

Submission for the Periodic Review of Kyrgyzstan

OCTOBER 2013

The Open Society Justice Initiative presents this submission to the Committee against Torture in advance of its examination of Kyrgyzstan's periodic report. This submission addresses: 1) Kyrgyzstan's widespread practices of torture and ill-treatment and the Government's lack of effective investigations into such allegations, 2) Kyrgyzstan's persistent failure to provide remedies to victims of torture, including the lack of implementation of treaty body views on individual communications; and 3) information about the emblematic case of human rights defender Azimjan Askarov.

Executive Summary

The Open Society Justice Initiative presents this submission to the UN Committee against Torture prior to its examination of Kyrgyzstan's periodic report on its implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("the Convention").

The Open Society Justice Initiative promotes the rule of law through litigation, legal advocacy, and reform of legal institutions aimed at enhancing the protection of human rights. For more than nine years, it has been engaged in efforts to secure legal remedies for torture victims in Central Asia, directly and through technical assistance to anti-torture NGO coalitions in the region.

This submission focuses on Kyrgyzstan's widespread practices of torture and ill-treatment, the Government's lack of effective investigation and prosecution of such cases, and its repeated failure to provide victims with an effective remedy, including its failure to implement treaty body views on individual communications. The case of Azimjan Askarov, who was subjected to ill-treatment and has been sentenced to life in prison following an unfair trial, exemplifies the widespread violations of the Convention.

Recommendations

The Committee against Torture should urge Kyrgyzstan to do the following:

Kyrgyzstan should introduce **specific safeguards and procedures to prevent, investigate, and provide effective remedies for torture**, through:

- 1) Registration of all detainees from the moment of detention;
- 2) Proper monitoring by prosecutors, a National Preventive Mechanism, and independent NGOs of detention facilities;
- 3) Prompt transfer of suspects from police detention to independent detention facilities;
- 4) Timely private visits by family members and lawyers to those in detention;
- 5) Independent medical examinations, when requested by detainees or family members;
- 6) Development of standards for the effective investigation of torture complaints, an independent investigative mechanism, and mandatory training to investigators, all in accordance with international norms;
- 7) Establishment of the right to an effective remedy for torture victims independent of the prosecution or conviction of perpetrators;
- 8) Creation of a national mechanism responsible for the implementation of treaty body views and recommendations;

- 9) Revision of the “Criminal Procedure Code so that treaty bodies’ views are recognized as “new circumstances” providing a basis to reopen and reconsider a criminal case;
- 10) Creation of an independent commission of inquiry to review all convictions related to the violence in southern Kyrgyzstan in June 2010 with full respect to fair trial guarantees, and investigate all torture allegations, including those where the victims did not file formal complaints;
- 11) Full investigation and prosecution of perpetrators of torture and ill-treatment, including, for example the material and intellectual authors of the torture of Mr. Azimjan Askarov and other torture victims, and provide redress for such victims.

I. Introduction

While torture and ill-treatment remain widespread in Kyrgyzstan, legislative and other regulatory changes since 2010, if effectively implemented, could help to prevent and redress these violations.

The Kyrgyz Constitution, amended in 2010, contains a more detailed bill of rights and obligates the state to implement the decisions of the UN treaty bodies and provide victims with remedies. The Criminal Code (Article 305-1) was amended to define torture consistent with the CAT. Article 163 of the Criminal Procedure Code, amended in 2011, now gives exclusive jurisdiction to the prosecutor’s office to investigate all crimes committed by public officials. The General Prosecutor’s office also adopted decrees¹ that aim at strengthening its oversight of the constitutional guarantee on torture prohibition.² And finally, the government has signed memorandums on collaboration between state bodies, ombudsmen and some NGOS, to commence the process of establishing the National Preventive Mechanism in the country.

These changes demonstrate that it is possible for the government to take positive steps to prevent, combat, and redress torture. However, these developments, without robust implementation, are, at best, theoretical improvements. The failure of implementation must be squarely addressed by the government of Kyrgyzstan to address widespread torture and ill-treatment in a meaningful and effective manner.

II. Failure to prevent, investigate, and prosecute widespread allegations of torture and ill-treatment

Kyrgyzstan’s failure to provide adequate safeguards against torture and ill-treatment violates Article 2(1) of the Convention against Torture. The state’s failure to ensure

¹ Decree #40 dated 12 April 2011, Decree #70 dated 6 September 2011, Decree #75 dated 19 October 2011.

² OSJI consultant Natalia Taubina Draft report on measures for raising effectiveness of torture complaints investigation in Kyrgyzstan, January 2013.

prompt and impartial investigation of torture allegations further violates Article 12 of the Convention.

The Special Rapporteur on Torture (“Special Rapporteur”) visited Kyrgyzstan in December 2011 and in his report, concluded that the use of torture and ill-treatment to extract confessions remains widespread. He stated that “there is a serious lack of sufficiently speedy, thorough and impartial investigation into allegations of torture and ill-treatment.”³ The Special Rapporteur called on the government to “expedite legislative reforms to ensure the absolute prohibition of torture and establish effective and thorough investigations into allegations of torture and ill-treatment; and prosecute when warranted, without delay.”⁴ He also recommended the timely access to independent medical examination of detained persons according to the Manual on Effective Investigation and Documentation of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) and the independent monitoring of all places of detention.⁵

During his mission to Kyrgyzstan, the Special Rapporteur noted “numerous accounts and eyewitness testimonies suggesting that torture and ill-treatment had been historically pervasive in the law enforcement sector.”⁶ In 2013, the Open Society Justice Initiative, together with the NGO Coalition against Torture, analyzed the 75 cases that are closely monitored by the members of the NGO Coalition.⁷ According to the analysis,

- Torture was undertaken by
 - Punches and beating with hands and legs (58 cases)
 - beating with tools such as chairs, bottles, truncheons (39 cases)
 - asphyxiation with plastic bags and gas masks (32 cases)
 - threat of killing (11 cases)
 - threat of rape (7 cases)
 - deprivation of food for several days (6 cases)
- The widespread, immediate consequences after torture included
 - loss of consciousness (12 cases)
 - bleeding (10 cases)
 - nausea (16 cases)
 - headache and dizziness (22 cases)
 - bruises (7 cases)⁸

³ A/HRC/19/61/Add.2. Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mission to Kyrgyzstan, Juan E. Mendez, 21 February 2012.

⁴ *Ibid.*

⁵ *Ibid.*

⁶ UN Special Rapporteur on Torture, *Report on Mission to Kyrgyzstan*, UN Doc. A/HRC/19/61/Add.2, 21 February 2012, para. 37; see also paras. 39 and 53.

⁷ The mapping covers a five-year period, from 2008 to 2012. Analysis covered cases where torture took place in different regions of Kyrgyzstan. These regions include Chui region, Osh region, Jalalabat region, and Issyk-kul region. The following age groups of torture victims were identified: under 16 (3 persons), 16-18 (8 persons), 18-24 (16 persons), 25-29 (9 persons), 30-39 (20 persons), 40-49 (6 persons), 50-50 (2 persons). Among torture victims in the analyzed cases were 68 men and 7 women.

⁸ OSJI and Kyrgyzstan NGO Coalition Against Torture litigation mapping, September 2013.

The Justice Initiative also analyzed obstacles to the effective investigation of widespread complaints of torture in Kyrgyzstan. The analysis identified important barriers at the pre-investigation stage, where forensic medical check-ups are ordered too late, police testimonies are valued over those of complaints, and investigators dismiss complaints of torture as unfounded. Consequently, complaints are often dismissed before a criminal case is even opened. When undertaken, investigations are flawed due to insufficient independence (police themselves are responsible for evidence gathering) or a lack of specialized investigative skills. The Justice Initiative also found that investigators, under pressure to meet quotas, use torture to elicit confessions, and rules providing for the exclusion of such tainted confessions in court are not applied. Prolonged judicial proceedings and the absence of procedures for reversing the burden of proof when torture is alleged further undermine effective prosecution of these crimes.⁹

A. Failure to prevent torture or to provide safeguards

Following his visit to Kyrgyzstan, the Special Rapporteur highlighted the lack of safeguards against torture in Kyrgyzstan, including “non-compliance with regulations requiring the prompt registration of persons arrested, failure to notify family members immediately following an arrest, delayed independent medical examinations and the complicity of State appointed lawyers with investigators who offer a purely token presence and who are seen as being formally present to rubberstamp the decisions of the investigator.”¹⁰ A particular problem was “[t]he irregular– but almost routine–procedure of unregistered arrest [which] makes it impossible to establish whether the three-hour maximum term for the first stage of deprivation of liberty is observed,” as a result of which torture has generally taken place by the time the detainee even sees the duty lawyer.¹¹

The channels available for detainees to complain of torture “are marred by allegations of lack of independence and ineffectiveness,” and the Special Rapporteur “believes that most detainees refrain from filing complaints with prosecutors or inquiry officers during their monitoring visits out of fear of reprisals.”¹² The requirements for regular medical examinations of detainees are not implemented in practice,¹³ and the doctors responsible for documenting torture generally lack independence from the authorities in whose custody the alleged ill-treatment took place.¹⁴ There is also no clear procedure for courts to follow when faced with an allegation that evidence was obtained by torture; as a result, the rule excluding evidence based on torture is not adequately applied.¹⁵

The Special Rapporteur underlined the importance of adequate safeguards against torture,

⁹ OSJI consultant Natalia Taubina’s Draft report on measures for raising effectiveness of torture complaints investigation in Kyrgyzstan, January 2013.

¹⁰ UN Special Rapporteur on Torture, Report on Mission to Kyrgyzstan, UN Doc. A/HRC/19/61/Add.2, 21 February 2012, para. 40.

¹¹ *Ibid.*, paras. 44-45.

¹² *Ibid.*, paras. 27-28.

¹³ *Ibid.*, para. 23.

¹⁴ *Ibid.*, paras. 51 and 63.

¹⁵ *Ibid.*, para. 20; “The Special Rapporteur was not able to obtain information on any instance when judges and prosecutors are known to have ordered medical examinations at their own initiative in response to allegations or signs of abuse,” para. 50.

including the right to have detention registered and notified to a third party, the right to access to a lawyer from the moment of apprehension, and the provision of timely independent medical examination.¹⁶ Under the Criminal Procedure Code, detention should be registered within three hours after a person is brought to a police station.¹⁷ However, according to the Justice Initiative’s analysis of 75 cases:

- Detention was registered within three hours in only 3 cases;
- In 8 cases, detention was not registered at all, as detainees were subsequently released;
- In 32 cases, respondents claimed that families of the torture victims and third parties were not notified about detention;
- In 29 cases, torture victims reported that they were not subjected to medical examination;
- In no cases was non-state medical examination provided;
- Despite laws requiring access to a lawyer, in 5 cases a lawyer was given access only on the next day; in 4 cases a lawyer was provided in 2 days; in 2 cases access was provided only on after 8 days; and in one case a lawyer was given such access only after 10 days.¹⁸

These findings demonstrate an absence of procedural guarantees, as well as infrequent implementation of existing guarantees.

B. Failure to prevent torture or to provide safeguards

The state’s failure to conduct impartial, effective, and thorough investigation into all allegations of ill-treatment or torture violates Article 12 of the Convention. In its previous concluding observations to Kyrgyzstan, the Committee stated “there is an apparent failure generally to provide prompt, impartial and full investigation into allegations of torture and cruel, inhuman or degrading treatment or punishment.”¹⁹ Similarly, after his last visit, the Special Rapporteur recommended “a prompt, impartial and thorough investigation into all allegations of torture and cruel, inhuman or degrading treatment or punishment.”²⁰

No meaningful steps have been taken to ensure that complaints are investigated in an effective way by independent bodies since the Committee’s last concluding observations. According to information provided by the General Prosecutor’s Office, there have been no convictions for torture and very few prosecutions since Article 305-1 (torture) was introduced into the Criminal Code in 2003.²¹ Furthermore, while the Justice Initiative’s case analysis suggests that investigations into torture allegations increase when NGOs are

¹⁶ UN Special Rapporteur on Torture, *Report on Mission to Kyrgyzstan*, UN Doc. A/HRC/19/61/Add.2, 21 February 2012, para 81.

¹⁷ Criminal Procedure Code of the Kyrgyz Republic, Art. 95.

¹⁸ OSJI and Kyrgyzstan NGO Coalition against Torture litigation mapping, September 2013.

¹⁹ Conclusions and recommendations of the UN Committee against Torture: Kyrgyzstan, 18/11/99, 23rd session, 8 November 1999, para 74.

²⁰ UN Special Rapporteur on Torture, *Report on Mission to Kyrgyzstan*, UN Doc. A/HRC/19/61/Add.2, 21 February 2012, para 81 (D).

²¹ *Ibid.*, para. 54.

involved in assisting the victims, only 8 criminal cases (out of 75) were in fact initiated under Article 305-1.²²

The prosecutor's office is legally mandated to investigate allegations of torture and ill-treatment. However, conflicts of interest hamper independent and effective investigations. The prosecutor's office generally asks the employees of local police stations to collect evidence. Such requests frequently lead to investigations undertaken by personnel in the same police station where the torture or ill-treatment allegedly took place.

In 2010, Kyrgyzstan experienced its worst violence since gaining independence in 1991.²³ Commencing in April 2010 with President Bakiev's ouster, and followed by further unrest in the south, reports consistently highlighted the frequency and gravity of arbitrary detention, torture, and ill-treatment by law enforcement bodies.²⁴ Between June 10 and 14, 2010 alone, violence between ethnic Kyrgyz and Uzbeks in southern Kyrgyzstan killed hundreds, injured thousands, destroyed more than 2,600 homes and caused the temporary mass exodus to Uzbekistan of nearly 100,000 ethnic Uzbeks from Kyrgyzstan's southern provinces.²⁵ A further 300,000 were internally displaced.²⁶

The Independent International Commission of Inquiry into the Events in Southern Kyrgyzstan (KIC), commissioned by then Kyrgyz President Roza Otunbayeva, reported that "[t]he evidence presented ... shows that the ill-treatment of detainees by authorities in the first place of detention, irrespective of the precise location, has been almost universal."²⁷ The KIC has confirmed that the main methods of ill-treatment during this period included prolonged, severe beatings including with the handles of firearms; punching and kicking; and placing a plastic bag over the head of the detainee.²⁸ The UN High Commissioner for Human Rights received 68 complaints of torture in the context of investigations of the June 2010 violence, and stated that "[t]his is believed to be only a fraction of the real total."²⁹

The European Court of Human Rights also recently examined the risk of torture facing ethnic Uzbek suspects in southern Kyrgyzstan. It recounted in detail the reports of abuse and discriminatory prosecutions targeted at the ethnic Uzbek population following the violence of June 2010.³⁰ Based on this evidence, the Court found that: "[T]he situation in the south of the country is characterised by torture and other ill-treatment of ethnic Uzbeks by law-enforcement officers, which increased in the aftermath of the June 2010

²² OSJI and Coalition of NGOs Against Torture litigation mapping.

²³ See UNHCHR, Report on technical assistance and cooperation on human rights for Kyrgyzstan, UN Doc. UNGA/HRC/17/41, 1 April 2011; and Human Rights Watch, "Where is the Justice?" Interethnic Violence in Southern Kyrgyzstan and its Aftermath, 16 August 2010, available at <http://www.hrw.org/en/reports/2010/08/16/where-justice-0>.

²⁴ UN Special Rapporteur on Torture, *Report on Mission to Kyrgyzstan*, UN Doc. A/HRC/19/61/Add.2, 21 February 2012, para. 37.

²⁵ Human Rights Watch, *World Report 2011*, at 449.

²⁶ Report of the Kyrgyzstan Independent Commission of Inquiry, at ii.

²⁷ *Ibid.*, p. 56.

²⁸ *Ibid.*

²⁹ UN High Commissioner for Human Rights, Opening remarks at press conference, 10 July 2012, available at <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12338&LangID=E>.

³⁰ *Makhmudzhan Ergashev v. Russia*, ECtHR, Judgment of 16 October 2012, paras. 35-46.

events and has remained widespread and rampant, being aggravated by the impunity of law-enforcement officers. Despite the acknowledgment of the problem and measures taken by the country central authority, in particular the Prosecutor General, their efforts have so far been insufficient to change the situation.”³¹ Based on the “attested widespread and routine use of torture and other ill-treatment by law-enforcement bodies in the southern part of Kyrgyzstan in respect of members of the Uzbek community,” the Court held that the extradition of an ethnic Uzbek suspect to Kyrgyzstan where he would be detained and prosecuted in Jalal-Abad province would violate Article 3 of the European Convention (the prohibition of torture).³²

The failure to take meaningful steps to investigate police torture was also a feature of the aftermath of the June 2010 violence.³³ According to the UN Special Rapporteur on Torture, Kyrgyz authorities routinely flouted their responsibilities to address torture: “Despite numerous complaints and, in some cases, overwhelming evidence, Kyrgyz authorities have failed to meet their international obligation to promptly and thoroughly investigate and prosecute incidents of torture connected to the June violence.”³⁴ The Special Rapporteur expressed his concern with regard to the “serious lack of sufficiently speedy, thorough and impartial investigations into allegations of torture and ill-treatment, as well as a lack of prosecution of alleged law enforcement officials.”³⁵ Courts often ignored statements of defendants that their confessions were obtained through ill-treatment or torture—even where they showed visible signs of ill-treatment³⁶—or have actively silenced defendants who attempted to complain of their abuse.³⁷

During the Universal Periodic Review by the Human Rights Council in 2010, Kyrgyzstan received and accepted recommendations to “[s]trengthen its safeguards against torture;”³⁸ to “ensure the prompt, impartial and comprehensive investigation of all complaints involving the torture;”³⁹ and to “[e]stablish constitutional reforms that will guarantee the separation of powers, the rule of law, the independence of the judiciary.”⁴⁰

Notwithstanding these improvements, torture remains widespread and investigations remain ineffective.

C. Lack of judicial independence in addressing torture

In September 2005, the UN Special Rapporteur on the Independence of Judges visited Kyrgyzstan. He expressed concern “about a general failure to ensure prompt, impartial

³¹ *Ibid.*, para. 72.

³² *Ibid.*, paras 76-77.

³³ Amnesty International, *Kyrgyzstan: Dereliction of Duty*, June 2012, pp. 11-12.

³⁴ Human Rights Watch, *Distorted Justice Kyrgyzstan’s Flawed Investigations and Trials*, p. 27.

³⁵ UN Special Rapporteur on Torture, *Report on Mission to Kyrgyzstan*, UN Doc. A/HRC/19/61/Add.2, 21 February 2012, paras. 55 and 56.

³⁶ Report of the Kyrgyzstan Independent Commission of Inquiry, p. 56; Human Rights Watch, *Distorted Justice Kyrgyzstan’s Flawed Investigations and Trials*, p. 34; Human Rights Watch, *World Report 2012*.

³⁷ UN Special Rapporteur on Torture, *Report on Mission to Kyrgyzstan*, UN Doc. A/HRC/19/61/Add.2, 21 February 2012, paras. 48 and 52.

³⁸ Report of the Working Group on Universal Periodic Review. Kyrgyzstan. 16 June 2010, UN Doc. A/HRC/15/2, para 76.53.

³⁹ *Ibid.*, para. 76.4.

⁴⁰ *Ibid.*

and full investigations into allegations of torture;⁴¹ concluded that, “the various limitations on the independence of the judiciary ... mean that judges regularly conduct proceedings in favour of the prosecution;⁴² and confirmed that the prosecutor’s offices “play an extremely dominant role in the administration of justice.” They “exercise supervisory powers and exert disproportionate influence over the pre-trial and trial stages of judicial proceedings.”⁴³

According to the Justice Initiative’s case analysis, even if a victim complains about torture in court, no criminal case or an investigation is initiated. In 15 out of the 75 cases, a torture complaint was made during court proceedings; however, in the vast majority of these cases, the court did not have any reaction to the complaint.⁴⁴

III. Failure to provide effective remedies to victims, including through the implementation of UN treaty body views

According to the Committee against Torture, comprehensive reparations include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.⁴⁵ However, Kyrgyzstan’s national legislation lacks a proper definition of “remedy” and the comprehensive reparations are not described in the law.

While national law, in theory, provides an opportunity to request rehabilitation and compensation, in actuality, the state provides no system of rehabilitation of torture victims. As noted by the Special Rapporteur, the Code of Criminal Procedure does not fully establish an enforceable right of the victim to fair and adequate compensation, including rehabilitation. The Special Rapporteur noted the absence of state-supported specialized rehabilitation services for victims.⁴⁶ With respect to compensation, under national law “the effective implementation for the right of torture victims to compensation is hampered by strict procedural requirements, given that the right to compensation is recognized only upon a judicial verdict or a resolution of the investigating body or prosecutor.”⁴⁷

Kyrgyzstan ratified the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in September 1997; however, until now the

⁴¹ UN Special Rapporteur on the independence of judges and lawyers, *Report on Mission to Kyrgyzstan*, 18-22 September and 1 October 2005, UN Doc. E/CN.4/2006/52/Add.3, para. 29.

⁴² *Ibid.*, para. 51.

⁴³ *Ibid.*, at page 2; see also para. 76.

⁴⁴ OSJI and Coalition of NGOs Against Torture litigation mapping. The court had no reaction in 12 of the 15 cases; in another, after the complaint of torture, the judge just announced a break. In the two remaining cases, the torture victims later repudiated their complaints of torture.

⁴⁵ UNCAT, *General Comment No. 3 on implementation of Article 14 by State Parties*, 2012, para 2.

⁴⁶ UN Special Rapporteur on the independence of judges and lawyers, *Report on Mission to Kyrgyzstan*, 5-13 December, UN Doc. A/HRC/19/61/Add.2, para. 32.

⁴⁷ *Ibid.*, para 33. Under p. 2, sp. 22 of Art. 50 of the Criminal Procedure Code, a victim can request moral damages compensation from a convict (in case there is already a conviction).

state has not recognized the competence of the Committee to examine individual communications under Article 22 of the Convention. To date, the Human Rights Committee has adopted its views on 14 communications, finding that Kyrgyzstan violated its obligations under the International Covenant on Civil and Political Rights.⁴⁸

The pervasive lack of implementation constitutes a failure by the government to comply with its international law obligations.⁴⁹ It also represents a failure to comply with Article 41(2) of the Constitution of the Kyrgyz Republic, which states that, “in case International treaty bodies find that Kyrgyz Republic violated human rights and freedoms, the state shall take measures for restoration of the rights and compensation of damages.” In March 2013, in response to an inquiry into implementation of the HRC’s views, the Ministry of Foreign Affairs stated that the views are “just recommendations” and are “not mandatory” for the Kyrgyz Republic.⁵⁰

Efforts of the Open Society Justice Initiative to obtain remedies for the family of Tashkenbai Moidunov illustrate the lack of implementation of the decisions of UN treaty bodies. After a dispute on the street, Tashkenbaj Moidunov was taken to a police station in Kyrgyzstan; an hour later he was dead. The UN Human Rights Committee found in 2011 that he had been killed in custody, and has called for a proper investigation, prosecution, and reparations.⁵¹ The Justice Initiative has since filed two requests with the government to implement the Committee’s decision and asked it to pay compensation. The state has refused to do so, however, and the claim is currently before the court. In response to the Justice Initiative’s request, the state argued that the Committee’s views cannot be considered to be “a newly discovered circumstance,” which could be a ground for reopening the case. In the absence of such circumstances or new evidence, the case cannot be reopened.

Civil society organizations have suggested that the state introduce a notion of “new circumstances” to the Criminal Procedure code and include treaty body views as one such circumstance, and a ground for reopening a criminal case. This suggestion was also included in the Action Plan on Implementation of the UN Special Rapporteur on Torture recommendations. However, no such amendment has been adopted and all of the HRC decisions have yet to be implemented.

The Constitution of the Kyrgyz Republic gives a basis for courts to cite and apply international treaties: Article 6(3) states that ratified international human rights treaties

⁴⁸ The Committee concluded in 6 cases that the state violated Article 7 (torture and other cruel, inhuman or degrading treatment or punishment) of the ICCPR, as well as violations of various safeguards including access to a lawyer. In 4 other cases, the Committee found violations of Article 6 (p.1) and Art. 2 (3) in conjunction with article 6 (1), when the Committee decided that the state is responsible for death of the victim and that there was no effective remedy.

⁴⁹ See, e.g., Article 2(3)(a) of the ICCPR; Article (2) of CAT.

⁵⁰ Statement of the Ministry of Foreign Affairs #14-025/1336 dated 26 February 2013. In this Statement the MFA answered the Youth Human Rights Group to a question on what measures are being taken by the government in order to implement the views of the Human Rights Committee. In this document the Ministry stated that the views of the Committee have only a recommending character for the state and that the Optional protocol does not foresee an implementation mechanism or any sanctions for failure to implement the views.

⁵¹ *Zhumbaeva (on behalf of Moidunov) v Kyrgyzstan*, Merits, UN Doc CCPR/C/102/D/1756/2008, IHRL 1594 (UNHRC 2011), 19th July 2011, Human Rights Committee.

are an essential part of the national legal system. It further declares that, “International human rights treaties have a direct action and priority over other international treaties.” Despite these norms, there are no known decisions where Kyrgyz courts have applied international human rights treaties in rendering their decisions.

IV. The emblematic case of Azimjan Askarov

In June 2010, Azimjan Askarov, a well-known ethnic Uzbek human rights defender in Kyrgyzstan who focused on reporting police abuse, was taken to the police station after a police officer was killed during an outburst of ethnic violence in the Bazar-Korgon region of southern Kyrgyzstan. There, Mr. Askarov was repeatedly beaten, abused, and denied medical treatment on account of his human rights work. Mr. Askarov (as well as, on occasion, his lawyer) suffered attacks before and during the trial. After a flagrantly unfair trial, Mr. Askarov was sentenced to life in prison, a sentence which was upheld during an appeal that was marred by similar violations, and by the Supreme Court. He remains in prison today, where he is denied medical treatment for the effects of his torture and other serious medical conditions.

A. Failure to address torture during detention and trial

After Mr. Askarov was detained on 15 June 2010, he was charged with numerous crimes, and at the police station, he was humiliated and beaten. He was denied access to a lawyer and was repeatedly interrogated as the police attempted to coerce him into testifying against leaders of the Uzbek community. The police threatened to rape his wife and daughter in front of him. His detention was not registered for nearly 24 hours.

During his two-month detention, he had no access to a lawyer until a colleague visited him a week after he was detained and realized that he was being tortured. During his trial, the judge made no effort to protect defence counsel or maintain order in the courtroom. On the late afternoon after the first day of trial, 20 police officers beat Mr. Askarov and his co-defendants in the backyard of the police station for several hours.

Without considering any defence evidence, the District Court rendered a guilty verdict on all crimes charged and sentenced Mr. Askarov to life imprisonment. During and after the trial, Mr. Askarov was held in the police station, where he was again subject to abuse. On 10 November 2010, the Appeal Court upheld the decision of the District Court. In the Supreme Court of the Kyrgyz Republic, defence lawyers were able to file for the first time the witness statements that substantiated Mr. Askarov’s version of events. Nonetheless, in December 2011, the Supreme Court upheld the verdict and sentence of life imprisonment against Mr. Askarov.

In December 2011 and February 2012, a renowned U.S.-based medical specialist examined Mr. Askarov in the prison in Bishkek upon the request of the Open Society Justice Initiative and Physicians for Human Rights. In her report, she confirmed that

Mr. Askarov's injuries support his account of torture while in police custody. He needs immediate medical help for persistent visual loss, traumatic brain injury, and spinal injury. In addition, Mr. Askarov requires immediate evaluation for chest pain and shortness of breath, symptoms which are strongly suggestive of coronary artery disease and could be life threatening without immediate treatment. As of now, Mr. Askarov has not received adequate medical treatment. Currently, due to lack of medical treatment, his condition is deteriorating.

In November 2012, the Justice Initiative, together with Mr. Askarov's lawyer, filed a communication to the UN Human Rights Committee, arguing that the treatment suffered by Mr. Askarov violated multiple provisions of the International Covenant on Civil and Political Rights including, Article 2(3), and Articles 7, 9, 10, 14, 19 and 26.

With an appointment of the new deputy head of the state office of the execution of punishment, access to Mr. Askarov has become very limited. Open Society Justice Initiative efforts to undertake an independent health evaluation failed, as the doctor retained did not receive a permission to enter the prison facilities where Mr. Askarov is kept. In September 2013 the Justice Initiative representative also was refused to visit Mr. Askarov, even though it serves as Mr. Askarov's co-counsel before the HRC.

During and after Mr. Askarov's conviction, counsel filed several requests with the prosecutor's office to investigate the torture that Mr. Askarov was subjected to, but no criminal investigation took place. In denying the requests to investigate, the prosecutors repeatedly referred to a visit to Mr. Askarov while in police custody by a government commission, during which Mr. Askarov said – under pressure- that he had no complaints. To this day, the prosecutors continue to ignore all evidence provided by Mr. Askarov and his counsel about the torture he endured.

Although a significant number of defense witnesses are ready to give their testimonies, the prosecutor's office does not consider this new testimony to be newly discovered circumstances sufficient to reopen the criminal case. Despite the original unfair trial, in which none of the defense witnesses were able to testify, Mr. Askarov is still being imprisoned and his case is not being reopened.

Mr. Askarov's case exemplifies the widespread torture and discrimination of people of Uzbek ethnic origin following the ethnic violence in the country in 2010, as well as the lack of accountability for the perpetrators of the abuse.

Annex

Communication	Committee's decision	Follow-up status	Dates
<p>Communication No. 1547/2007, Gunan</p>	<p>7. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is therefore of the view that the facts before it disclose a violation of the author's right under article 9, paragraph 3, of the Covenant.</p> <p>8. In accordance with article 2, paragraph 3(a), of the Covenant, the State party is under an obligation to provide the author with an effective remedy, in the form of appropriate compensation. The State party is also under an obligation to take all necessary steps to prevent similar violations occurring in the future.</p>	<p>The State party presented its observations by note verbale of 29 December 2011. It recalls the facts of the case extensively. It recalls that in 1999, Mr. Gunan was charged for serious crimes, including murder; terrorism in an organized group; participation in a criminal association; and, inter alia, the unlawful acquisition, possession and transmittal of firearms, ammunition, explosives and explosive devices. On 12 March 2001, the Osh City Court sentenced Mr. Gunan to death. This decision was confirmed on appeal, on 18 May 2001, by the Osh Regional Court, and by the Supreme Court on 18 September 2001. The author's allegations regarding the use of psychological and</p>	<p>Views adopted on 27 October 2011</p> <p>Follow-up: A/67/40 (Vol. I)</p>

		<p>physical pressure by the investigators were examined by the courts and were not confirmed. According to the State party, these allegations constituted a defence strategy and an attempt to avoid the imputation of criminal liability concerning particularly serious crimes. The State party considers that the author's allegations in the communication to the Committee did not correspond to reality. It adds that it was not possible to submit more comprehensive information, as terrorism-related data constitute a State secret and cannot be revealed. The State party's submission was sent to the author, for comments, in February 2012.</p> <p>The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily</p>	
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		implemented.	
Communication No. 1756/2008, Moidunov and Zhumbaeva	<p>9. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the facts before it disclose a violation by Kyrgyzstan of the author's son's rights under article 6, paragraph 1, and article 7, and of the author's rights under article 2, paragraph 3 read in conjunction with articles 6, paragraph 1 and 7, of the Covenant.</p> <p>10. In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide the author with an effective remedy. The remedy should include an impartial, effective and thorough investigation into the circumstances of the author's son's death,</p>	<p>By notes verbales of 19 and 29 December 2011, the State party argued that the Committee's conclusions on the investigation of the circumstances of the death of the author's son are based on the author's allegations only, without corroboration by other evidence. The State party explains that on 9 November 2004, the Prosecutor's Office opened a criminal case on the death of the author's son in the detention facilities of the Department of Internal Affairs of the Bazar-Korgon District. As a result, the senior inspector on duty when the death occurred was charged with abuse of power leading to a death of a person, with falsification of records on the detention of the victim, and with negligence. On 21 September 2005, the Suzak District Court sentenced the officer for negligence causing</p>	<p>19 July 2011 Follow-up: A/67/40 (Vol. I)</p>

	<p>prosecution of those responsible, and full reparation including appropriate compensation. The State party is also under an obligation to prevent similar violations in the future.</p>	<p>the death of a person. On 27 December 2005, the Supreme Court of Kyrgyzstan retained the part concerning “negligence” under article 316 of the Criminal Code of Kyrgyzstan and annulled the rest of sentence. The police officer did not serve his sentence, in virtue of article 66 of the Criminal Code, given that he reached a reconciliatory settlement with the brother of the victim (recognized as a lawful representative of the interests of the victim by the investigation and in court). In the light of these considerations, the State party disagrees with the Committee’s conclusion on the violation of the author’s rights. The author’s counsel provided comprehensive comments on the State party’s observations on 13 February 2012. Counsel notes that, by</p>	
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		<p>rejecting the Committee's Views and by refusing to provide victims with an effective remedy, the State party is violating its international obligations to cooperate in good faith under the Covenant. The State party has also failed to conduct an independent and effective investigation into the torture and death of Mr. Moidunov. The refusal to compensate his relatives, despite a formal request by their lawyers, violated a recently introduced modification in the Constitution obliging the State party to compensate individuals if an international body, such as the Committee, finds a violation of their rights. Counsel also notes that the State party has failed to introduce any changes to its legislation or practices, to avoid similar violations in</p>	
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		<p>future. Counsel's submission was transmitted to the State party, for observations, in February 2012.</p> <p>In October 2013 OSJI together with Ms. Jumabaeva's lawyer filed moral damages compensation claim to the court. Ministry of Finance is a defendant.</p> <p>The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.</p>	
<p>Communication No. 1503/2006, Akhadov</p>	<p>8. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the State party has violated article 6, read in conjunction with article 14; article 7 and article 14, paragraph 3 (g); article 9; and article 14, paragraph 1, of</p>	<p>The State party presented its observations on 2 August 2011, in the form of submissions prepared by various institutions, such as the Supreme Court, the Office of the Prosecutor General, the State Service on the execution of penalties, and the Ministry of Internal Affairs. All institutions present a chronology of the</p>	<p>25 March 2011</p> <p>Follow-up: A/67/40 (Vol. I)</p>

	<p>the International Covenant on Civil and Political Rights. 9. Pursuant to article 2, paragraph 3(a), of the Covenant, the Committee considers that the State party is under an obligation to provide the author with an effective remedy including: conducting full and thorough investigation into the allegations of torture and ill-treatment and initiating criminal proceedings against those responsible for the treatment to which the author was subjected; considering his retrial in conformity with all guarantees enshrined in the Covenant or his release; and providing the author with appropriate reparation, including compensation. The State party is also under an obligation to take steps to</p>	<p>facts and proceedings related to the author's case, without addressing the Committee's Views. On 8 September 2011, the State party reiterated its previous observations, and contended that the examination of the criminal case file established that the author's allegations contained in the Committee's Views were not confirmed. The State party's submissions were sent to the author, for comments, on 10 August and 15 September 2011, respectively. The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.</p>	
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	prevent similar violations occurring in the future.		
Communications No. 1369/2005, Kulov	<p>9. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the State party has violated articles 7; 9, paragraphs 1, 3, and 4; and 14, paragraphs 1, 2, 3 (b), (c), (d), (e), and 5, of the International Covenant on Civil and Political Rights.</p> <p>10. In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide the author with an effective remedy including the payment of adequate compensation and initiation of criminal proceedings to establish responsibility for the author's ill-treatment under</p>	<p>Date of State party's response: 15 November 2010</p> <p>The State party contends that on 11 April 2005, on the basis of a submission by the General Prosecutor's Office, the Supreme Court of Kyrgyzstan annulled the author's sentences pronounced by the Pervomai District Court of Bishkek of 8 May 2002 and by the Bishkek City Court of 11 October 2002, and the Ruling of the Supreme Court of Kyrgyzstan of 15 August 2003, based on the absence of the elements of corpus delicti in the author's acts. This, according to the State party, means that the author is innocent, and entitles him to be granted full rehabilitation and includes a right to compensation for the damages resulting from his criminal prosecution. The State</p>	<p>Views adopted on 26 July 2010</p> <p>Follow-up: A/66/40</p>

	<p>article 7 of the Covenant. The State party is also under an obligation to prevent similar violations in the future.</p>	<p>party further explains that pursuant to article 378 of the Criminal Procedure Code, courts are entitled to decide whether they need to invite a party to be present when a supervisory review of a case is conducted, but there is no obligation for the presence of the parties. The State party also contends that the 1998 Criminal Procedure Code provided no judicial control over decisions to arrest individuals, but that this was attributed the prosecutors. In order to align its legislation to the provisions of the Covenant, the State party amended its legislation in 2004, 2007 and 2009. The State party submission was transmitted to the author, for comments, on 24 November 2010. A reminder to the author was sent on 21 February 2011. A further reminder to the author will be prepared. The</p>	
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		<p>Committee may wish to await receipt of further comments prior to making a decision on this matter.</p> <p>The Committee considers the follow-up dialogue ongoing.</p>	
<p>Communication No. 1312/2004, Latifulin</p>	<p>9. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the State party has violated articles 9, paragraphs 1 and 2, of the International Covenant on Civil and Political Rights.</p> <p>10. In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide the author with an effective remedy, in the form of appropriate compensation. The State party is also under an obligation to prevent similar violations in the future.</p>	<p>The State party contends that the lawfulness and the grounds for the author's conviction were verified and confirmed by the appeal court as well as under the supervisory procedure. The law does not require the obligatory presence of a party during the examination of a case under the supervisory proceedings. Pursuant to changes in the legislation in 2007, article 169 (theft of others' property in a particularly large amount) was excluded from the Criminal Code. On this basis, the author can request, under section 387 of the Criminal Procedure Code, to have his case re-examined in the light of the new</p>	<p>10 March 2010</p> <p>Follow-up: A/66/40/Vol.I</p>

		<p>circumstances. Thus, the author has the right to request the Supreme Court to re-examine his criminal case, given the legislative changes. The State party submission was transmitted to the author, for comments, on 20 October 2010. A reminder to the author was sent on 21 February 2011. A further reminder to the author will be prepared. The Committee may wish to await receipt of further comments prior to making a decision on this matter.</p> <p>The Committee considers the follow-up dialogue ongoing.</p>	
<p>Communication No. 1338/2005, Kaldarov</p>	<p>9. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is therefore of the view that the facts before it disclose a violation of the author's right</p>	<p>Date of State party's response: 5 October 2010</p> <p>State party's submission</p> <p>The State party recalls the facts of the case in extenso, repeating its previous submissions on the admissibility and the merits of the communication. The information submitted</p>	<p>18 March 2010</p> <p>Follow-up: A/66/40/Vol.I</p>

	<p>under article 9, paragraph 3, of the Covenant.</p> <p>10. In accordance with article 2, paragraph 3(a), of the Covenant, the State party is under an obligation to provide the author with an effective remedy, in the form of appropriate compensation, and to make such legislative changes as are necessary to avoid similar violations in the future.</p>	<p>was prepared jointly by the Ministry of Internal Affairs and the Supreme Court of Kyrgyzstan.</p> <p>The State party also contends that the 1998 Criminal Procedure Code provided no judicial control over decisions to arrest individuals, but that this was attributed the prosecutors. In order to align its legislation to the provisions of the Covenant, the State party amended its legislation in 2004, 2007 and 2009.</p> <p>The State party submission was transmitted to the author, for comments, on 18 October 2010. A reminder to the author was sent on 21 February 2011. A further reminder to the author will be prepared.</p> <p>The Committee may wish to await receipt of further comments prior to making a decision on this matter.</p> <p>The Committee considers the follow-up dialogue ongoing.</p>	
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<p>Communication No. 1275/2004, Umetaliev and Tashtanbekova</p>	<p>10. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the facts before it disclose a violation by Kyrgyzstan of Eldiyar Umetaliev's rights under article 6, paragraph 1, and of the authors' rights under article 2, paragraph 3, read together with article 6, paragraph 1, of the Covenant.</p> <p>11. Under article 2, paragraph 3(a), of the Covenant, the State party is under an obligation to provide the authors with an effective remedy in the form, inter alia, of an impartial investigation in the circumstances of their son's death, prosecution of those responsible and adequate compensation. The State party is also under an obligation to prevent similar</p>	<p>Date of State party's response: 11 September 2009</p> <p>The State party provides information from the General Prosecutor's Office, the Ministry of Finance, of Internal Affairs and the Supreme Court. All of the information provided relates to events and decisions which occurred prior to the Committee's Views but to which the Committee were not made aware. The following information was provided:</p> <p>Mr. A. Umetaliev brought an action before the Aksyisk District Court against the State party for damages of 3 780 000 som and moral damages of 2 000 000 som for the death of his son E. Umetaliev. On 13 July 2005, the Aksyisk District Court refused to satisfy the sum of 3 780 000 som but was provided 1 000 000 som for moral damages. The author's claim before</p>	<p>Views adopted on 21 May 2010</p> <p>Follow-up: A/65/40</p>
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	violations in the future.	the Supreme Court under the supervisory review procedure was dismissed on 26 November 2004. The authors currently receive social allowances under, the Law on State Allowances in the Kyrgyz Republic, which provides for social assistance to family who lost individuals who were their main source of income. Moreover, according to the law, such individuals receive additional social allowances that amount to triple the size of the “guaranteed minimal monthly consumption standard”. Under the Law of the Kyrgyz Republic, “On state social aid for the family members of the descendants and victims of the events of 17-18 March 2002 in Aksyisk District of Zhalalabatsk Region of Kyrgyz Republic”, which was adopted on 16 October 2002 (№ 143), additional social support is provided to	
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		<p>the author's family. On 29 March 2008, the criminal case of E. Umetaliev was registered as a separate proceeding by the investigator and was forwarded to the Chief Investigation Department of the Ministry of Internal Affairs of the Kyrgyz Republic. On 22 April 2008, the case was forwarded to the Department of Internal Affairs in the Zhalalabadsk Region for further investigation. On 15 April 2009, the South Department of the Prosecutor General's Office entrusted this case to the Interregional Department of Ministry of Internal Affairs. The investigation is ongoing. Proceedings were instituted against a number of officials of the republic. Mr .Dubanaev was tried by the Court Martial of the Bishkek Garrison, under Art.304 Part 4, 30-315</p>	
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		<p>of the Criminal Code but on 23 October 2007 was acquitted due to failure of evidence. In the same verdict, Kudaibergenov Z. was found guilty, under Art.305 Part 2 Paragraph.5 of the Criminal Code, and Tokobaev K. under Art.305 Part 2 Paragraph 5 and Art.315 of the Criminal Code, and each of them were sentenced to 5 years of a suspended sentence with a probation period of 2 years. Moreover, Kudaibergenov was deprived from taking an executive position in the Prosecutor General's Office for the subsequent 5 years. On 20 May 2008, the Court reviewed the sentences of both Kudaibergenov Z. and Tokobaev K., reducing them to 4 years and the probation period to 1 year. (The State party does not provide an explanation of the</p>	
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		<p>reasons behind the convictions. – articles only – but it would appear that Art.304 Part 4 relates to Abuse of Office that caused grave consequences, Art.305 Part 2 (5) Excess of authority or official powers that caused grave consequences and Art.315 Forgery in Office).</p> <p>The follow-up dialogue is ongoing.</p>	
<p>Communications Nos. 1461/2006, 1462/2006, 1476/2006 and 1477/2006, Maksudov, Rakhimov, Tashbaev, Pirmatov</p>	<p>13. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the facts before it disclose a violation by Kyrgyzstan of the authors' rights under article 9, paragraph 1; article 6, paragraph 2, and article 7, read alone and together with article 2, of the Covenant. The Committee reiterates its conclusion that the State party also breached its</p>	<p>Date of State party's response: 12 January 2009</p> <p>The State party did not respond on the admissibility and merits of this communication. The State party responds on the Views as follows. It submits that none of the individuals extradited were sentenced to death and that the Committee's fear in this regard was unfounded. The fact that the warrant for Mr. Maksudov's detention was issued by Andijan provincial court on 29 May 2005 and that the</p>	<p>16 July 2008</p> <p>Follow-up: A/65/40</p>

	<p>obligations under article 1 of the Optional Protocol. 14. In accordance with article 2, paragraph 3(a), of the Covenant, the State party is under an obligation to provide the authors with an effective remedy, including adequate compensation. The State is requested to put in place effective measures for the monitoring of the situation of the authors of the communication. The State party is urged to provide the Committee with updated information, on a regular basis, of the authors' current situation. The State party is also under an obligation to prevent similar violations in the future.</p>	<p>lawfulness of his remand in custody was not reviewed by a court or a procurator, is explained as follows: Mr. Maksudov was taken into custody on 16 June 2005 and was handed over to the law enforcement authorities on 9 August 2006; however, questions relating to the lawfulness of detention in custody only had to be referred to the courts according to Kyrgyz legislation after 3 July 2007. Pursuant to the Minsk Convention on judicial assistance and legal relations in civil, family and criminal cases of 22 January 1993, it was possible to take a person into custody on the basis of a decision by a competent body of the requesting State; at that time, Kyrgyz criminal procedure law did not require detention orders by the competent bodies of a requesting State to be reviewed by a</p>	
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		<p>procurator. Thus, according to the State party, there were no breaches of the law in connection with the detention of the authors. As for the Committee's doubts about the Kyrgyz authorities' ability to guarantee the safety in Uzbekistan of the authors after extradited, it should be noted that the provision of such guarantees would be regarded as an encroachment on Uzbekistan's sovereignty. Should the Committee desire further information about the health of the persons extradited, it should address an appropriate enquiry to the Office of the Procurator-General of the Republic of Uzbekistan.</p> <p>According to the State party, in extraditing the four authors to Uzbekistan, the Office of the Procurator-General of the Kyrgyz Republic strictly complied with its obligations under</p>	
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		<p>international treaties. Moreover, it should be noted that since the extradition of the authors, the Office has taken no further extraditions in connection with the Andijan events. The administrative and financial division of the Supreme Court upheld (no date provided) the rulings of Bishkek inter-district court and the administrative and financial division of Bishkek municipal court on the appeals lodged by Messrs. Maksudov, Rakhimov, Tashbaev and Pirmatov against the decision of 26 July 2005 by the Migration Service Department of the Kyrgyz Ministry of Foreign Affairs to deny them refugee status. After considering the Migration Service Department's grounds for refusing the aforementioned Uzbek citizens refugee status, the administrative and financial division of</p>	
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		<p>the Supreme Court concluded that article 1, F. (b), of the 1951 Convention relating to the Status of Refugees had been lawfully and validly applied when considering their petitions. Under Kyrgyz civil procedural law, the decisions of the Supreme Court enter into force as soon as they are adopted, are final and are not subject to appeal.</p> <p>Author's comments: None</p> <p>The dialogue is ongoing.</p>	
1402/2005, Krasnov	<p>9. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the facts before it disclose a violation by the State party of article 7; article 9, paragraph 2; and article 14, paragraphs 1, and 3 (b) and 3 (c), of the Covenant.</p> <p>10. In accordance</p>	<p>Previous follow-up information: A/66/40 (Vol. I), chap. VI, pp. 142–143</p> <p>On 8 September 2011, the State party reiterated its previous observations and provided a compilation of submissions prepared by its Supreme Court, the State Service on the execution of penalties, the Ministry of Internal Affairs, and the Office of the Prosecutor General.</p> <p>All institutions recall</p>	<p>29 March 2011</p> <p>Follow-up: A/67/40</p>

	<p>with article 2, paragraph 3(a), of the Covenant, the State party is under an obligation to provide the author's son with an effective remedy, including a review of his conviction taking into account of the provisions of the Covenant, and appropriate compensation. The State party is also under an obligation to prevent similar violations in the future</p>	<p>in detail the criminal proceedings concerning Mr. Krasnov. The State party concludes that the examination of the criminal case file established that the author's allegations contained in the Committee's Views were not confirmed. The State party's submission was sent to the author, for comments, on 15 September 2011. The Committee will await receipt of further information in order to finally decide on the matter. The Committee considers the follow-up dialogue ongoing, while noting that, to date, its recommendation has not been satisfactorily implemented.</p>	
<p>Communication No. 1547/2007, Torobekov</p>	<p>7. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is therefore of the</p>		<p>27 October 2011</p>

	<p>view that the facts before it disclose a violation of the author’s right under article 9, paragraph 3, of the Covenant.</p> <p>8. In accordance with article 2, paragraph 3(a), of the Covenant, the State party is under an obligation to provide the author with an effective remedy, in the form of appropriate compensation. The State party is also under an obligation to take all necessary steps to prevent similar violations occurring in the future.</p>		
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