

UZBEKISTAN

Follow-up - Jurisprudence Action by Treaty Bodies

CCPR A/59/40 vol. I (2004)

CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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230. The previous annual report of the Committee¹ contained a detailed country-by-country survey of follow-up replies received or requested and outstanding as of 30 June 2003. The list that follows updates that survey, indicating those cases in which replies are outstanding, but does not include responses concerning the Committee's Views adopted during the eightieth and eighty-first sessions, for which follow-up replies are not yet due in the majority of cases. In many cases there has been no change since the previous report.*

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Uzbekistan: Views in one case with findings of violations:

917/2000 - *Arutyunyan* (annex IX); follow-up reply not yet received.

Notes

^{1/} Ibid., *Fifty-eighth Session, Supplement No. 40* (A/58/40), vol. I, chap. VI.

* The document symbol A/[session No.]/40 refers to the *Official Records of the General Assembly* in which the case appears; annex IX refers to the present report, volume II.

CCPR, A/60/40 vol. I (2005)

CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

224. In July 1990, the Committee established a procedure for the monitoring of follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and created the mandate of the Special Rapporteur for the follow-up on Views to this effect. Mr. Ando has been the Special Rapporteur since March 2001 (seventy-first session).

225. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information has been systematically requested in respect of all Views with a finding of a violation of Covenant rights. A total of 391 Views out of the 503 Views adopted since 1979 concluded that there had been a violation of the Covenant.

228. In many cases, the Secretariat has also received information from complainants to the effect that the Committee's Views have not been implemented. Conversely, in rare instances, the petitioner has informed the Committee that the State party has in fact given effect to the Committee's recommendations, even though the State party did not itself provide that information.

229. The present annual report adopts a different format for the presentation of follow-up information compared to previous annual reports. The table below displays a complete picture of follow-up replies from States parties received as of 28 July 2005, in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of complying with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up on Views continues. The notes following a number of case entries convey an idea of the difficulties in categorizing follow-up replies.

230. Follow-up information provided by States parties and by petitioners or their representatives since the last annual report is set out in a new annex VII, contained in Volume II of the present annual report. This, more detailed, follow-up information also indicates action still outstanding in those cases that remain under review.

FOLLOW-UP RECEIVED TO DATE FOR ALL CASES OF VIOLATIONS OF THE COVENANT

State party and number of cases with violation	Communication number, author and location ^a	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response	Follow-up dialogue ongoing
...						
Uzbekistan (4)	911/2000, <i>Nazarov</i> A/59/40				X	X
	917/2000, <i>Arutyunyan</i> A/59/40	X A/60/40 (annex VII)		X A/60/40		X
	931/2000, <i>Hudoyberganova</i> A/60/40	X A/60/40 (annex VII)		X A/60/40		
	971/2001, <i>Arutyuniantz</i> A/60/40	X A/60/40 (annex VII)				X

^a The location refers to the document symbol of the *Official Records of the General Assembly, Supplement No. 40*, which is the annual report of the Committee to the respective sessions of the Assembly.

CCPR, A/60/40 vol. II (2005)

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Annex VII

FOLLOW-UP OF THE HUMAN RIGHTS COMMITTEE ON INDIVIDUAL COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

This report sets out all information provided by States parties and authors or their counsel since the last Annual Report (A/59/40).

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State party	UZBEKISTAN
Case	Navarov, 911/2000
Views adopted on	6 July 2004
Issues and violations found	“Framing” for criminal offence, denial of legal advice and family access, discrimination due to religious belief - articles 9, paragraph 3, and 14.
Remedy recommended	An appropriate remedy, including compensation and the author's immediate release.
Due date for State party response	28 October 2004
Date of reply	27 October 2004
State party response	The State party provided a detailed response to the Committee's Views. It will be recalled that the State party had failed to provide any information on the admissibility and merits of the case, prior to consideration by the Committee. In its reply the State party set out the facts. It submits that, contrary to the author's claim, the car was only searched once on 26 December 1997 in the company of witnesses who gave evidence to that effect at the District Court hearing. The author was detained on 28 December, on the basis of his arrest and the charges against him and released on 31 December. Thus, according to the State party, he was not illegally detained for five days. On 29 December, he was interrogated in the presence of his lawyer who participated in the proceedings thereafter. As to the

author's request for the appointment of an expert to determine the geographical origin of the hemp, the State party submits that this was rejected by the Court as it would not have made any significant contribution to the criminal case. A forensic chemical expert on 27 December had confirmed that the substances were narcotic drugs. Finally, the State party submits that under the Amnesty Act under the Decree of the President of the Republic of Uzbekistan on 3 December 2002, the author was released from imprisonment on 21 January 2003. As he is a citizen of Kyrgystan, he was accompanied to the border and left the jurisdiction of Uzbekistan. In the State party's view, the decision of the domestic courts in this case was correct.

State party	UZBEKISTAN
Case	Arutyunyan, 917/2000
Views adopted on	29 March 2004
Issues and violations found	Death penalty - unfair trial and mistreatment - articles 10, paragraph 1, and 14, paragraph 3 (d).
Remedy recommended	Provide Mr. Arutyunyan with an effective remedy, which could include consideration of a further reduction of his sentence and compensation. The State party is also under an obligation to prevent similar violations in the future.
Due date for State party response	12 July 2004
Date of reply	31 December 2004
State party response	The State party provided a detailed response to the Committee's Views. It will be recalled that the State party had failed to provide any information on the admissibility and merits of the case, prior to consideration by the Committee. The only information provided by the State party was that the author's death sentence was commuted to 15 years' imprisonment. In its reply, the State party denies the allegations and findings against it. It states that the author was represented by counsel from 7 June 1999 throughout the preliminary investigation and trial. It adds that he confessed to the crime in a statement, and made no mention in court that he had been ill treated or put under pressure to sign a confession. From 27 September 1999 to 5 October 1999, the court hearing was suspended to allow his lawyer to study the case materials. On 20 December 1999, the

author's case was examined by the Appellate Court of the Supreme Court, at which author's counsel made no mention of difficulties in preparing the author's defence. None of the allegations made by the author are reflected in the case materials. The State party states that it is groundless to say that the death sentence was commuted to cover mistakes in the handling of the case, and that following several Amnesty Decrees the initial term of imprisonment of 20 years has been reduced to 6 years, 10 months and 11 days. In fact, the author's imprisonment will be terminated on 15 April 2006. Between 6 December 2001 and 20 January 2004, the author was transferred from prison to a "colony" with a "strict regime", and from 20 January 2004 to a colony with a "general regime".

State party	UZBEKISTAN
Case	Hudoyberganova, 931/2000
Views adopted on	5 November 2004
Issues and violations found	Infringement of expression of religious belief (prohibited to wear headscarf) - article 18, paragraph 2.
Remedy recommended	In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide Ms. Hudoyberganova with an effective remedy.
Due date for State party response	10 March 2005
Date of reply	26 April 2005
State party response	According to the State party, the individual opinions of Mr. Solari Yrigoyen, Sir Nigel Rodley and Mrs. Wedgwood, demonstrate that the author had failed to substantiate her claims on her exclusion from the Tashkent State Eastern Languages Institute, and also that her claims on the wearing of the hijab were contradictory.

The State party points out that the Institute is a secular education institution and as such has its internal regulations, compulsory for both staff and students. Ms. Hudayberganova was aware of the internal regulations' provisions, but she refused to comply with them.

Notwithstanding the warnings of the Institute administration, the author refused to comply with the internal regulations and systematically entered into conflict with professors. In particular, she accused a teacher of having received bribes.

It is stated that the author's allegations that she was subjected to unlawful pressure by the administration do not reflect the reality and were groundless. According to the State party, Ms. Hidayberganova was excluded from the Institute following numerous warnings, not because of her religious beliefs, but because of her rude and immoral attitude vis-à-vis a professor and the violation of the Institute's internal regulations.

The State party also points out that Hidayberganova's disrespectful attitude towards her professors and the conflictual character of her behaviour, created an "unfavourable" studying and moral atmosphere which had affected the whole educational process.

According to the State party, in its Views, the Committee did not take into account the author's conflictual behaviour but had drawn its attention to the wearing of a "hijab". It is stated that the "hijab" the author wore completely covered her face, except her eyes, which created certain difficulties in her contacts with professors during courses.

As to the author's allegation that her exclusion was based on the banning of the "hijab" because of her religious beliefs, the State party contends that Islam does not prescribe the wearing of specific clothes, which was confirmed also by a specialist from the Committee on Religions to the Committee of Ministers of Uzbekistan.

According to the State party, the individual opinion of Mr. Solari Yrigoyen reflects in the best manner the substance of the case, whose motivations were "more complicated" than the ones presented and examined by the Committee.

Finally, the State party disagrees with the conclusion in Sir Nigel's individual opinion in relation to the unclear reasons, for the State party, to install the "limitations in the author's respect". According to the State party, the limitations of the internal regulations in question applied not only to the author but to all staff and students, without exception.

State party

UZBEKISTAN

Case

Arutyuniantz, 971/2001

Views adopted on

30 March 2005

Issues and violations found	The victim's trial did not respect the principle of presumption of innocence, in violation of article 14, paragraph 2.
Remedy recommended	An appropriate remedy, including compensation and either his retrial or his release.
Due date for State party response	31 June 2005
Date of reply	1 July 2005
State party response	The State party finds the conclusions of the Committee "inadmissible", and refers to a range of evidence which proved the author's guilt in the murders for which he was convicted. The State party further states that the courts did establish who killed the victims, i.e. both Mr. Arutyuniantz and his accomplice. According to the court, they had in any event both planned the murders. The State party considers its courts' decisions to be correct and that they did not entail any violations of the presumption of innocence.

CCPR, CCPR/C/SR.2366 (2006)

Human Rights Committee

Eighty-sixth session

Summary record of the second part (public)* of the 2366th meeting

Held at Headquarters, New York, on Thursday, 30 March 2006, at 3 p.m.

Follow-up on Views under the Optional Protocol

Progress report of the Special Rapporteur for Follow-up on Views

1. Mr. Ando (Special Rapporteur for Follow-up on Views) introduced his report, which compiled information received during the eighty-fifth and eighty-sixth sessions of the Committee. He wished to request decisions from the plenary in relation to two cases.

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3. Turning to the case of Siragev v. Uzbekistan (Communication No. 907/2000 (pp. 29-30)), he recalled that the Committee had recommended commutation of the death penalty, further reduction of the sentence and compensation. Although the State party maintained the correctness of the decision of its Supreme Court, the author's sentence had been commuted as a result of a presidential amnesty and he was to have been released in December 2005. Given those circumstances, the Committee's comment should perhaps indicate that the Committee considered the State Party's response satisfactory and did not intend to consider the matter any further.

4. Mr. Wieruszewski said he could not agree that Uzbekistan's response had been satisfactory; although the author had been released, the State party continued to reject the Committee's views. That was unacceptable, and since the report would become a public document, the Committee must express its dissatisfaction with the State party's attitude.

5. Mr. Shearer agreed that the State party's response was unsatisfactory. He suggested that in the Committee's comment, the words "satisfactory and" should be deleted and replaced with "unsatisfactory, but in view of the commutation of the author's sentence".

6. The Chairperson said that since the State party's response was unsatisfactory the Committee should keep the case under consideration.

7. Sir Nigel Rodley suggested trying to find some middle ground; although the State party's response could certainly not be considered satisfactory, the end result had been more or less what the Committee wished, and it would not be terribly productive to use the word "unsatisfactory". The Committee's comment should be based on the facts. He therefore suggested that, in the Committee's comment, the words "the State party's response satisfactory and" should be deleted and replaced with "that in the light of the information on the commutation of the author's sentence and his release, the Committee". The Committee would thereby avoid having to decide whether or not to continue considering the matter solely on the basis of whether or not the State party's response was satisfactory or unsatisfactory; regardless of the attitude of the State party or

its courts, the Committee had sufficient information and grounds to find the outcome acceptable and to decide not to consider the matter any further.

8. Mr. Wieruszewski said that, although he could support Sir Nigel Rodley's suggestion, it might be preferable to continue the Committee's consideration of the matter with a view to sending a message to the State party that, although the final outcome had been positive, the Committee did not agree with its position or that of its courts, and that in future due account should be taken of the Committee's Views.

9. Mr. Lallah said he agreed with Sir Nigel Rodley that the deciding factor should be the final outcome. Calling the State party's response unsatisfactory or continuing consideration of the matter could make the Special Rapporteur's work difficult; given the fact that the author had been released, the Special Rapporteur would have little leverage with the State party in trying to make it admit any fault or pay compensation. The author had been released which was what the Committee wished, so the Committee should take advantage of that way out.

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CHAPTER VI FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

227. In July 1990, the Committee established a procedure for the monitoring of follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and created the mandate of the Special Rapporteur for follow-up to Views to this effect. Mr. Ando has been the Special Rapporteur since March 2001 (seventy-first session).

228. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information has been systematically requested in respect of all Views with a finding of a violation of Covenant rights; 429 Views out of the 547 Views adopted since 1979 concluded that there had been a violation of the Covenant.

229. All attempts to categorize follow-up replies by States parties are inherently imprecise and subjective: it accordingly is not possible to provide a neat statistical breakdown of follow-up replies. Many follow-up replies received may be considered satisfactory, in that they display the willingness of the State party to implement the Committee's recommendations or to offer the complainant an appropriate remedy. Other replies cannot be considered satisfactory because they either do not address the Committee's Views at all or only relate to certain aspects of them. Some replies simply note that the victim has filed a claim for compensation outside statutory deadlines and that no compensation can therefore be paid. Still other replies indicate that there is no legal obligation on the State party to provide a remedy, but that a remedy will be afforded to the complainant on an *ex gratia* basis.

230. The remaining follow-up replies challenge the Committee's Views and findings on factual or legal grounds, constitute much-belated submissions on the merits of the complaint, promise an investigation of the matter considered by the Committee or indicate that the State party will not, for one reason or another, give effect to the Committee's Views.

231. In many cases, the Secretariat has also received information from complainants to the effect that the Committee's Views have not been implemented. Conversely, in rare instances, the petitioner has informed the Committee that the State party had in fact given effect to the Committee's recommendations, even though the State party had not itself provided that information.

232. The present annual report adopts the same format for the presentation of follow-up information as the last annual report. The table below displays a complete picture of follow-up replies from States parties received up to 7 July 2006, in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of their compliance with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up to Views continues. The Notes following a number of

case entries convey an idea of the difficulties in categorizing follow-up replies.

233. Follow-up information provided by States parties and by petitioners or their representatives subsequent to the last annual report (A/60/40, vol. I, chap. VI) is set out in annex VII to volume II of the present annual report.

FOLLOW-UP RECEIVED TO DATE FOR ALL CASES OF VIOLATIONS OF THE COVENANT

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
...						
Uzbekistan (8)	907/2000, <i>Siragev</i> A/61/40	X A/61/40				
	911/2000, <i>Nazarov</i> A/59/40	X A/60/40		X		X
	915/2000, <i>Ruzmetov</i> A/61/40				X	X
	917/2000, <i>Arutyunyan</i> A/59/40	X A/60/40		X A/60/40		X
	931/2000, <i>Hudoyberganova</i> A/60/40	X A/60/40		X A/60/40		
	971/2001, <i>Arutyuniantz</i> A/60/40	X A/60/40 (annex V to this report)				X
	911/2000, <i>Nazarov</i> A/59/40	X A/60/40				X
	959/2000, <i>Bazarov</i>	Not due				

	A/61/40					
...						

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Annex VII

FOLLOW-UP OF THE HUMAN RIGHTS COMMITTEE ON INDIVIDUAL COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

This report sets out all information provided by States parties and authors or their counsel since the last Annual Report (A/60/40).

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State party	UZBEKISTAN
Case	Siragev, 907/2000
Views adopted on	1 November 2005
Issues and violations found	Death penalty after unfair trial - articles 7 and 14, 3 (b)
Remedy recommended	In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide Mr. Siragev with an effective remedy. The Committee notes that violation of article 6 was rectified by the commutation of Mr. Siragev's death sentence. The remedy could include consideration of a further reduction of his sentence and compensation. The State party is also under an obligation to prevent similar violations in the future.
Due date for State party response	7 February 2006
Date of State party's response	23 January 2006
State party response	The State party informed the Committee that the Supreme Court of Uzbekistan examined the Committee's Views. It considers that Siragev's sentence is correct, taking into account the totality of the evidence against him. The investigation and court's proceedings of the criminal case were held in accordance with the provisions of the criminal procedure legislation. The Court explains that it cannot agree with the contention that the author was subjected to physical measures of pressure during the preliminary investigation. The Supreme Court "categorically" disagrees with the contention that the

commutation of the author's death sentence was made to disguise irregularities that occurred during the court trial. The State party adds that the sentence was commuted as the author repented for the crimes committed.

Pursuant to Presidential Amnesty Decrees, Siragev's sentence was reduced, and he was release, in application of the principles of humanism and justice, and also taking into account the author's positive behavior in prison.

Author's response

On 5 December 2005, the author's mother informed the Committee that her son's death sentence had been commuted and that he was supposed to be released on 8 December 2005. She thanked the Secretariat and the Committee for the action taken.

**Committee's
Decision**

In light of the commutation of the author's sentence, the Committee does not intend to consider this matter any further under the follow-up procedure unless the situation changes.

CCPR, CCPR/C/SR.2450 (2007)

Human Rights Committee

Eighty-ninth session

Summary record of the 2450th meeting

Held at Headquarters, New York, on Thursday, 29 March 2007, at 10 a.m.

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Follow-up to concluding observations on State reports and to Views under the Optional Protocol

Progress report of the Special Rapporteur for follow-up on Views (CCPR/C/89/R.5)

1. **Mr. Shearer** (Special Rapporteur for follow-up on Views) introduced his report, which compiled information received during the eighty-eighth and eighty-ninth sessions of the Committee...

...

24. **Mr. Shearer** drew attention to the case of *Bazarov v. Uzbekistan* (communication No. 959/2000). The Committee had found violations of various articles of the Covenant and had recommended that the State party should provide an effective remedy, including information concerning the burial site and effective reparation for the anguish suffered. He was particularly concerned by the last section of the State party's response, according to which it was not in keeping with current Uzbek legislation to supply the Committee with the text of the relevant Supreme Court judgement. The Committee should react to that extraordinary assertion, which appeared to violate the provisions of article 14 of the Covenant. He added that representatives of the Permanent Mission of Uzbekistan to the United Nations in New York had informed him that existing legislation prohibiting the publication of burial sites of criminals was currently being reviewed by Parliament.

25. With regard to the case of *Kornetov v. Uzbekistan* (communication No. 1057/2002), he said that the State party, in implementation of the Committee's recommendations, had commuted Mr. Kornetov's death sentence to 20 years' imprisonment. Furthermore, in its response, the State party had indicated that the author was entitled to file an appeal for compensation. The Committee had asked the author for his comments.

26. **Ms. Chanet**, referring to the case of *Bazarov v. Uzbekistan*, stressed the importance of mentioning paragraph 29 of the draft general comment on article 14 of the Covenant when responding to the State party's assertion that the text of the Supreme Court judgement was not in the public domain.

27. **Mr. Schmidt** (Team Leader, Petitions Unit), referring to the case of *Bazarov v. Uzbekistan*, noted that Uzbekistan had begun to take a less conciliatory stance towards the Committee. He would raise the matter with the Permanent Mission in Geneva in July.

28. **The Chairperson** said that the dialogue between the parties and the Committee would

remain ongoing in both cases.

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CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

213. In July 1990, the Committee established a procedure for the monitoring of follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and created the mandate of the Special Rapporteur for follow-up to Views to this effect. Mr. Ando has been the Special Rapporteur since March 2001 (seventy-first session).

214. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information has been systematically requested in respect of all Views with a finding of a violation of Covenant rights; 452 Views out of the 570 Views adopted since 1979 concluded that there had been a violation of the Covenant.

215. All attempts to categorize follow-up replies by States parties are inherently imprecise and subjective: it accordingly is not possible to provide a neat statistical breakdown of follow-up replies. Many follow-up replies received may be considered satisfactory, in that they display the willingness of the State party to implement the Committee's recommendations or to offer the complainant an appropriate remedy. Other replies cannot be considered satisfactory because they either do not address the Committee's Views at all or only relate to certain aspects of them. Some replies simply note that the victim has filed a claim for compensation outside statutory deadlines and that no compensation can therefore be paid. Still other replies indicate that there is no legal obligation on the State party to provide a remedy, but that a remedy will be afforded to the complainant on an *ex gratia* basis.

216. The remaining follow-up replies challenge the Committee's Views and findings on factual or legal grounds, constitute much-belated submissions on the merits of the complaint, promise an investigation of the matter considered by the Committee or indicate that the State party will not, for one reason or another, give effect to the Committee's Views.

217. In many cases, the Committee secretariat has also received information from complainants to the effect that the Committee's Views have not been implemented. Conversely, in rare instances, the petitioner has informed the Committee that the State party had in fact given effect to the Committee's recommendations, even though the State party had not itself provided that information.

218. The present annual report adopts the same format for the presentation of follow-up information as the last annual report. The table below displays a complete picture of follow-up replies from States parties received up to 7 July 2007, in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of their compliance with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up to Views continues. The Notes following a number of case entries

convey an idea of the difficulties in categorizing follow-up replies.

219. Follow-up information provided by States parties and by petitioners or their representatives subsequent to the last annual report (A/61/40, vol. I, chap. VI) is set out in annex VII to volume II of the present annual report.

FOLLOW-UP RECEIVED TO DATE FOR ALL CASES OF VIOLATIONS OF THE COVENANT

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
...						
Uzbekistan (14)	907/2000, <i>Sirageva</i> A/61/40	X A/61/40				
	911/2000, <i>Nazarov</i> A/59/40	X A/60/40		X		X
	915/2000, <i>Ruzmetov</i> A/61/40				X	X
	917/2000, <i>Arutyunyan</i> A/59/40	X A/60/40		X A/60/40		X
	931/2000, <i>Hudoyberganova</i> A/60/40	X A/60/40		X A/60/40		
	971/2001, <i>Arutyuniantz</i> A/60/40	X A/60/40 (annex V to this report)				X
	959/2000, <i>Bazarov</i> A/62/40	X A/62/40				X A/62/40
	1017/2001, <i>Maxim Strakhov</i> and 1066/2002, <i>V. Fayzulaev</i> A/62/40	Not yet due				
	1041/2002, <i>Refat Tulayganov</i> A/62/40	Not yet due				
	1043/2002, <i>Chikiunov</i> A/62/40	Not yet due				
	1057/2002, <i>Korvetov</i>	X				X

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
	A/62/40	A/62/40				A/62/40
	1071/2002, <i>Agabekov</i> A/62/40	Not yet due				
	1140/2002, <i>Iskandar Khudayberganov</i> A/62/40	Not yet due				
...						

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Annex IX

FOLLOW-UP OF THE HUMAN RIGHTS COMMITTEE ON INDIVIDUAL COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

This report sets out all information provided by States parties and authors or their counsel since the last Annual Report (A/61/40).

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State party	UZBEKISTAN
Case	Bazarov, 959/2000
Views adopted on	14 July 2006
Issues and violations found	Re. the author, articles 9, paragraph 3; 14, paragraph 1, read together with article 6, and the rights of his parents, Mr. and Mrs. Bazarov, under article 7.
Remedy recommended	An effective remedy, including information on the location where their son is buried and effective reparation for the anguish suffered.
Due date for State party response	7 December 2006
Date of reply	29 January 2007
State party response	The State party informs the Committee that in light of its Views the Supreme Court reviewed the evidence several times in the case against the author, but no violations of the law of criminal procedure were found.

It states that pursuant to articles 475, 497-2, 498 and 516 of the Code of Criminal Procedure of Uzbekistan, court decisions may be delivered only to the parties to proceedings, namely, the person convicted, the victim, the civil claimant, the civil respondent, the defence lawyer and the procurator. Accordingly, it is not in keeping with current Uzbek legislation to provide the Human Rights Committee with the text of the judgement issued by the criminal division of the Supreme Court on 24 December 1999

concerning Mr. Bazarov's case.

Further action taken

On 30 October 2006, a meeting was held between Mr. Obidov, from the Permanent Mission of Uzbekistan, the Special Rapporteur on Follow-up to Individual Complaints and the Secretariat on 30 October 2006, at Palais Wilson.

It was noted by the Special Rapporteur that seven cases have been decided to date against the State party and that the Committee awaits a follow-up response in two of them Sultanova, case No. 915/2000 and Bazarov, case No. 959/2000. The follow-up response in the latter case is not due until 7 December 2006. The State party's representative stated that he would request information from his capital on the follow-up response in Sultanova.

As to the State party's responses in Nazarov (911/2000), Arutyunyan (917/2000), Hudoyberganova (931/2000) the State party representative expressed his surprise and unhappiness with the fact that these responses have been categorised as "unsatisfactory" in the Annual Report, he would wish to have some guidance from the Committee on how cases are so categorised and highlighted the importance of keeping the dialogue open between the Committee and States parties which would be inhibited by such characterization. The Rapporteur responded that the categorization of these responses is currently being reviewed by the Committee and requested the State party to bear with it until the review was complete. He indicated that follow-up responses like those in the two cases under consideration in which the State party has provided a considered response should not be considered unsatisfactory so as to keep the dialogue between the Committee and the State party open.

Committee's Decision

The Committee regrets the State party's refusal to accept the Committee's Views and considers the dialogue ongoing.

Case

Alexander Kornetov, 1057/2002

Views adopted on

20 October 2006

Issues and violations found

Torture, death penalty and unfair trial - articles 7 and 14, paragraph 3 (g).

Remedy recommended

Consideration of a reduction of his sentence and compensation.

Due date for State party response	30 January 2006
Date of reply	16 February 2007
State party response	<p>The State party commented on the Committee's Views. It recalls the facts of the case, including the fact that on 19 February 2002, the Supreme Court commuted the author's death sentence to 20 years of imprisonment. It points out that the author's allegation that the investigators had subjected him to an unlawful investigation had been examined by the court and were not confirmed. His charges were correctly assessed under national law and his punishment was proportional to the gravity of the crimes committed. There are no grounds to challenge, under supervisory proceedings, the courts' decisions or to further reduce his prison term.</p> <p>The State party then lists parts of its legislation in relation to compensation of damages, and affirms that the author may appeal to court with a request to be paid reparations for the damages he allegedly suffered during the preliminary investigation and during the court trial.</p>
Further action taken	See above for information on a follow-up meeting that was held in October 2007.
Committee's Decision	The Committee regrets the State party's refusal to accept the Committee's Views and considers the dialogue ongoing.

VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

187. In July 1990, the Committee established a procedure for the monitoring of follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and created the mandate of the Special Rapporteur for follow-up to Views to this effect. Mr. Ando has been the Special Rapporteur since March 2001 (seventy-first session).

188. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information had been systematically requested in respect of all Views with a finding of a violation of Covenant rights; 429 Views out of the 547 Views adopted since 1979 concluded that there had been a violation of the Covenant.

189. All attempts to categorize follow-up replies by States parties are inherently imprecise and subjective: it accordingly is not possible to provide a neat statistical breakdown of follow-up replies. Many follow-up replies received may be considered satisfactory, in that they display the willingness of the State party to implement the Committee's recommendations or to offer the complainant an appropriate remedy. Other replies cannot be considered satisfactory because they either do not address the Committee's Views at all or relate only to certain aspects of them. Some replies simply note that the victim has filed a claim for compensation outside statutory deadlines and that no compensation can therefore be paid. Still other replies indicate that there is no legal obligation on the State party to provide a remedy, but that a remedy will be afforded to the complainant on an *ex gratia* basis.

190. The remaining follow-up replies challenge the Committee's Views and findings on factual or legal grounds, constitute much-belated submissions on the merits of the complaint, promise an investigation of the matter considered by the Committee or indicate that the State party will not, for one reason or another, give effect to the Committee's recommendations.

191. In many cases, the Secretariat has also received information from complainants to the effect that the Committee's Views have not been implemented. Conversely, in rare instances, the petitioner has informed the Committee that the State party had in fact given effect to the Committee's recommendations, even though the State party had not itself provided that information.

192. The present annual report adopts the same format for the presentation of follow-up information as the last annual report. The table below displays a complete picture of follow-up replies from States parties received up to 7 July 2008, in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of their compliance with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up to Views continues. The notes following a number of case entries convey an idea of the difficulties in categorizing follow-up replies.

193. Follow-up information provided by States parties and by petitioners or their representatives subsequent to the last annual report (A/62/40) is set out in annex VII to volume II of the present annual report.

...						
Uzbekistan (15)	907/2000, <i>Sirageva</i> A/61/40	X A/61/40				
	911/2000, <i>Nazarov</i> A/59/40	X A/60/40		X		X
	915/2000, <i>Ruzmetov</i> A/61/40				X	X
	917/2000, <i>Arutyunyan</i> A/59/40	X A/60/40		X A/60/40		X
	931/2000, <i>Hudoyberganova</i> A/60/40	X A/60/40		X A/60/40		
	971/2001, <i>Arutyuniantz</i> A/60/40	X A/60/40				X
	959/2000, <i>Bazarov</i> A/61/40	X A/62/40				X A/62/40
	1017/2001, <i>Maxim Strakhov</i> and 1066/2002, <i>V. Fayzulaev</i> A/62/40				X	
	1041/2002, <i>Refat Tulayganov</i> A/62/40				X	
1043/2002, <i>Chikiunov</i> A/62/40				X		

Uzbekistan (<i>cont'd</i>)	1057/2002, <i>Korvetov</i> A/62/40	X A/62/40				X A/62/40
	1071/2002, <i>Agabekov</i> A/62/40				X	
	1150/2002, <i>Azamat Uteev</i> A/63/40				X	
	1140/2002, <i>Iskandar</i> <i>Khudayberganov</i> A/62/40				X	
...						

VI. FOLLOW UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

230. In July 1990, the Committee established a procedure for the monitoring of follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and created the mandate of the Special Rapporteur for follow-up on Views to this effect. Ms. Ruth Wedgwood has been the Special Rapporteur since July 2009 (ninety-sixth session).

231. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information had been systematically requested in respect of all Views with a finding of a violation of Covenant rights; 543 Views out of the 681 Views adopted since 1979 concluded that there had been a violation of the Covenant.

232. All attempts to categorize follow-up replies by States parties are inherently imprecise and subjective: it accordingly is not possible to provide a neat statistical breakdown of follow-up replies. Many follow-up replies received may be considered satisfactory, in that they display the willingness of the State party to implement the Committee's recommendations or to offer the complainant an appropriate remedy. Other replies cannot be considered satisfactory because they either do not address the Committee's Views at all or relate only to certain aspects of them. Some replies simply note that the victim has filed a claim for compensation outside statutory deadlines and that no compensation can therefore be paid. Still other replies indicate that there is no legal obligation on the State party to provide a remedy, but that a remedy will be afforded to the complainant on an *ex gratia* basis.

233. The remaining follow-up replies challenge the Committee's Views and findings on factual or legal grounds, constitute much belated submissions on the merits of the complaint, promise an investigation of the matter considered by the Committee or indicate that the State party will not, for one reason or another, give effect to the Committee's recommendations.

234. In many cases, the Secretariat has also received information from complainants to the effect that the Committee's Views have not been implemented. Conversely, in rare instances, the petitioner has informed the Committee that the State party had in fact given effect to the Committee's recommendations, even though the State party had not itself provided that information.

235. The present annual report adopts the same format for the presentation of follow-up information as the last annual report. The table below displays a complete picture of follow-up replies from States parties received up to the ninety-sixth session (13-31 July 2009), in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of their compliance with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up on Views continues. The notes following a number of case entries convey an idea of the difficulties in categorizing follow-up replies.

236. Follow-up information provided by States parties and by petitioners or their representatives subsequent to the last annual report (A/63/40) is set out in annex IX to volume II of the present annual report.

...						
Uzbekistan (22) [7 NEW]	907/2000, <i>Sirageva</i> A/61/40	X A/61/40				
	911/2000, <i>Nazarov</i> A/59/40	X A/60/40		X		X
	915/2000, <i>Ruzmetov</i> A/61/40				X	X
	917/2000, <i>Arutyunyan</i> A/59/40	X A/60/40		X A/60/40		X
	931/2000, <i>Hudoyberganova</i> A/60/40	X A/60/40		X A/60/40		
	971/2001, <i>Arutyuniantz</i> A/60/40	X A/60/40				X
	959/2000, <i>Bazarov</i> A/61/40	X A/62/40				X A/62/40

1017/2001, <i>Maxim Strakhov</i> and				X	
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	1066/2002, <i>V. Fayzulaev</i> A/62/40					
	1041/2002, <i>Refat Tulayganov</i> A/62/40				X	
Uzbekistan (<i>cont'd</i>)	1043/2002, <i>Chikiunov</i> A/62/40				X	
	1057/2002, <i>Korvetov</i> A/62/40	X A/62/40				X A/62/40
	1071/2002, <i>Agabekov</i> A/62/40				X	
	1140/2002, <i>Iskandar Khudayberganov</i> A/62/40				X	
	1150/2002, <i>Azamat Uteev</i> A/63/40				X	
	1163/2003, <i>Isaev and Karimov</i> A/64/40				X	

	1280/2004, <i>Tolipkhuzhaev</i> A/64/40					X
	1334/2004, <i>Mavlonov and Sa'di</i> A/64/40				X	
	1378/2005, <i>Kasimov</i> A/64/40	Not yet due				X
	1382/2005, <i>Salikh</i> A/64/40				X	
	1418/2005, <i>Yuri Iskiyaev</i> A/64/40				X	
	1585/2007, <i>Batyrov</i> A/64/40	Not yet due				X
...						

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...

Annex IX

Follow-up of the Human Rights Committee on individual communications under the Optional Protocol to the International Covenant on Civil and Political Rights

This report sets out all information provided by States parties and authors or their counsel since the last annual report (A/63/40).

...

State party	Uzbekistan
Case	<i>Azamat Uteev, 1150/2003</i>
Views adopted on	26 October 2007
Issues and violations found	Torture for purposes of confession and sentence to death - article 7 and article 14, paragraph 3 (g), read together with article 6, paragraph 2.
Remedy recommended	Effective remedy, including compensation.
Due date for State party response	5 June 2007
Date of State party response	23 April 2008
State party response	<p>The State party rejects the Committee's Views. It sets out the facts of the case and the decision to sentence him to capital punishment. The sentence was confirmed on appeal by the Supreme Court on 6 August 2002. It recalls that his guilt was proven by objective evidence, including testimonies from the victim's parents, a number of witnesses' depositions, the record on the discovery and seizure (from the author) of the crime weapon, several medical, forensic and other experts' conclusions, etc. The author's allegations that he had testified against himself during the preliminary investigation, as he was threatened by the "real murderer" and that the latter had forced him to temporarily hide the stolen items in his apartment, had been, according to the State party, duly verified by the courts. His allegations before the Committee are thus groundless. The preliminary investigation</p>

was conducted in conformity with the Criminal Procedure Legislation and from the moment of his arrest (7 April 2002), he was represented by a lawyer. Neither the author nor his lawyers ever complained about the use of unlawful methods of investigation to obtain forced confessions throughout the preliminary investigation. In determining his punishment, the Court took into account all circumstances of the case. The punishment was proportionate to the crime committed.

Author's comments

None

Committee's Decision

The Committee is of the view that the information provided by the State party should have been provided prior to the Committee's consideration of the case. It considers the State party's response unsatisfactory and considers the dialogue ongoing.

...

CCPR, CCPR/C/SR.2712 (2010)

Human Rights Committee
Ninety-eighth session

Summary record (partial) of the 2712th meeting
Held at Headquarters, New York,
on Thursday 25 March 2010, at 3pm

...

Follow-up on views under the Optional Protocol

...

2. *Ms. Wedgwood*, speaking as Special Rapporteur for follow-up on Views under the Optional Protocol, introduced the follow-up progress report, which included information received since the Committee's 97th session.

...

12. **Ms. Wedgwood** said that cases in which the State party undertook systematic reforms in response to the Views of the Committee exemplified the virtues of the follow-up procedure under the Optional Protocol. With regard to cases Nos. 1200/2003, 1263/2004, 1264/2004 and 1276/2004 involving Tajikistan, and cases Nos. 1163/2003, 1382/2005 and 1418/2005 involving Uzbekistan, both States parties contested the Committee's findings. Noting that torture cases such as those should be the Committee's top priority, she proposed that the Committee should promptly schedule meetings in order to pursue a sincere dialogue on the issue with State party representatives.

...

17. *The recommendations contained in the follow-up progress report of the Committee on individual communications were approved.*

The discussion covered in the summary record ended at 3.40 p.m.

...

Chapter VI. Follow-up on individual communications under the Optional Protocol

202. The present chapter sets out all information provided by States parties and authors or their counsel since the last annual report (A/64/40).

...

State party	Uzbekistan
Case	(1) <i>Isaeva and Karimov (1163/2203)</i> (2) <i>Salikh Muhammed (1382/2005)</i> (3) <i>Iskiyaev Yuri (1418/2005)</i>
Views adopted on	(1) 20 March 2009 (2) 30 March 2009 (3) 20 March 2009
Issues and violations found	(1) Torture, and ill-treatment for purposes of extraction confession - articles 7 and article 14, paragraph 3 (g). (2) Right to be tried in his presence and to defend himself in person or through legal assistance, adequate time and facilities for the preparation of his defence, defence through legal assistance of his own choosing, opportunity to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf - articles 14, paragraph 3 (a), (b), (d) and (e). (3) Torture and inhuman and degrading treatment - articles 7 and 10, paragraph 1.
Remedy recommended	(1) An effective remedy, including compensation and initiation and pursuit of criminal proceedings to establish responsibility for the author's son's ill-treatment, and his retrial. (2) Effective remedy, including adequate compensation. (3) Effective remedy, including initiation and pursuit of criminal proceedings to establish responsibility for the author's

ill-treatment, and payment of appropriate compensation to the author. The Committee reiterates that the State party should review its legislation and practice to ensure that all persons enjoy both equality before the law and equal protection of the law.

Due date for State party response 12 November 2009 - for all cases

Date of State party response 16 November 2009

State party response The State party contests the Committee's findings in all of these cases and reiterates its version of the facts as provided in its submission on admissibility and merits. It explains that after a preliminary investigation and a careful examination of all materials relevant to the cases it considers that the national courts correctly evaluated the law and facts of these cases.

Author's comments None

Committee's Decision The follow-up dialogue is ongoing

...