measures unlawfully interfered with their private life, beliefs, expression, and collective activities.

Admissibility: Although the State party argues that the authors failed to exhaust domestic remedies by not seeking supervisory review before the Supreme Court, the authors maintain that this remedy was not available at the time. In the absence of contrary evidence, the Committee concludes it is not barred from examining the communications. It further finds the authors' claims under articles 17, 18, 19, 21, and 22 sufficiently substantiated and proceeds to consider the merits.

Merits: After examining all available information, the Committee notes the authors' claim that police searches and confiscation of religious materials violated their right to privacy (article 17). It finds the State party failed to show any urgent or proportionate justification for entering homes without valid warrants, thus arbitrarily interfering with the right to privacy. Regarding freedom of religion (article 18), the Committee recalls that any restrictions must be strictly necessary to protect legitimate interests such as public safety. The State party's justifications were abstract and did not demonstrate how requiring local registration before possessing religious materials was proportionate or necessary. Therefore, the Committee concludes that these actions violated the authors' rights under article 18 (1). In view of this finding, it does not separately address articles 19, 21, or 22.

Recommendations: The State party should:

(a) make full reparations to the individuals whose Covenant rights have been violated; therefore, make adequate compensation including the legal cost and fines paid; and

(b) to take all necessary steps to prevent similar violations in the future.

Separate opinions: Committee members Mr. Carlos Gómez Martínez and Mr. Imeru Tamerat Yigezu emphasize in their concurring opinion that the Committee should have more thoroughly explained its decision not to examine whether the same facts also constitute violations of articles 19, 21, or 22 of the Covenant. They note that freedom of religion under article 18 can be viewed as a specific manifestation of freedom of expression under article 19, but that this interpretation cannot substitute clear reasoning on the part of the Committee. Regarding articles 21 and 22, they conclude that the complaint contained insufficient evidence of violations of peaceful assembly or free association and should, therefore, have been declared inadmissible.

In his partial dissent, Committee member Mr. Rodrigo A. Carazo argues that the Committee should also have recognised a violation of article 27 since the case exemplifies broader persecution of a minority religious group (Jehovah's Witnesses) in Uzbekistan and beyond. He emphasises that the Committee's decision focuses too narrowly on individual claims and ignores the collective rights of a religious minority, which article 27 is intended to protect. Hence, he urges the Committee to more explicitly address and condemn patterns of State-driven persecution against minority groups.

CCPR/C/141/D/3157-3159-3166-3185/2018

Elnora Maksutova et al. v. Uzbekistan

Unlawful registration-based restrictions in Uzbekistan for Jehovah's Witnesses (2)

Substantive issues: Right to liberty and security of person; interference with privacy and home; freedom of thought, conscience and religion; freedom of expression; freedom of assembly; freedom of association

Facts: All the authors in these four communications are Uzbek Jehovah's Witnesses sanctioned for possessing, distributing, or discussing religious publications in locations where their faith was not registered. In each instance, law enforcement conducted searches—often without valid warrants—and seized religious materials or electronic devices. The authors then faced either administrative penalties (fines and, in some cases, short-term detention) or, in one case, a criminal sentence because of an earlier administrative violation. They all pursued cassation appeals and supervisory reviews, which were either dismissed or never answered.

The authors claim violations of article 9 (liberty and security of person), article 17 (protection against arbitrary interference with privacy and home), article 18 (1) and (3) (freedom of thought, conscience, and religion), article 19 (2) and (3) (freedom of expression), article 21 (right to peaceful assembly), and article 22 (1) and (2) (freedom of association). They argue that the State's actions unlawfully restricted their religious practice, suppressed their ability to share beliefs, and penalized peaceful gatherings solely because their faith group lacked official registration.

Admissibility: The Committee found that it is not precluded from examining these communications under the Optional Protocol, as the same matters have not been subject to another international body, and the supervisory appeal to the Supreme Court was not demonstrably available to the authors when they submitted their complaints. Concluding that the authors have sufficiently substantiated claims under articles 9, 17, 18, 19, 21, and 22 of the Covenant for all cases involved, the Committee holds the communications admissible and proceeds to consider their merits.

Merits: The Committee concludes that police searches of the authors' homes (except in communication No. 3157/2018) were unlawful and disproportionate, violating article 17 of the Covenant. The State party offered no urgent or reasonable justification, rendering these warrantless entries arbitrary despite their purported basis in domestic law. The Committee further determines that requiring Jehovah's Witnesses to register locally before possessing or discussing their religious materials, without showing how such rules serve a legitimate, proportionate purpose, violates article 18 (1). In communications Nos. 3166/2018 and 3185/2018, the authors' 10-day administrative detentions for exercising their faith constitute arbitrary punishment under article 9 (1). Lastly, having found article 18 violated, the Committee refrains from assessing potential breaches of articles 19, 21, and 22.

Recommendations: The State party should:

(a) make full reparation to individuals whose Covenant rights have been violated, by providing adequate compensation including the reimbursement of any legal costs and fines paid; as well as

(b) take all steps necessary to prevent similar violations from occurring in the future.

Separate opinions: Committee members Mr. Carlos Gómez Martinez and Mr. Imeru Tamerat Yigezu, as well as member Mr. Rodrigo A. Carazo issued, respectively, the same concurrent and partially dissenting opinion as in CCPR/C/141/D/3155-3156-3158/2018.

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CCPR/C/140/D/2987/2017
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Cosmo Loris Reitzig

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Tanisha Singh

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