

ICCPR Case Digest

CCPR/C/113/D/2013/2010

Communication
No.2013/2010

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Grishkovtsov v. Belarus

Execution of a person condemned to death sentence despite the request of interim measures ordered by the Committee

Substantive Issues

- Right to life
- Torture & ill-treatment
- Judicial guarantees

Relevant Articles

- Art. 6
- Art. 7
- Art. 9 (1-4)
- Art. 14 (1-3)

Violations

- Art. 6
- Art. 7
- Art. 9 §3
- Art. 14 §2, §3(d & g)

Facts

The author is a Belarusian national on death row. Counsel for the author submits that the author was arrested in 2009 and was not immediately informed of the charges against him and that he only saw a judge at the beginning of the trial, 5 months after his arrest. He was tortured by police to force a confession. During interrogation no lawyer was present.

He was tried and found guilty of three murders, kidnapping, theft and arson and his appeals were rejected. Counsel submits that during the trial itself the court show biased against the author by disregarding discrepancies, the author was kept in a cage during the trial and a photo of him in a cage was published in the media. The author was not able to meet with his lawyer in private. Counsel claims that the author's rights under articles 6 (1–2), 7, 9 (1–4) and 14 (1, 2 and 3 (a), (b), (d) and (g)) of the Covenant were violated by the State party, because he was subjected to arbitrary arrest, torture and ill-treatment after his arrest, and was sentenced to death after an unfair trial.

Committee's View

Consideration of merits

The Committee noted the state party's assertion that it has no obligation to recognise the Committees rules of procedure or interpretation of the provisions of the Optional Protocol and that it has no obligation to respect the request for interim measures. The Committee recalled that under article 39 (2) it is empowered to establish its own rules of procedure which state parties have agreed to recognize and by adhering to the Optional Protocol state parties recognize the competence of the Committee to

receive and consider communications which implies an obligation to cooperate with the committee in good faith. The Committee noted that the author had been executed despite its request for interim measures of protection and that having been notified of the communication and the request by the Committee for interim measures of protection, the State party committed a serious breach of its obligations under the Optional Protocol by executing the alleged victim before the Committee had concluded its consideration of the communication ([Piandiong et al. v. Philippines](#)).

The committee finds the communication admissible. The Committee finds a violation of article 7 and 14 (3) (g) as the allegations of forced confession and conviction based on this confession had not been refuted or investigated by the state party ([Kirpo v. Tajikistan](#)). The Committee also finds a violation of article 9 (3) on the basis of unchallenged allegations that the author was not brought promptly before a judge and decides not to examine separately his claim under article 9 (4).

The Committee found a violation of article 14 (2) on the basis of the information received regarding the defendant being kept in a metal cage and photographs published in the media ([Gridin v. Russian Federation](#)) and a violation of article 14 (3) (d) as, according to the facts submitted, he was not able to meet privately with his lawyer. In the light of the Committee's findings of a violation of article 14 (3) (d) and (g) of the Covenant, especially in the light of the author's unrefuted allegations of absence of legal assistance, torture and ill-treatment to make him confess guilt, which served as a basis for his conviction, it concludes that the final sentence of death and the subsequent execution of Oleg Grishkovtsov did not meet the requirements of article 14 and that, as a result, his right to life under article 6 of the Covenant has also been violated ([Khoroshenko v. Russian Federation](#) and [Gunan v. Kyrgyzstan](#)¹).

Recommendation

The state party is obliged to:

- a. provide adequate monetary compensation to the author's family for the loss of his life, including reimbursement of the legal costs incurred;
- b. prevent similar violations in the future and, in the light of its obligations under the Optional Protocol, to cooperate in good faith with the Committee, particularly by complying with the requests of the Committee for interim measures of protection.

Deadline to Submit the Report on the Implementation of the Recommendations

1 October 2015

¹ "Gunan vs. Kyrgyzstan - CCPR-Centre." 2012. 8 Sep. 2015
<<http://ccprcentre.org/doc/OP1/Summaries/101/1545%202007%20Gunan%20v.%20Kyrgyzstan.pdf>>

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