

## EFFECTIVE REMEDIES - COMPENSATION

### IV. CONCLUDING OBSERVATIONS, CONTINUED

#### CERD

- Austria, CERD, A/57/18 (2002) 15 at para. 24.

24. [The Committee] notes...the continuation of the work of the Reconciliation Fund for Victims of National Socialism which so far has received and approved some 50,000 applications for compensation from persons who have suffered from forced labour during the Nazi era.

- New Zealand, CERD, A/57/18 (2002) 69 at para. 415.

415. The Committee welcomes the information that the “fiscal envelope” policy, which limited both the total funds available for the settlement of claims with Maori and for the settlement of all historical claims, was abandoned in 1996 in favour of a programme of “fair and equitable” settlements. The Committee is encouraged by the progress that has since been made on the settlements of historical Maori grievances and claims with individual *iwi* (tribes), including components of financial compensation and formal apology on behalf of the Crown.

- Fiji, CERD, A/58/18 (2003) 25 at para. 88.

88. The Committee is concerned that the expiry of many leases of Native land has allegedly led to the “eviction” of numerous farmers, mainly Indo-Fijians, and that the resettlement programme of the State party appears to be insufficient. The Committee underlines the State’s responsibility to provide assistance to “exited tenants”, and recommends that it increase its efforts to compensate and resettle affected families. The Committee urges the State party to develop measures of conciliation between indigenous Fijians and Indo-Fijians over the land issue, with a view to obtaining a solution acceptable to both communities.

- Albania, CERD, A/58/18 (2003) 53 at para. 316.

316. The Committee is concerned about the difficulties encountered by certain national minorities, in particular, the Greek and Aromanian minorities, in recovering and obtaining compensation for their religious properties.

The Committee encourages the State party to ensure the swift entry into force of the bill on property restitution and compensation, so as to settle this issue once and for all.

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- Finland, CERD, A/58/18 (2003) 69 at para. 410.

410. The Committee notes that one of the reasons victims of acts of racial discrimination are reluctant to file a complaint before the competent authorities is the assumption that the complaint would not lead to any result.

The Committee recommends that the State party disseminate as widely as possible information on and raise public awareness of the domestic remedies available against acts of racial discrimination, the legal avenues for obtaining compensation in cases of discrimination and the individual complaint procedure under article 14 of the Convention.

- Latvia, CERD, A/58/18 (2003) 75 at para. 455.

455. While noting that the State party is in the process of improving its legislation with a view to providing effective protection and remedies against any acts of racial discrimination, including the right to seek reparation for discrimination, the Committee is concerned at the very low level of awareness among the population of such a possibility.

The Committee recommends that the State party intensify its efforts to adopt and improve legislation in this respect. The State party is further encouraged to publicize the availability of legal remedies with a view to reaching out to the most vulnerable segments of society.

- Republic of Korea, CERD, A/58/18 (2003) 83 at para. 498.

498. The Committee recommends that the State party disseminate information widely and raise public awareness of the domestic remedies available against acts of racial discrimination, on the legal avenues for obtaining compensation in cases of discrimination and on the individual complaints procedure under article 14 of the Convention.

- Suriname, CERD, A/59/18 (2004) 36 at paras. 193 and 199.

193. The Committee notes that, under the draft Mining Act, indigenous and tribal peoples will be required to accept mining activities on their lands following agreement on compensation with the concession holders, and that if agreement cannot be reached, the matter will be settled by the executive, and not the judiciary. More generally, the Committee is concerned that indigenous and tribal peoples cannot as such seek recognition of their traditional rights before the courts because they are not recognized legally as juridical persons.

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The Committee recommends that indigenous and tribal peoples should be granted the right of appeal to the courts, or any independent body specially created for that purpose, in order to uphold their traditional rights and their right to be consulted before concessions are granted and to be fairly compensated for any damage.

...

199. The Committee welcomes the delegation's statement that the 1992 Amnesty Act did not terminate the proceedings concerned with human rights violations committed during the civil strife of 1985-1991, including the 1986 Moiwana massacre. It is, however, disturbed that the inquiries into those events have still not reached a conclusion.

The Committee recommends the State party to attach high priority to ensuring that those guilty of human rights violations during the civil war do not go unpunished, and that the victims are offered appropriate compensation as swiftly as possible.

- Argentina, CERD, A/59/18 (2004) 45 at paras. 246 and 251.

246. ...The Committee...notes reported difficulties in recognizing the legal personality of indigenous peoples, the inadequate protection in practice of indigenous peoples' ownership and possession of ancestral lands and the consequential impairment of indigenous peoples' ability to practise their religious beliefs.

In the light of its general recommendation XXIII, the Committee urges the State party to: ...adopt, in consultation with indigenous peoples, a general land tenure policy and effective legal procedures to recognize indigenous peoples' titles to land and to demarcate territorial boundaries; adopt measures to safeguard indigenous rights over ancestral lands, especially sacred sites, and compensate indigenous peoples for land deprivation; ensure access to justice, as well as recognize effectively the legal personality of indigenous peoples and their communities in their traditional way of life, and respect the special importance for the culture and spiritual values of indigenous peoples of their relationship with the land.

...

251. The Committee remains concerned at the slow pace of the proceedings relating to the 1992 and 1994 attacks in Buenos Aires on the Israeli Embassy and the Argentine-Jewish Mutual Association.

The Committee recommends that, in accordance with article 6 of the Convention, these proceedings be completed by the State party as a matter of urgency so as to comply with its obligation to ensure the right to just and adequate reparation and compensation for damage suffered as a result of human rights violations.

- Portugal, CERD, A/59/18 (2004) 66 at para. 367.

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367. The Committee expresses concern about allegations it has received of instances of police misconduct towards ethnic minorities or persons of non-Portuguese origin, including excessive use of force, ill-treatment and violence.

The Committee recommends that the State party investigate thoroughly, impartially and effectively all allegations of ill-treatment, violence or excessive use of force by police officers, bring those responsible to justice and provide adequate remedies and compensation to the victims...

- Slovakia, CERD, A/59/18 (2004) 70 at para. 389.

389. The Committee is concerned about reports of cases of sterilization of Roma women without their full and informed consent. In this respect, the Committee welcomes the assurances given by the delegation that a draft law on health care, which would address shortcomings in the system by specifying the requirement of free and informed consent for medical procedures and guarantee patients' access to medical files, has been approved by the Government and should shortly be adopted by the Parliament.

The Committee strongly recommends that the State party take all necessary measures to put an end to this regrettable practice, including the speedy adoption of the above-mentioned draft law on health care. The State party should also ensure that just and effective remedies, including compensation and apology, are granted to the victims.

- France, CERD, A/60/18 (2005) 26 at para. 111.

111. The Committee shares the concerns expressed by the delegation relating to the increase in racist, anti-Semitic and xenophobic acts.

The Committee encourages the State party to apply more effectively the existing provisions designed to combat such acts; to grant adequate compensation to victims; to create greater awareness on the part of law enforcement personnel; and to step up its efforts in the field of education and training of teachers in tolerance and cultural diversity.

- Lao People's Democratic Republic, CERD, A/60/18 (2005) 35 at para. 170.

170. The Committee notes that the State party has adopted a policy of resettling members of ethnic groups from the mountains and highland plateaux to the plains (art. 5).

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The Committee recommends...to the State party that it study all possible alternatives with a view to avoiding displacement; that it ensure that the persons concerned are made fully aware of the reasons for and modalities of their displacement and of the measures taken for compensation and resettlement; that it endeavour to obtain the free and informed consent of the persons and groups concerned; and that it make remedies available to them...

- Barbados, CERD, A/60/18 (2005) 43 at para. 209.

209. The Committee welcomes the draft National Plan on Justice, Peace and Security as an important step in providing victims of violent crime with the right to claim compensation.

- Georgia, CERD, A/60/18 (2005) 46 at para. 248.

248. The Committee is concerned by allegations of arbitrary arrests and detention, excessive use of force by law enforcement officials, and ill-treatment in police custody of members of minority groups and non-citizens, and about the lack of investigation of those cases (arts. 5 and 6).

The Committee recommends that the State party take appropriate measures to eradicate all forms of ill-treatment by law enforcement officials and ensure prompt, thorough, independent and impartial investigations into all allegations of ill-treatment, especially of members of ethnic groups and non-citizens; perpetrators should be prosecuted and punished, and victims granted compensation.

- United Republic of Tanzania, CERD, A/60/18 (2005) 67 at para. 353.

353. The Committee is concerned about allegations of arbitrary arrests and detention, excessive use of force and ill-treatment of refugees, in particular women, by law enforcement officials, and about the lack of investigation of those cases (arts. 5 and 6).

The Committee recommends that the State party take appropriate measures to eradicate all forms of ill-treatment by law enforcement officials of refugees, in particular women, and ensure prompt, thorough, independent and impartial investigations into all allegations of ill-treatment of refugees. The Committee further recommends that the persons responsible for the ill-treatment be prosecuted and punished, and victims granted compensation.

## **ICCPR**

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- Ukraine, ICCPR, A/57/40 vol. I (2002) 32 at para. 74(15).

(15) The Committee remains concerned about the persistence of widespread use of torture and cruel, inhuman or degrading treatment or punishment of detainees by law enforcement officials.

The State party should institute a more effective system of monitoring treatment of all detainees, so as to ensure that their rights under articles 7 and 10 of the Covenant are fully protected. The State party should also ensure that all allegations of torture are effectively investigated by an independent authority, that the persons responsible are prosecuted, and that the victims are given adequate compensation...

### *See also:*

- Georgia, ICCPR, A/57/40 vol. I (2002) 53 at para. 78(8).
- United Kingdom of Great Britain and Northern Ireland (Overseas Territories), ICCPR, A/57/40 vol. I (2002) 36 at paras. 75(30) and 75(38).

30. ...The Committee...considers that the absence of any right of compensation, in the circumstances of article 14, paragraph 6, of the Covenant, violates that provision.

The State party should amend these aspects of its law to bring them into line with its obligations...under article 14 of the Covenant.

...

(38) Although [the British Indian Ocean Territory] was not included in the State party's report (and the State party apparently considers that, owing to an absence of population, the Covenant does not apply to this territory), the Committee takes note of the State party's acceptance that its prohibition of the return of Ilois who had left or been removed from the territory was unlawful.

The State party should, to the extent still possible, seek to make exercise of the Ilois' right to return to their territory practicable. It should consider compensation for the denial of this right over an extended period....

- Switzerland, ICCPR, A/57/40 vol. I (2002) 44 at para. 76(11).

(11) The Committee is deeply concerned at reported instances of police brutality towards persons being apprehended and detainees, noting that such persons are frequently aliens. It is also concerned that many cantons do not have independent mechanisms for investigation of complaints regarding violence and other forms of misconduct by the police. The

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possibility of resort to court action cannot serve as a substitute for such mechanisms.

The State party should ensure that independent bodies with authority to receive and investigate effectively all complaints of excessive use of force and other abuses of power by the police are established in all cantons. The powers of such bodies should be sufficient to ensure that those responsible are brought to justice or, as appropriate, are subject to disciplinary sanctions sufficient to deter future abuses and that the victims are adequately compensated (article 7 of the Covenant).

- Azerbaijan, ICCPR, A/57/40 vol. I (2002) 47 at para. 77(10).

(10) While welcoming the steps taken by the State party to bring its law into compliance with international standards to prevent torture, the Committee is deeply concerned at the reported failure to ensure application of such legal provisions and at continuing reports of the use of torture and cruel, inhuman or degrading treatment or punishment. The Committee notes that the delegation could not provide clarifications on the number of investigations and prosecutions in regard to torture, particularly under the new Criminal Code, or on remedies provided to victims and their families, including rehabilitation and compensation (articles 2 and 7 of the Covenant)

The State party should take all necessary measures to ensure the full implementation of its domestic and international obligations relating to torture and cruel, inhuman or degrading treatment or punishment. The State party should ensure the prompt, impartial and full investigation of all allegations of torture, the prosecution of persons responsible, as well as compensation to victims, or as the case may be, their families.

- New Zealand, ICCPR, A/57/40 vol. I (2002) 63 at para. 81(7).

(7) The Committee welcomes the further progress made in the protection and promotion of the rights of Maori under the Covenant, in particular the amendments introduced by the Maori Reserved Land Amendment Act which came into force in 1998. In this respect, the Committee notes with satisfaction that the Act provides for compensation to be paid to lessors for delays in carrying out rent reviews and to ensure fair annual rents, and providing for compensation to be paid to (largely non-Maori) lessees under certain circumstances. The approach of providing compensation from public funds helps to avoid tensions that might otherwise hamper the recognition of indigenous land and resource rights.

- Yemen, ICCPR, A/57/40 vol. I (2002) 72 at para. 83(15).

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(15) The Committee notes with concern that the offences punishable by the death penalty under Yemeni law are not consistent with the requirements of the Covenant and that the right to seek a pardon is not guaranteed for all on an equal footing. The preponderant role of the victim's family in determining on the basis of financial compensation whether or not the penalty is carried out is also contrary to articles 6, 14 and 26 of the Covenant.

The State party should review the question of the death penalty. The Committee points out that article 6 of the Covenant limits the circumstances that may justify the death penalty and guarantees the right of every convicted person to seek a pardon. Consequently, it calls upon the State party to bring its legislation and practice into line with the provisions of the Covenant...

- Portugal, ICCPR, A/58/40 vol. I (2003) 56 at para. 83(8).

(8) The Committee is concerned about reported cases of disproportionate use of force and ill-treatment by the police, occurring particularly at the time of arrest and during police custody, and resulting, in some instances, in the death of the victims. Police violence against persons belonging to ethnic minorities appears to be recurrent. The Committee is equally concerned about the reported failure of the judicial and administrative systems to deal promptly and effectively with such cases, particularly those relating to the deaths of several persons in 2000 and 2001, allegedly caused by police officers (arts. 2, 6, 7 and 26).

...

(b) The State party should ensure that all alleged cases of torture, ill-treatment and disproportionate use of force by police officers are fully and promptly investigated, that those found guilty are punished, and that compensation is provided to the victims or their families. To this end, a police oversight service, independent from the Ministry of the Interior, should be created...

- El Salvador, ICCPR, A/58/40 vol. I (2003) 61 at para. 84(19).

(19) The Committee is sorry that the delegation was unable to explain the Legislative Assembly's reasons for not approving the establishment of a national commission of inquiry to track down children who disappeared in the conflict (arts. 6, 7 and 24).

The State party is...invited to reconsider the establishment of a national commission on disappeared children and a compensation fund for young people who are found.

- Philippines, ICCPR, A/59/40 vol. I (2003) 15 at para. 63(12).



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(12) The Committee is concerned about the reports of persistent and widespread use of torture and cruel, inhuman or degrading treatment or punishment of detainees by law enforcement officials and the lack of legislation specifically prohibiting torture in accordance with articles 7 and 10 of the Covenant...

...The State party should ensure that all allegations of torture are effectively and promptly investigated by an independent authority, that those found responsible are prosecuted, and that victims are given adequate compensation...

- Russian Federation, ICCPR, A/59/40 vol. I (2003) 20 at paras. 64(8), 64(13) and 64(14).

(8) The Committee is concerned that the State party has not implemented the Committee's Views under the Optional Protocol in the cases of *Gridin v. Russian Federation* and *Lantsov v. Russian Federation*. While noting the delegation's explanation that the decision not to follow the Views of the Committee regarding the release of Mr Gridin was based on a careful study by the Supreme Court and Procurator's Office, the Committee expresses its concern that a failure to give effect to its Views would call into question the State party's commitment to the Optional Protocol.

The Committee urges the State party to review its position in relation to Views adopted by the Committee under the Optional Protocol and to implement the Views, in order to comply with article 2, paragraph 3, of the Covenant which guarantees a right to an effective remedy when there has been a violation of the Covenant.

...

(13) The Committee remains deeply concerned about continuing substantiated reports of human rights violations in the Republic of Chechnya, including extrajudicial killings, disappearances and torture, including rape. The Committee notes that some 54 police and military personnel have been prosecuted for crimes committed against civilians in Chechnya, but remains concerned that the charges and sentences handed down do not appear to correspond with the gravity of the acts as human rights violations. The Committee is also concerned that investigations into a number of large-scale abuses and killings of civilians in 1999 and 2000, in the locations of Alkhan Yurt, Novye Aldy and Staropromyslovskii district of Grozny, have still not been brought to a conclusion. The Committee acknowledges that abuse of and violations against civilians also involve non-State actors, but reiterates that this does not relieve the State party of its obligations under the Covenant. In this regard, the Committee is concerned about the provision in the Federal Law "On Combating Terrorism" which exempts law enforcement and military personnel from liability for harm caused during counter-terrorist operations.

The State party should ensure that operations in the Republic of Chechnya are carried out in compliance with its international human rights obligations. The State party should ensure

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that abuse and violations are not committed with impunity *de jure* or *de facto*, including violations committed by military and law enforcement personnel during counter-terrorist operations. All cases of extrajudicial executions, enforced disappearances and torture, including rape, should be investigated, their perpetrators prosecuted and victims or their families compensated (arts. 2, 6, 7 and 9).

(14) While acknowledging the serious nature of the hostage-taking situation, the Committee cannot but be concerned at the outcome of the rescue operation in the Dubrovka theatre in Moscow on 26 October 2002. The Committee notes that various attempts to investigate the situation are still under way but expresses its concern that there has been no independent and impartial assessment of the circumstances, regarding medical care of the hostages after their liberation and the killing of the hostage-takers.

The State party should ensure that the circumstances of the rescue operation in the Dubrovka theatre are subject to an independent, in-depth investigation, the results of which are made public, and, if appropriate, prosecutions are initiated and compensation paid to the victims and their families.

- Latvia, ICCPR, A/59/40 vol. I (2003) 25 at para. 65(14).

(14) The Committee notes that discrimination against women with regard to remuneration persists, notwithstanding the measures taken by the Government to guarantee equal treatment, including through employment law and the programme on the implementation of gender equality. The Committee regrets that insufficient information was provided by the State party in regard to the number and results of cases brought and whether compensation has been paid. (arts. 3 and 26).

The State party should take all necessary measures to ensure equal treatment of women and men in the public and private sectors, if necessary through appropriate positive measures, in order to give effect to its obligations under articles 3 and 26.

- Colombia, ICCPR, A/59/40 vol. I (2004) 35 at para. 67(11).

(11) The Committee is concerned about the fact that a significant number of arbitrary detentions, abductions, forced disappearances, cases of torture, extrajudicial executions and murders continue to occur in the State party. The Committee is also concerned that such practices as the arrest of election candidates continue, and that murders of legislators dating from earlier years remain unpunished. Human rights defenders, political and trade union leaders, judges and journalists continue to be targets of such actions. The abduction of presidential candidate Ingrid Betancourt in February 2002 continues to be of concern to the

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Committee, as do the other abductions. The Committee is also disturbed about the participation of agents of the State party in the commission of such acts, and the apparent impunity enjoyed by their perpetrators.

The State party should take immediate and effective steps to investigate these incidents, punish and dismiss those found responsible and compensate the victims, so as to ensure compliance with the guarantees set forth in articles 2 (3), 6, 7 and 9 of the Covenant.

- Germany, ICCPR, A/59/40 vol. I (2004) 39 at paras. 68(15) and 68(16).

(15) While the Committee notes with satisfaction that the use of firearms by the police is restricted by law to a measure of coercion *in extremis* and that the number of persons killed or injured by the use of such force has declined in recent years, it is concerned that in some of these cases the use of firearms might not have been justified (art. 6).

(a) The State party should ensure prompt, thorough and impartial investigation of all cases of persons killed or injured as a consequence of the use of firearms by police forces, bring to justice those responsible for violations of the law, and grant full reparation, including fair and adequate compensation, and rehabilitation to victims and their families.

...

(16) While appreciating the reduction in the number of complaints made public in recent years, the Committee expresses its concern about continuing reports of ill-treatment of persons by the police, including foreigners and members of ethnic minorities...

...

(b) The State party should protect persons who bring complaints of ill-treatment against police officers against intimidation and provide full reparation, including fair and adequate compensation, and rehabilitation to victims and their families.

...

- Suriname, ICCPR, A/59/40 vol. I (2004) 43 at paras. 69(7) and 67(11).

(7) The Committee is concerned at the continued impunity of those responsible for human rights violations committed during the period of military rule. In particular, investigations into the December 1982 killings and the 1986 Moiwana massacre remain pending and have not yet produced concrete results. The information supplied by the delegation that all such cases are still being investigated is disturbing, especially given the lapse of time since their occurrence. The Committee further considers that this situation reflects a lack of effective remedies available to victims of human rights violations, which is incompatible with article

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2, paragraph 3, of the Covenant.

The State party should give special priority to bringing to justice the perpetrators of human rights violations, including human rights violations committed by police and military personnel...Victims and their relatives should be provided with adequate compensation.

...

(11) While the Committee notes that the State party is taking measures to investigate and punish police officers involved in incidents of ill-treatment of detainees, including beatings and sexual abuse of detainees (especially during the initial stages of detention), it remains concerned that such incidents continue to be reported (arts. 7 and 10).

Allegations of ill-treatment in custody should be investigated by an independent mechanism, and those held responsible should be prosecuted and receive appropriate punishment. Victims of such treatment should receive full reparation, including fair and adequate compensation...

- Uganda, ICCPR, A/59/40 vol. I (2004) 47 at paras. 70(7) and 70(17).

(7) While acknowledging the important role of the Uganda Human Rights Commission in the promotion and protection of human rights in Uganda, the Committee is concerned about recent attempts to undermine the independence of the Commission. It is also concerned about the frequent lack of implementation by the State party of the Commission's decisions concerning both awards of compensation to victims of human rights violations and the prosecution of human rights offenders in the limited number of cases in which the Commission had recommended such prosecution (art. 2).

The State party should ensure that decisions of the Uganda Human Rights Commission are fully implemented, in particular concerning awards of compensation to victims of human rights violations and prosecution of human rights offenders. It should ensure the full independence of the Commission.

...

(17) The Committee takes note of the explanation provided by the delegation about the outlawing of "safe houses", places of unacknowledged detention where persons have been subjected to torture by military personnel. Nevertheless it remains concerned that State agents continue arbitrarily to deprive persons of their liberty, including in unacknowledged places of detention, in particular in northern Uganda. It is also concerned about the widespread practice of torture and ill-treatment of persons detained by the military as well as by other law enforcement officials (arts. 7 and 9).

The State party should take urgent and effective measures to prevent arbitrary detention and torture by State agents. It should thoroughly investigate any alleged case of arbitrary

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detention and torture, prosecute those held responsible and ensure that full reparation is granted, including fair and adequate compensation.

- Lithuania, ICCPR, A/59/40 vol. I (2004) 52 at para. 71(4).

(4) The Committee welcomes the amendment to the Law on Compensation for the Damage Caused by Unlawful Acts of State Authorities, which is currently pending before Parliament. It encourages the State party to adopt this legislative amendment, which will further improve the implementation of the Committee's Views on communications under the Optional Protocol, including the provision of compensation.

- Serbia and Montenegro, ICCPR, A/59/40 vol. I (2004) 68 at paras. 75(9), 75(10), 75(14) and 75(25).

(9) The Committee is concerned at the persistence of impunity for serious human rights violations, both before and after the [regime] changes of October 2000. Although the Committee appreciates the declared policy of the State party to carry out investigations and to prosecute perpetrators of past human rights violations, it regrets the scarcity of serious investigations leading to prosecutions and sentences commensurate with the gravity of the crimes committed (arts. 2, 6, 7).

The State party is under an obligation to investigate fully all cases of alleged violations of human rights, in particular violations of articles 6 and 7 of the Covenant during the 1990s and to bring to trial those persons who are suspected of involvement in such violations. The State party should also ensure that victims and their families receive adequate compensation for violations...

(10) While noting the effective work regarding exhumations and autopsies of some 700 bodies from mass graves in Batajnica, the Committee is concerned at the lack of progress in investigations and prosecutions of the perpetrators of those crimes (arts. 2, 6).

The State party should, along with the exhumation process, immediately commence investigations into apparent criminal acts entailing violations of the Covenant. The particular needs of the relatives of the missing and disappeared persons must equally be addressed by the State party, including the provision of adequate reparation.

...

(14) The Committee is concerned about continued allegations of ill-treatment of persons by law enforcement officials. It also notes the preliminary statement by the Committee against Torture, referred to in the initial report of the State party, to the effect that torture had been applied systematically in the Federal Republic of Yugoslavia prior to October 2000. The

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Committee is concerned that sufficient information has not been provided as to concrete steps taken to investigate such cases, punish those responsible and provide compensation to victims (art. 7).

The State party should take firm measures to eradicate all forms of ill-treatment by law enforcement officials, and to ensure prompt, thorough, independent and impartial investigations into all allegations of torture and ill-treatment, prosecute and punish perpetrators, and provide effective remedies to the victims.

...  
(25) While noting reports about the decrease in police violence against Roma, the Committee continues to be concerned at violence and harassment by racist groups, and inadequate protection against racially motivated acts afforded by law enforcement officers (arts. 2, 20, 26).

The State party should take all necessary measures to combat racial violence and incitement, provide proper protection to the Roma and other minorities, and establish mechanisms to receive complaints from victims and ensure investigation and prosecution of cases of racial violence and incitement to racial hatred, and ensure access to adequate remedies and compensation.

- Albania, ICCPR, A/60/40 vol. I (2004) 25 at paras. 82(13) and 82(16).

(13) The Committee is concerned about allegations of arbitrary arrests and detention, the excessive use of force by law enforcement officials, ill-treatment of detainees in police custody and use of torture to extract confession from suspects. It regrets that acts of torture by law enforcement officials are considered as “arbitrary acts” only and treated accordingly. It is also concerned that despite several cases of investigations and punishment of those responsible for ill-treatment, many cases have not been investigated properly and compensation to victims has not been provided (art. 7).

The State party should take firm measures to eradicate all forms of ill-treatment by law enforcement officials and ensure prompt, thorough, independent and impartial investigations into all allegations of torture and ill-treatment. It should prosecute perpetrators and ensure that they are punished in a manner proportionate to the seriousness of the crimes committed, and grant effective remedies including compensation to the victims.

...  
(16) The Committee is concerned about ... the lack of compensation for unlawful arrest or detention (arts. 9 and 10).

...The State party should ... provide the necessary measures for victims of unlawful arrest or detention to claim compensation...

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- Mauritius, ICCPR, A/60/40 vol. I (2005) 52 at para. 88(13).

(13) The Committee notes with concern concurring reports from non-governmental organizations on numerous instances of ill-treatment and deaths of persons in custody and in prisons attributable to police officers. The Committee is concerned at the fact that few complaints are actually investigated in order to identify and punish the officers responsible. It notes with concern the limitations of the investigations carried out by the Complaints Investigation Bureau, as well as the shortcomings of the National Human Rights Commission (Covenant, arts. 6, 7 and 10). In that regard, it is concerned at the absence of an independent appeals body for complaints against the police authorities.

The State party should ensure that investigations into all violations under articles 6, 7 and 10 of the Covenant are carried out. It should, depending on the findings of the investigations, prosecute the perpetrators of such violations and pay compensation to the victims. The State party should also ensure that the victims have access to genuinely independent bodies for investigating those complaints...

- Greece, ICCPR, A/60/40 vol. I (2005) 60 at para. 90(9).

(9) The Committee is concerned about reported cases of disproportionate use of force by the police, including fatal shootings, and ill-treatment at the time of arrest and during police custody. Police violence against migrants and Roma appears to be recurrent. The Committee is equally concerned about the reported failure of the judicial and administrative systems to deal promptly and effectively with such cases and the leniency of the courts in the few cases where law enforcement officers have been convicted (arts. 2 and 7).

...

(b) The State party should ensure that all alleged cases of torture, ill treatment and disproportionate use of force by police officers are fully and promptly investigated, that those found guilty are punished under laws that ensure that sentences are commensurate with the gravity of the offence, and that compensation is provided to the victims or their families...

- Yemen, ICCPR, A/60/40 vol. I (2005) 65 at para. 91(15).

(15) The Committee remains concerned that the offences carrying the death penalty under Yemeni law are not consistent with the requirements of the Covenant and that the right to seek a pardon is not guaranteed for all on an equal footing. The preponderant role of the victim's family in deciding whether or not the penalty is carried out on the basis of financial compensation ("blood money") is also contrary to the Covenant...

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The State party should limit the cases in which the death penalty is imposed, ensure that it is applied only for the most serious crimes, and officially abolish the sentence of death by stoning. The Committee reiterates that article 6 of the Covenant limits the circumstances that may justify the death penalty and guarantees the right of every convicted person to seek a pardon...

- Tajikistan, ICCPR, A/60/40 vol. I (2005) 70 at para. 92(10).

(10) The Committee is concerned about the widespread use of ill-treatment and torture by investigation and other officials to obtain information, testimony or self-incriminating evidence from suspects, witnesses or arrested persons (arts. 7 and 14, para. 3 (g)).

The State party should take all necessary measures to stop this practice, to investigate promptly all complaints of the use of such practices by officials and to proceed to the rapid prosecution, conviction and punishment of those responsible, and to provide adequate compensation to the victims.

- Slovenia, ICCPR, A/60/40 vol. I (2005) 74 at para. 93(9).

(9) The Committee is concerned about reported cases of ill-treatment by law enforcement officials and the lack of thorough investigations and adequate punishment of the responsible officials and non-payment of compensation to the victims...

The State party ... should prosecute perpetrators of such acts and ensure that they are punished in a manner proportionate to the seriousness of the offences committed by them, and grant effective remedies, including compensation, to the victims.

- Thailand, ICCPR, A/60/40 vol. I (2005) 83 at paras. 95(10) and 95(15).

(10) The Committee is concerned at the persistent allegations of serious human rights violations, including widespread instances of extrajudicial killings and ill-treatment by the police and members of armed forces, illustrated by incidents such as the Tak Bai incident in October 2004, the Krue Se mosque incident on 28 April 2004 and the extraordinarily large number of killings during the “war on drugs” which began in February 2003. Human rights defenders, community leaders, demonstrators and other members of civil society continue to be targets of such actions, and any investigations have generally failed to lead to prosecutions and sentences commensurate with the gravity of the crimes committed, creating a culture of impunity. The Committee further notes with concern that this situation reflects a lack of effective remedies available to victims of human rights violations, which is



## **EFFECTIVE REMEDIES - COMPENSATION**

incompatible with article 2, paragraph 3, of the Covenant (arts. 2, 6, 7).

The State party should conduct full and impartial investigations into these and such other events and should, depending on the findings of the investigations, institute proceedings against the perpetrators. The State party should also ensure that victims and their families, including the relatives of missing and disappeared persons, receive adequate redress...

...

(15) The Committee is concerned about the persistent allegations of excessive use of force by law enforcement officials, as well as ill-treatment at the time of arrest and during police custody... It is also concerned at the impunity flowing from the fact that only a few of the investigations into cases of ill-treatment have resulted in prosecutions, and fewer, in convictions, and that adequate compensation to victims has not been provided (art. 2, 7, 9).

The State party should guarantee in practice unimpeded access to legal counsel and doctors immediately after arrest and during detention... The State party should ensure that all alleged cases of torture, ill-treatment, disproportionate use of force by police and death in custody are fully and promptly investigated, that those found responsible are brought to justice, and that compensation is provided to the victims or their families.

### **ICESCR**

- Colombia, ICESCR, E/2002/22 (2001) 110 at para. 787.

787. The Committee urges the State party to take effective measures to provide for the personal security of trade union representatives, to try and punish the persons responsible for murdering trade union members and to provide for appropriate compensation for the victims' families. The Committee also calls upon the State party to take all necessary steps, including legislative and administrative ones, to ensure that all workers can exercise their trade union rights.

- Croatia, ICESCR, E/2002/22 (2001) 125 at para. 904.

904. The Committee urges the State party to take effective measures to accelerate the return and reintegration into Croatian society of all Croatian refugees without discrimination, particularly of ethnic Serbs, by expediting the restitution of their housing, arranging for adequate alternative accommodation or providing them with compensation when restitution is not possible, as explained by the Committee in its General Comment No. 7 (1997) on the right to adequate housing (art. 11, para. 1, of the Covenant).

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- Benin, ICESCR, E/2003/22 (2002) 34 at paras. 175 and 194.

175. The Committee is concerned at the lack of a social policy on housing and the lack of low-cost housing. It notes with grave concern that rents are unaffordably high for a large sector of the population, in particular the disadvantaged and marginalized groups, and that houses are demolished without compensation. The Committee is also concerned at the growing number of persons living in the street and in sub-standard housing in shanty towns lacking all basic services.

...

194. The Committee recommends the State party to introduce a consistent public housing scheme, build more low-cost housing for disadvantaged and marginalized people in lower income brackets, arrange for rents for public housing to be regulated and avoid any forced evictions without compensation, and take priority measures for homeless persons and persons living in sub-standard housing in shanty towns, as indicated in the recommendations in its general comments no. 4 (1991) on the right to adequate housing (art. 11, para. 1, of the Covenant) and no. 7 (1997) on forced evictions.

- Israel, ICESCR, E/2004/22 (2003) 42 at paras. 267, 270, 283 and 286.

267. The Committee is particularly concerned about information received concerning the construction of a “security fence” around the occupied territories, which allegedly would infringe upon the surface area of the occupied territories and which would limit or even impede access by Palestinian individuals and communities to land and water resources...

...

270. The Committee continues to be concerned about the situation of Bedouins residing in Israel, and in particular those living in villages that are still unrecognized.<sup>19/</sup> Despite measures by the State party to close the gap between the living conditions of Jews and Bedouins in the Negev, the quality of living and housing conditions of the Bedouins continues to be significantly lower, with limited or no access to water, electricity and sanitation. Moreover, Bedouins continue to be subjected on a regular basis to land confiscations, house demolitions, fines for building “illegally”, destruction of agricultural crops, fields and trees, and systematic harassment and persecution by the Green Patrol, in order to force them to resettle in “townships”. The Committee is also concerned that the present compensation scheme for Bedouins who agree to resettle in “townships” is inadequate.

...

283. The Committee urges the State party to ensure that any security measure it adopts does not disproportionately limit or impede the enjoyment of economic, social and cultural rights enshrined in the Covenant, in particular access to land and water resources by Palestinians, and that adequate restitution and compensation are provided to those who have incurred damage to and loss of property and lands as a result of these security measures.

## EFFECTIVE REMEDIES - COMPENSATION

...

286. The Committee...urges the State party to recognize all existing Bedouin villages, their property rights and their right to basic services, in particular water, and to desist from the destruction and damaging of agricultural crops and fields, including in unrecognized villages. The Committee further encourages the State party to adopt an adequate compensation scheme for Bedouins who have agreed to resettle in “townships”.

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### Notes

...

19/ [*Official Records of the Economic and Social Council, 1999, Supplement No. 2 (E/1999/22-E/C.12/1998/26), chap. IV*], para. 254.

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- Russian Federation, ICESCR, E/2004/22 (2003) 64 at paras. 470 and 498.

470. The Committee is concerned about delays in the payment of compensation for houses destroyed during military operations in Chechnya.

...

498. The Committee calls upon the State party to guarantee that timely and adequate compensation is duly provided to all persons whose property has been destroyed during the military operations in Chechnya.

- Greece, ICESCR, E/2005/22 (2004) 23 at paras. 141 and 162.

141. The Committee is gravely concerned about numerous reports on the extrajudicial demolition of dwellings and forced evictions of Roma from their settlements by municipal authorities, often under the pretext of construction projects for the 2004 Olympic Games, and frequently without payment of adequate compensation or provision of alternative housing.

...

162. The Committee urges the State party to ensure that forced evictions are carried out in accordance with the guidelines defined in the Committee’s general comment No. 7 (1997), on the right to adequate housing (article 11, paragraph 1 of the covenant): forced evictions and that those affected have a right to adequate compensation for the loss of any property, both personal and real, and are provided with adequate alternative housing meeting their specific cultural needs.

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- Kuwait, ICESCR, E/2005/22 (2004) 29 at paras. 190 and 210.

190. The Committee is...deeply concerned about the situation of domestic workers, in particular migrant workers who are excluded from the application of the Labour Code. These workers are subjected to conditions not dissimilar to forced labour, are insufficiently remunerated and are often unable to benefit from their right to rest. They are also sometimes deprived of their freedom of movement because their passports are held by their employers.

...

210. The Committee recommends that the State party include the subject of domestic workers in the Labour Code and undertake all the necessary measures to eliminate practices amounting to forced labour. The Committee also recommends that those who violate labour legislation be sanctioned and that the victims of such violations be compensated.

- Ecuador, ICESCR, E/2005/22 (2004) 39 at paras. 294 and 319.

294. The Committee is concerned that, despite the constitutional guarantees of the right of the indigenous people to own property communally, the State party does not provide effective protection for the indigenous people against forced evictions from their ancestral lands.

...

319. The Committee calls upon the State party to ensure that indigenous people are effectively protected from forced evictions from their ancestral lands and that they are properly compensated, should such evictions take place. In this regard, the Committee brings to the State party's attention its general comment No. 7 (1997) on the right to adequate housing (article 11, paragraph 1, of the Covenant): forced evictions...

- Azerbaijan, ICESCR, E/2005/22 (2004) 59 at paras. 493 and 519.

493. The Committee is concerned about the illegal occupation by refugees and internally displaced persons of properties belonging to Armenians and other ethnic minorities...

...

519. The Committee recommends that the State party take corrective measures to ensure that Armenians and other ethnic minorities whose properties are illegally occupied by refugees and internally displaced persons are provided with adequate compensation or offered alternative accommodation, in accordance with the guidelines adopted by the Committee and its General Comment No. 7 (1997) on the right to adequate housing (article 11, paragraph 1, of the Covenant):forced evictions...

- China, ICESCR, E/2006/22 (2005) 25 at paras. 160 and 190.

## EFFECTIVE REMEDIES - COMPENSATION

160. The Committee is concerned about the reports of forced evictions and insufficient measures to provide compensation or alternative housing to those who have been removed from their homes in the context of urban development projects as well as of rural development schemes such as the Three Gorges Project. The Committee is concerned about the number of forced evictions and demolitions that have occurred in anticipation of the 2008 Olympic Games to be hosted by the State party. The Committee further expresses concern about the lack of effective consultations and legal redress for persons affected by forced evictions and demolitions, including those of historic structures, buildings and homes in Lhasa, Tibet...

...

190. The Committee recommends that the State party take immediate measures to enforce laws and regulations prohibiting forced evictions and ensure that persons evicted from their homes be provided with adequate compensation or offered alternative accommodation, in accordance with the guidelines adopted by the Committee in its general comment No. 7 (1997) on the right to adequate housing (art. 11, para. 1 of the Covenant): forced evictions. The Committee also recommends that, prior to implementing development projects, the State party should hold open, effective and meaningful consultations with affected residents. In this connection, the Committee wishes to draw the attention of the State party to its general comment No. 4 (1991) on the right to adequate housing (art. 11, para. 1 of the Covenant)...

### CEDAW

- Uganda, CEDAW, A/57/38 part III (2002) 164 at para. 144.

144. ...The Committee recommends that the State party introduce specific legislation, with accessible procedures and compensation for victims, and penalties for perpetrators, to address sexual harassment in the workplace.

- Peru, CEDAW, A/57/38 part III (2002) 212 at paras. 476 and 477.

476. The Committee is concerned that, although there is an Act for prevention, protection and attention to violence in the family and another Act requiring public criminal proceedings in cases of crimes against sexual freedom, as well as a National Programme against Family Violence and Sexual Abuse, the figures for violence towards women are still very high...

477. The Committee requests the State party to take into account General Recommendation No. 19 on violence towards women, and to guarantee systematic implementation of the National Programme of Action and of all the laws and measures relating to violence towards women and to monitor their impact. The Committee also urges the State party to guarantee that such violence will be prosecuted and punished with due speed and severity and to ensure

## EFFECTIVE REMEDIES - COMPENSATION

that women subjected to such violence receive compensation and immediate protection and that the conciliation procedure envisaged in the law on family violence is not used to exonerate the perpetrators...

- Canada, CEDAW, A/58/38 part I (2003) 53 at paras. 355 and 356.

355. While appreciating the fact that funds are available under the Court Challenges Programme for test cases under the equality guarantee in the Canadian Charter of Rights and Freedoms, the Committee is concerned that the Programme applies only to federal laws and programmes. The Committee is also concerned that federal legal aid funds in civil and family law and for legal matters related to poverty issues, in contrast to legal aid for criminal cases, are channelled to the provinces and territories at their discretion. That, in practice, turns out to have a disproportionately restrictive impact on women seeking legal redress as compared with men.

356. The Committee urges the State party to find ways for making funds available for equality test cases under all jurisdictions and for ensuring that sufficient legal aid is available to women under all jurisdictions when seeking redress in issues of civil and family law and in those relating to poverty issues.

## CAT

- Benin, CAT, A/57/44 (2002) 19 at para. 35.

35. The Committee recommends that:

...

(b) Measures must be taken to establish regulations on the right of torture victims to fair and adequate compensation from the State and to set up programmes for victims' physical and psychological rehabilitation;

...

- Israel, CAT, A/57/44 (2002) 27 at para. 53.

53. The Committee makes the following recommendations:

...

## EFFECTIVE REMEDIES - COMPENSATION

(f) All victims of torture and ill-treatment should be granted effective access to appropriate rehabilitation and compensation measures;

...

- Ukraine, CAT, A/57/44 (2002) 31 at para. 58.

58. The Committee recommends that the State party:

...

(o) Establish a procedure for providing redress for victims of torture, including fair and adequate compensation;

...

- Luxembourg, CAT, A/57/44 (2002) 39 at para. 80.

80. The Committee recommends that:

...

(c) The State party consider making provision for appropriate compensation specifically for victims of torture;

...

- Russian Federation, CAT, A/57/44 (2002) 42 at para. 94.

94. The Committee recommends that the State party:

...

(c) Ensure in practice absolute respect for the principle of the inadmissibility of evidence obtained by torture and review cases of convictions based solely on confessions, recognizing that many of them may have been obtained through torture or ill-treatment, and, as appropriate, provide compensation to and release persons presenting credible evidence of having been tortured or ill-treated;

...

- Saudi Arabia, CAT, A/57/44 (2002) at paras. 100 and 101.

100. The Committee is concerned about the following:

...

## EFFECTIVE REMEDIES - COMPENSATION

(j) While noting the State party's institution of mechanisms for the purpose of providing compensation for conduct in violation of the Convention, as a practical matter, compensation appears to be rarely obtained, and full enjoyment of the rights guaranteed by the Convention is consequently limited.

...

101. The Committee recommends, in particular, that the State party:

...

(f) Ensure that all persons who have been victims of a violation of their rights under the Convention have access, in law as well as in practice, to the means of obtaining full redress, including compensation, and that the persons who may be responsible for such violations are promptly and impartially investigated, and thereupon punished;

...

- Cyprus, CAT, A/58/44 (2002) 21 at para. 33.

33. The Committee welcomes the recent legislative, administrative and institutional developments that took place in the State party since the consideration of its previous periodic report, namely:

...

(g) The enactment of a new law for the payment of adequate compensation;

...

- Egypt, CAT, A/58/44 (2002) 22 at paras. 41 and 42.

41. The Committee is concerned about the following:

...

(j) The significant disparities in compensation granted to the victims of torture and ill-treatment.

42. The Committee recommends that the State party:

...

(n) Establish precise rules and standards to enable the victims of torture and ill-treatment to obtain full redress, while avoiding any insufficiently justified disparities in the compensation which is granted;

....

- Spain, CAT, A/58/44 (2002) 29 at para. 63.



## EFFECTIVE REMEDIES - COMPENSATION

63. The Committee...expresses its concern at the following:

(a) The substantial delays attending legal investigations into complaints of torture, which may lead to convicted persons being pardoned or not serving their sentences owing to the length of time since the offence was committed. This further delays the realization of the rights of victims to moral and material compensation;

...

- Venezuela, CAT, A/58/44 (2002) 32 at paras. 76, 80 and 81.

76. The Committee welcomes with satisfaction the entry into force on 30 December 1999 of the new Constitution of the Bolivarian Republic of Venezuela, which demonstrates progress in human rights. In particular, the Committee considers as positive the following aspects of the Constitution:

...

(e) It imposes on the State the obligation to compensate in full victims of human rights violations and recognizes the right to rehabilitation of victims of torture and cruel, inhuman or degrading treatment inflicted or tolerated by agents of the State;

...

80. The Committee expresses its concern at the following:

...

(f) The absence of prompt and impartial investigations of complaints of torture and cruel, inhuman and degrading treatment, and the lack of an accessible, institutionalized procedure in order to ensure the right of victims of acts of torture to obtain redress and fair and adequate compensation, as article 14 of the Convention provides;

...

81. The Committee recommends that the State party should:

...

(c) Adopt measures to regulate and institutionalize the right of victims of torture to fair and adequate compensation and draw up programmes for their physical and psychological rehabilitation to the fullest extent possible, as the Committee has already recommended in its previous conclusions and recommendations;

...

- Azerbaijan, CAT, A/58/44 (2003) 36 at paras. 88 and 89.

88. The Committee is concerned about:

...

(n) The fact that very few victims have obtained compensation;

## EFFECTIVE REMEDIES - COMPENSATION

...

89. The Committee recommends that the State party:

...

(o) Ensure that in practice, redress, compensation and rehabilitation are guaranteed to victims of torture;

...

- Cambodia, CAT, A/58/44 (2003) 40 at para. 99.

99. The Committee recommends that the State party:

...

(k) Take measures to regulate and institutionalize the right of victims of torture to fair and adequate compensation and to establish programmes for their physical and mental rehabilitation;

...

- Turkey, CAT, A/58/44 (2003) 46 at paras. 121 and 123.

121. The Committee expresses concern about:

...

(g) The State party's failure to comply fully with judgements of the European Court of Human Rights ordering the payment of just compensation.

...

123. The Committee recommends that the State party:

...

(h) Ensure that fair and adequate compensation, including financial indemnification, rehabilitation, and medical and psychological treatment are provided to the victims of torture and ill-treatment;

...

- Republic of Moldova, CAT, A/58/44 (2003) 53 at para. 139.

139. The Committee recommends that the State party:

...

(c) Ensure prompt, impartial and full investigations into the many allegations of torture reported to the authorities, the prosecution and punishment of the perpetrators, as appropriate, and the provision of just compensation for the victims;

...

## EFFECTIVE REMEDIES - COMPENSATION

- Chile, CAT, A/59/44 (2004) 28 at paras. 56 and 57.

56. The Committee expresses concern about the following:

(a) Allegations of continued ill-treatment of persons, in some cases amounting to torture, by *carabineros* (uniformed police), *policía de investigaciones* (civil police forces) and the *gendarmería* (prison guards), and reports of failure to conduct thorough and independent investigations into such complaints;

...

57. The Committee recommends that the State party should:

...

(e) Adopt all the necessary measures to ensure impartial, full and prompt investigations into all allegations of torture and other cruel, inhuman or degrading treatment, the prosecution and punishment of the perpetrators, and the provision of fair and adequate compensation for the victims, in conformity with the Convention;

...

(l) Create a system to provide adequate and fair reparation to victims of torture, including rehabilitative measures and compensation;

...

- Colombia, CAT, A/59/44 (2003) 33 at paras. 68 and 69.

68. The Committee...expresses its concern at:

(a) The climate of impunity that surrounds human rights violations by State security forces and organs and, in particular, the absence of prompt, impartial and thorough investigation of the numerous acts of torture or other cruel, inhuman or degrading treatment or punishment and the absence of redress and adequate compensation for the victims;

...

69. The Committee recommends that the State party take all necessary measures to prevent the acts of torture and ill-treatment that are being committed in its territory, and in particular that it:

(a) Take firm steps to end impunity for persons thought to be responsible for acts of torture or ill-treatment; carry out prompt, impartial and thorough investigations; bring the perpetrators of torture and inhuman treatment to justice; and provide adequate compensation for the victims. It recommends in particular that the State party reconsider in the light of its obligations under the Convention the adoption of the "alternative penalties" bill;

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- Croatia, CAT, A/59/44 (2004) 38 at paras. 77 and 78.

77. The Committee is concerned about the following:

(a) In connection with torture and ill-treatment which reportedly occurred during the 1991-1995 armed conflict in the former Yugoslavia:

(i) The reported failure of the State party to carry out prompt, impartial and full investigations, to prosecute the perpetrators and to provide fair and adequate compensation to the victims;

...

78. The Committee recommends that the State party:

(a) Take effective measures to ensure impartial, full and prompt investigations into all allegations of torture and other cruel, inhuman or degrading treatment, the prosecution and punishment of the perpetrators as appropriate and irrespective of their ethnic origin, and the provision of fair and adequate compensation for the victims;

...

- Czech Republic, CAT, A/59/44 (2004) 42 at paras. 86 and 87.

86. The Committee expresses concern about the following:

...

(h) The findings of the investigations into the excessive use of force by the police following the demonstrations in Prague during the September 2000 International Monetary Fund/World Bank Meeting, according to which only one case qualified as a criminal offence;

...

87. The Committee recommends that the State party:

...

(k) Review the independence and effectiveness of the investigations into complaints of excessive use of force in connection with the International Monetary Fund/World Bank Meeting demonstrations of September 2000, with a view to bringing those responsible to justice and providing compensation to the victims;

...

- Morocco, CAT, A/59/44 (2003) 58 at para. 125.

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125. The Committee takes note of the following positive new developments:

(a) The declaration by the State party delegation of the intention of the executive, up to the highest level, and of the legislature, to implement the Convention, which is directly applicable in Morocco, to adopt institutional, normative and educational measures, in consultation with local and international associations, and to develop technical cooperation in the area of human rights with the United Nations Development Programme (UNDP), the Office of the United Nations High Commissioner for Human Rights and non-governmental organizations (NGOs). This political will has also been reflected in the release of political prisoners, including a group of 56 who were released in November 2002, and in the compensation of victims;

...

(f) The payment of compensation, following the recommendations made by the Independent Arbitration Commission set up within CCDH [Consultative Council on Human Rights] on compensation for material damage and moral injury suffered by victims of disappearance or arbitrary detention and their next of kin;

...

- Yemen, CAT, A/59/44 (2003) 64 at para. 146.

146. The Committee recommends that the State party:

...

(j) Ensure the right of torture victims to fair and adequate compensation from the State and set up programmes for the physical and psychological rehabilitation of victims;

...

- Canada, CAT, A/60/44 (2005) 25 at paras. 57 and 58.

57. The Committee expresses its concern at:

...

(g) The absence of effective measures to provide civil compensation to victims of torture in all cases;

...

58. The Committee recommends that:

...

(f) The State party should review its position under article 14 of the Convention to ensure the provision of compensation through its civil jurisdiction to all victims of torture;

...

## EFFECTIVE REMEDIES - COMPENSATION

- Switzerland, CAT, A/60/44 (2005) 28 at paras. 64 and 65.

64. The Committee expresses concern regarding the following:

...

(f) In spite of the increase in number of complaints filed against the police, often by persons of foreign origin, for ill-treatment, only a minority of these complaints result in prosecutions or indictments, and even fewer cases result in compensation for the victims or their families;

...

65. The Committee recommends that the State party:

...

(f) Ensure that all complaints for acts of ill-treatment are properly and effectively investigated and that the alleged perpetrators are prosecuted and if found guilty sanctioned accordingly. Victims and their families should be informed of their right to pursue compensation and procedures should be made more transparent. In this regard, the State party should provide written information to the Committee on the steps taken to compensate the families of the two victims of the two recent cases of death caused during forcible deportation;

...

- Albania, CAT, A/60/44 (2005) 34 at paras. 83 and 84.

83. The Committee expresses concern:

...

(h) At the failure to ensure fair and adequate compensation, including rehabilitation, for all victims of torture, including ex-political convicted and persecuted persons;

...

84. The Committee recommends that the State party:

...

(h) Implement the established legal mechanisms enabling victims of torture to obtain redress and fair and adequate compensation;

...

- Uganda, CAT, A/60/44 (2005) 39 at paras. 95 and 97.

95. While acknowledging the important role of the Uganda Human Rights Commission in the promotion and protection of human rights in Uganda, the Committee is concerned about the frequent lack of implementation by the State party of the Commission's decisions concerning both awards of compensation to victims of torture and the prosecution of human

## EFFECTIVE REMEDIES - COMPENSATION

rights offenders in the limited cases in which the Commission had recommended such prosecution.

...

97. The Committee recommends that the State party take all necessary legislative, administrative and judicial measures to prevent acts of torture and ill-treatment in its territory, and in particular that it:

...

(g) Take vigorous steps to eliminate impunity for alleged perpetrators of acts of torture and ill-treatment, carry out prompt, impartial and exhaustive investigations, try and, where appropriate, convict the perpetrators of torture and ill-treatment, impose appropriate sentences on them and properly compensate the victims;

...

(k) Strengthen the Uganda Human Rights Commission and ensure that its decisions are fully implemented, in particular concerning awards of compensation to victims of torture and prosecution of perpetrators;

...

- Bahrain, CAT, A/60/44 (2005) 44 at paras. 108 and 109.

108. The Committee expresses its concern at:

...

(h) The inadequate availability in practice of civil compensation and rehabilitation for victims of torture prior to 2001;

...

109. The Committee recommends that the State party:

...

(e) Ensure that its legal system provides victims of past acts of torture with redress and an enforceable right to fair and adequate compensation;

...

## CRC

- Paraguay, CRC, CRC/C/111 (2001) 103 at paras. 514 and 515.

514. The Committee is deeply concerned that, although the State party's legislation states that the minimum age for recruitment into the armed forces is 18, minors constitute a considerable proportion of conscripts into the Paraguayan armed forces and national police, and very much regrets that its previous recommendation (CRC/C/15/Add. 75, para. 36) in this regard was not implemented. It is deeply worried at the number of cases of torture and ill-treatment of conscripts, including children, by their superiors and at cases of unclarified

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deaths of conscripts, which also involved minors. In particular, it notes with concern that the majority of these deaths and ill-treatment cases were not investigated, and that there are reports of forcible recruitment of children, especially in rural areas, and of falsification of documents proving their age.

515. The Committee urges the State party:

(a) To put an end to the practice of recruiting children into the Paraguayan armed forces and national police, in line with its previous recommendation (CRC/C/15/Add.75, para. 36), and punish those involved in forcible recruitment;

(b) To investigate all cases of ill-treatment and death of conscripts and suspend from duty the officials implicated in such accidents;

(c) To prosecute and punish those responsible for these violations;

(d) To provide compensation to the victims of human rights violations during military service or their families;

...

- Gabon, CRC, CRC/C/114 (2002) 47 at paras. 207 and 208.

207. The Committee is deeply concerned that torture is still used by law enforcement personnel during police investigation and in detention centres as mentioned in the State party's report (para. 159).

208. The Committee urges the State party to take all necessary measures:

(a) To immediately put an end to these forms of torture or violence against children and to address their causes in order to prevent their recurrence;

...

(d) To adopt legislative measures for the fullest compensation and rehabilitation of child victims of torture;

...

- Argentina, CRC, CRC/C/121 (2002) 8 at paras. 61 and 62.

61. The Committee expresses its deep concern about institutional violence and specific reports of torture and ill-treatment of children held at police stations (*commissarias*) which, in some cases, have resulted in death. It is also extremely concerned at additional reports



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of police brutality, specifically the phenomenon of *gatillo fácil* (easy trigger syndrome), especially in the Province of Buenos Aires, which has led to the death of many children. It notes that, according to the Supreme Court of Justice of the Province of Buenos Aires, several of the children who died had previously reported pressures and torture by the provincial police and that the majority of the cases are not adequately investigated and the perpetrators not brought to justice.

62. In light of article 37 (a) of the Convention, the Committee urges the State party:

...

(h) In light of article 39, to take all appropriate measures to ensure possibilities for physical and psychological recovery and social reintegration for child victims of torture and/or ill-treatment, and that they receive compensation.

### *See also:*

- Ukraine, CRC, CRC/C/121 (2002) 70 at para. 330.
- Burkina Faso, CRC, CRC/C/121 (2002) 103 at paras. 457 and 458.

457. The Committee is concerned at the poor conditions of detention of children in police or gendarmerie stations, amounting in many instances to cruel, inhuman or degrading treatment as spelled out in article 37 (a) of the Convention. In addition, the Committee is concerned at methods used by law enforcement officials which may jeopardize the life of children.

458. The Committee urges the State party to take all necessary measures to improve the conditions of detention of children, particularly in police and gendarmerie stations, and to ensure that each case of violence and abuse is duly investigated, that perpetrators are brought to justice without undue delay and that victims receive compensation.

- Israel, CRC, CRC/C/121 (2002) 131 at paras. 581, 582, 586, 587, 600, 601, 608 and 609.

581. The Committee deeply regrets the killing and injuring of all children in the State party committed by all actors prior to and during the present armed conflict. It is extremely concerned about the consequences of the climate of terror which seriously harms the development of children.

582. The Committee strongly urges the State party and all relevant non-State actors:

...

(d) To take all necessary measures to provide child victims of these human rights violations with possibilities for adequate compensation, recovery and social reintegration

## EFFECTIVE REMEDIES - COMPENSATION

...

586. The Committee is seriously concerned at allegations and complaints of inhuman or degrading practices and of torture and ill-treatment of Palestinian children by police officers during arrest and interrogation and in places of detention (i.e. Ma'ale Adummim, Adorayim, Beit El, Huwarra, Kedumin, Salem and Gush Etzion police station and prisons such as Terza, Ramleh, Megiddo and Telmond).

587. The Committee strongly recommends that the State party:

...

(c) Pay full attention to the victims of these violations and provide them with opportunities for adequate compensation, recovery and social reintegration...

...

600. The Committee is deeply concerned at the large-scale demolition of houses and infrastructure in the occupied Palestinian territories, which constitutes a serious violation of the right to an adequate standard of living for children in those territories.

601. The Committee recommends, with reference to international humanitarian law, notably the Geneva Convention relative to the Protection of Civilian Persons in Time of War, that the State party fully comply with the rules of distinction (between civilians and combatants) and proportionality (of attacks that cause excessive harm to civilians) and thus refrain from the demolition of civilian infrastructure, including homes, water supplies and other utilities. It further recommends that the State party provide the victims of such demolitions with support for the rebuilding of their houses and with adequate compensation.

...

608. The Committee is seriously concerned about the impact of terrorism on the rights of children in the State party, as well as the impact of military action on the rights of children in the occupied Palestinian territories. Moreover, the Committee is concerned about the insufficient cooperation of the State party in relation to demining efforts in southern Lebanon and the lack of redress available to the child victims of Israeli Defence Forces operations there.

609. The Committee recommends that the State party and other non-State actors:

...

(c) Provide full support and cooperation for demining efforts in southern Lebanon, and possibilities for adequate compensation, recovery and rehabilitation to the child victims of Israeli Defence Forces actions in southern Lebanon;

...

- Slovenia, CRC, CRC/C/137 (2004) 104 at paras. 557 and 558.

557. The Committee notes the rulings of the Constitutional Court (U-I-284/94 of 4 February

## EFFECTIVE REMEDIES - COMPENSATION

1999 and U-I-246/02 of 3 April 2003) that the erasure of about 18,300 people originating from other parts of the former Socialist Federal Republic of Yugoslavia from the Register of Permanent Residence in 1992 had no legal basis and that the permanent residence status should be restored to the affected persons retroactively. The Committee is concerned that many children were negatively affected by this erasure, as they and their families lost their right to health care, social assistance and family benefits as a consequence of losing their permanent residence status and children born in Slovenia after 1992 became stateless.

558. The Committee recommends that the State party proceed with the full and prompt implementation of the decisions of the Constitutional Court, compensate the children affected by the negative consequences of the erasure and ensure that they enjoy all rights under the Convention in the same way as other children in the State party.

- Brazil, CRC, CRC/C/143 (2004) 10 at paras. 59 and 60.

59. While the Committee notes that the right to life, survival and development is integrated into domestic legislation, it remains extremely concerned at the number of children murdered, as reported by the Special Rapporteur on extrajudicial, summary or arbitrary executions in Brazil in her 2004 report, which stated that the perpetrators of those crimes are mainly military policemen or former policemen (E/CN.4/2004/7/Add.3).

60. The Committee urges the State party to take, as a matter of the highest priority, all necessary measures to prevent the killing of children, to fully investigate each of those serious violations of children's rights, to bring the perpetrators to justice and to provide the family of the victims with adequate support and compensation.

- Croatia, CRC, CRC/C/143 (2004) 36 at paras. 231 and 232.

231. The Committee welcomes the State party's ratification of the Optional Protocol on the involvement of children in armed conflict in 2002 and notes the efforts undertaken by the State party to provide psychological and social assistance for children who have been affected by armed conflict... The Committee is...concerned about the lack of compensation provisions for those children.

232. The Committee recommends that the State party:

...

(e) Take effective measures to ensure that the affected children receive adequate compensation.