



International Covenant on Civil and Political Rights

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Human Rights Committee

Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2388/2014*, **

<i>Communication submitted by:</i>	Paul Eric Kingue
<i>Alleged victim:</i>	The author
<i>State party:</i>	Cameroon
<i>Date of communication:</i>	1 October 2013 (initial submission)
<i>Document references:</i>	Decision taken pursuant to rule 97 of the Committee's rules of procedure, transmitted to the State party on 16 May 2014 (not issued in document form)
<i>Date of adoption of Views:</i>	3 November 2016
<i>Subject matter:</i>	Detention of mayor accused of inciting revolt and corruption
<i>Procedural issues:</i>	Manifestly ill-founded
<i>Substantive issues:</i>	Arbitrary detention, effective remedies
<i>Articles of the Covenant:</i>	2 (3) and 9 (5)
<i>Article of the Optional Protocol:</i>	3

1. The author of the communication is Paul Eric Kingue, a national of Cameroon born in 1966. He claims that the State party has violated his rights under articles 2 (3) and 9 (1), (3) and (5) of the International Covenant on Civil and Political Rights. The Optional Protocol entered into force for the State party on 27 September 1984. The author is not represented by counsel.

* Adopted by the Committee at its 118th session (17 October-4 November 2016).

** The following members of the Committee participated in the examination of the communication: Mr. Yadh Ben Achour, Ms. Sarah Cleveland, Mr. Olivier de Frouville, Mr. Yuji Iwasawa, Ms. Ivana Jelić, Mr. Duncan Laki Muhumuza, Ms. Photini Pazartzis, Mr. Mauro Politi, Sir Nigel Rodley, Mr. Víctor Manuel Rodríguez Rescia, Mr. Yuval Shany, Mr. Konstantine Vardzelashvili and Ms. Margo Waterval.



The facts as submitted by the author

2.1 In July 2007 the author was elected mayor of the Commune of Njombé-Penja,¹ which is located in the Department of Moungo in the Littoral Region of Cameroon, where he allegedly took action to combat corruption, including pressing for the payment of taxes by French banana companies, which had been evading tax for years with the complicity of the Government of Cameroon.²

2.2 On 29 February 2008, at the time of the protests known as the food riots,³ the author was arrested outside his home in Njombé-Penja by a squadron of 12 military trucks belonging to the rapid response battalion (an army unit responsible for combating organized crime) and six pick-up trucks belonging to the National Gendarmerie. His arrest, which was made without a warrant, took place after a decree issued by the Minister of Territorial Administration and read out the same day on the 1 o'clock news broadcast by the public broadcasting company Cameroon Radio Television suspended him from his duties as mayor of the Commune of Njombé-Penja for "irregularities in the management of public funds".⁴

2.3 The author was taken directly to prison, where he was held in custody for almost 20 days — considerably longer than the legally permitted period⁵ — in inhuman and degrading conditions that included placement in a solitary confinement cell; being required to sleep on a bare wet floor; inability to communicate with family members, a lawyer or a doctor; being bound and shackled; and being subjected to regular insults and physical threats.

2.4 On 19 March 2008, the author was formally placed in pretrial detention pursuant to a remand warrant signed by the investigating judge of the Moungo High Court (Tribunal de Grande Instance) in Nkongsamba and charged, in a first case against him, with misappropriation of public funds amounting to 1.4 million CFA francs (CFAF) (approximately \$2,400) and forgery of official documents. The author claims that an unscheduled audit of the municipal tax revenue accounts of Njombé-Penja performed by Moungo Treasury Office had revealed no irregularities and no misappropriations.⁶

2.5 On 2 June 2008, the author was permanently relieved of his duties as mayor for "irregularities in the management of public funds" by decree of the President of the

¹ The author was elected with 87 per cent of the vote.

² The author attaches a report on the human rights situation in Cameroon published by the National Commission on Human Rights in 2011, according to which, the author's persecution began when, following his election as mayor of the commune, he requested a tax audit that apparently revealed a deficit of CFAF 2.7 million in direct communal taxes that were due annually but had not been paid by the banana company Plantations du Haut Penja for over 30 years. The author also reportedly turned down an offer from the directors of various agricultural enterprises operating in Mbanga, Djombé and Penja to "buy his silence" by paying him CFAF 20 million every quarter. He reportedly referred the matter for decision to the Prime Minister, who, in turn, referred the matter for decision to the Director General of Taxation. On 3 December 2007, upon receiving notice of the investigation from the Directorate General of Taxation, the companies concerned "vowed to bring about his demise by joining forces with the administrative and traditional authorities of the area who enjoyed the largesse of these companies in order to fight [the author]".

³ Violent riots took place in many cities in Cameroon between 23 and 29 February 2008. The unrest was caused initially by a rise in fuel prices and then by a rise in the cost of most essential goods. According to press reports submitted by the author, he gave a statement to a private television channel, Canal 2, confirming rumours of deaths and injuries caused by gunfire in Penja, providing details of the location from which the bullets had been fired and confirming that he was ready to prove that there had been fatalities.

⁴ The author points out that his arrest was very carefully planned because the rapid response battalion's trucks were already parked in Njombé-Penja at 9 a.m. that morning.

⁵ Article 119 (2) of the Code of Criminal Procedure of Cameroon establishes that police custody cannot in any case exceed 144 hours, i.e. 6 days.

⁶ The author provides a copy of the audit report issued by Moungo Treasury Office on 11 October 2007.

Republic.⁷ The author points out that both this decree and the decree issued by the Minister of Territorial Administration are in breach of Act No. 2004-018, which stipulates that the authorities may proceed with the suspension or removal of a mayor only after hearing the accused party.⁸ Furthermore, the presidential decree was issued before the first-instance court had ruled on the charges brought against the author.

2.6 On 14 June 2011, the Moungo High Court in Nkongsamba found the author guilty of the offences of which he was charged and sentenced him to 10 years' imprisonment. The author filed an appeal, and on 26 March 2012, the Littoral Court of Appeal ruled that there was no evidence to support the facts and acquitted the author. This judgment was final.⁹

2.7 In a second case, the author was prosecuted for "unlawful assemblies, gatherings and demonstrations, conspiracy to block and obstruct public thoroughfares, and aiding and abetting gang looting" in connection with the food riots. He was found guilty on 19 January 2009 by the Moungo High Court in Nkongsamba and sentenced to 6 years' imprisonment. His sentence was reduced to 3 years by the Littoral Court of Appeal on 23 March 2011.¹⁰ The author lodged an appeal in cassation before the Supreme Court, which, on 16 July 2015, ruled in his favour. The Supreme Court considered that the author had been convicted "following a legal process in which the judicial investigation had been opened for information purposes only by an order issued on 19 March 2008 that was not signed and did not bear the seal of the investigating judge",¹¹ in breach of the requirements set forth in article 164 of the Code of Criminal Procedure of Cameroon, and that in the first-instance proceedings there had been no "final examination of the defendant" before the court. The Supreme Court therefore annulled the entire proceedings, in conformity with articles 215 and 417 of the Code of Criminal Procedure, respectively.

⁷ The author notes that these charges are the only reason given in the presidential decree.

⁸ The author cites articles 94 and 95 of Act No. 2004-018 of 22 July 2004 on the Rules Applicable to Communes. Article 94 states that in cases of serious violation "provided they have been heard, or have been invited to provide written explanations of any acts of which they [may be] charged, mayors and deputy mayors may be suspended by decree of the Minister of Territorial Administration". Article 95 provides for the following: "In cases involving a misuse of public funds, an offence that can carry a criminal penalty along with disqualification from office, a clear dereliction of duty or gross negligence in the exercise of one's duties, a mayor and his deputies may be dismissed by presidential decree, subject to the conditions set forth in article 94."

⁹ The Court found that: (i) the prosecution had produced no evidence proving that the author had received the amount alleged; (ii) the author himself was the only witness called, but because he was implicated in the case, he could not testify against himself; (iii) an audit performed shortly before the Treasury Office made its accusations, details of which were set out in a report dated 11 October 2007, had found no misappropriations; and (iv) the mayor, by law, enjoyed absolute autonomy in managing his commune and had no need whatsoever of any [allegedly forged] authorization to make a fund disbursement. The Court therefore concluded that neither the existence of the allegedly misappropriated funds nor the means used to misappropriate said funds had been established in the case of the author, who was therefore found not guilty and acquitted for lack of evidence.

¹⁰ The author provides a copy of an Amnesty International report on Cameroon that includes testimonies from around a dozen lawyers and members of Cameroonian society. They all concur that the author did not instigate or participate in the disturbances of February 2008 and believe that "he was targeted because he denounced human rights violations committed by members of the security forces during the disturbances and for demanding that the companies exporting bananas pay taxes that he claimed they had evaded for many years with the complicity of senior government officials". The report concludes that "his prosecution and imprisonment appear to amount to abuse of the judicial process in order to silence a government critic". Republic of Cameroon. Amnesty International, Memorandum to the Government, 2012, p. 45.

¹¹ Article 147 of the Code of Criminal Procedure establishes that "upon receiving the request to open an investigation, the investigating judge is required to issue an order for information purposes" setting out all the elements of fact and law necessary to the prosecution of the person charged. This order may be considered one of the essential guarantees of the right to defence.

2.8 In a third judicial case against the author brought in June 2009, which involved charges of misappropriation of public funds amounting to CFAF 10 million (approximately \$9,500), the author was convicted and sentenced to life imprisonment by the Nkongsamba High Court on 29 February 2012. On 14 November 2012, the Littoral Court of Appeal dismissed certain charges and reduced the author's sentence to 10 years' imprisonment and the payment of damages to the Commune of Njombé-Penja. The author lodged an appeal in cassation before the Supreme Court, which, on 16 July 2015, ruled in his favour. The Supreme Court annulled the first-instance proceedings on the grounds that several procedural irregularities had been identified, including the fact that the judgment was issued without conducting a "final examination" of the defendant, which was required under article 415 of the Code of Criminal Procedure, and the fact that the prosecution witnesses did not take oath, as they were required to do under articles 449 and 325 of the Code of Criminal Procedure. The Supreme Court also annulled the remand warrant issued against the author on 30 June 2009, since, in breach of the requirements laid down in article 218 (2) of the Code of Criminal Procedure, no order setting out the grounds for its issue had been attached to the warrant nor had the accused been notified of the decision to issue it.¹²

2.9 Cameroonian law provides for the possibility of obtaining compensation for a long period of detention that ends in acquittal through the following mechanisms: (a) an appeal to the compensation and reparations commission created under articles 236 and 237 of the Code of Criminal Procedure, which entered into force in January 2007;¹³ and (b) an appeal to the administrative authorities. With regard to the first mechanism, the author maintains that, although it was created in 2005, the commission has still not been formally established and that, as a result, he was not able to submit a claim for compensation/reparation. As to the second mechanism, the author contacted the relevant administrative authorities on 14 December 2012 with a view to obtaining compensation for the injury he suffered,¹⁴ arguing that he had spent almost five years in pretrial detention before being acquitted in full on the charge of misappropriation of CFAF 1.4 million. According to Act No. 2006-022, an appeal to the authority having produced the contested decision is a prerequisite for any application to the administrative courts.¹⁵ The authorities in question have never replied to or even acknowledged receipt of the author's claim. Act No. 2006-022 provides that, when no response is received, proceedings may be filed with the administrative court three months after the claim was submitted to the administrative authority. The author submits, however, that an appeal of this kind would have been futile, since the highest administrative court has long maintained, in numerous rulings, that administrative courts are not competent to hear cases involving decisions handed down during judicial proceedings or claims for compensation for injury attributable to the functioning of the public justice system.¹⁶ The

¹² On 2 September 2016, the author submitted a copy of the Supreme Court rulings dated 16 July 2015.

¹³ Article 236 of the Code of Criminal Procedure states the following: "Any person who has been wrongfully held in police custody or in pretrial detention may receive compensation if the proceedings result in the dismissal of the case or a final acquittal and if the person can demonstrate that he or she suffered serious injury as a result of the detention." Article 237 states that: "The compensation provided for in the preceding article is awarded by decision of a commission, which rules in the first instance."

¹⁴ The author refers in particular to his divorce, the death of his only son at the age of 11 years due to severe anaemia and the lack of physical, psychological and material assistance provided to him while he was in prison.

¹⁵ Article 17 (1) of Act No. 2006-022 establishes that: "Appeals to the administrative court are admissible only if an appeal for reconsideration has first been submitted to and rejected by the authority that issued the contested decision or to the authority that is legally empowered to represent the public body or institution in question."

¹⁶ The author provides copies of judgments issued by the Federal Court and the Supreme Court of Cameroon which state that administrative courts are not competent to hear cases involving decisions handed down during judicial proceedings or claims for compensation of injury attributable to the functioning of the public justice system.

author therefore considers domestic remedies to have been exhausted. Moreover, the scope of the administrative courts' jurisdiction, as set out in articles 2 and 3 of Act No. 2006-022, which was adopted after the Code of Criminal Procedure, excludes the claims and disputes that are the subject of the present communication, inasmuch as they fall within the jurisdiction of private law.¹⁷

2.10 On 29 August 2014, the Working Group on Arbitrary Detention adopted an opinion that qualified the author's detention as arbitrary and requested the State party to take whatever measures were necessary to put an end to this detention and to grant appropriate reparation to the author.¹⁸

The complaint

3.1 The author states as grounds for his communication a violation of articles 2 (3) and 9 (5) of the Covenant. First, the State party failed to comply with its obligation under article 2 (3) to ensure that any citizen whose rights or freedoms as recognized in the Covenant (i.e. the right to reparation) have been violated has access to an effective remedy intended to provide reparation for the injury suffered and that his or her right to such a remedy is determined by a competent authority. Secondly, the author was a victim of unlawful arrest and detention but has still not received compensation for the permanent injury he suffered (art. 9 (5)).

3.2 The author considers that he has been subjected to the following types of injury: (1) professional injury (loss of his position as municipal official for the entire term for which he was elected, loss of professional development opportunities and uncertainty over his future political career, which had promised to be bright, given his popularity, but which has effectively been cut short);¹⁹ (2) physical injury (malaria, various infections and general deterioration in his state of health as a result of his detention); psychological injury (resulting from the constant worry linked to the uncertainty over his fate, which left him in a state of latent anxiety and mental disorder and beset by insomnia); and family injury (resulting from his inability to help his family while he was in prison, a situation that caused the death of his son from severe anaemia and his divorce);²⁰ (3) moral injury (long-term suffering resulting from the long period of wrongful detention, loss of his family and damage to his reputation as a result of having been imprisoned for misappropriation of public funds);²¹ and material injury (loss of earnings, debts assumed in order to provide for his family and to cover the cost of his own care, food and clothing while in prison),²² as well as expenses incurred for his defence and for his applications to national and international judicial bodies (lawyers' and consultants' fees and other expenses incurred in obtaining and preparing documentation and communications).²³

State party's observations on the merits

4.1 The State party submitted its observations on the merits on 27 May 2015. It maintains that the communication is baseless. The author was the subject of three separate, independent proceedings.²⁴ The first case involved charges of unlawful assembly, gathering

¹⁷ The author has provided examples of relevant case law.

¹⁸ Opinion No. 38/2014 (Cameroon), adopted on 29 August 2014 by the Working Group on Arbitrary Detention at its seventieth session, paras. 32 and 33.

¹⁹ The author assesses these injuries at CFAF 850 million (approx. \$1.5 million).

²⁰ The author assesses these injuries at CFAF 2.5 billion (approx. \$4.3 million).

²¹ The author assesses these injuries at CFAF 1.5 billion (approx. \$2.5 million).

²² The author assesses these injuries at CFAF 1.5 billion (approx. \$2.5 million).

²³ The author assesses these injuries at CFAF 650,000 (approx. \$1,100).

²⁴ With regard to the so-called food riots, the State party explains that, following a strike called by the transport workers union, a number of individuals armed with knives blockaded the streets, held unlawful assemblies and demonstrations that degenerated into riots and stole, looted and set fire to

and demonstration, obstruction of public thoroughfares, and aiding and abetting gang looting. The second case involved charges of misappropriation of public funds, forgery of public documents and extortion. The third case involved charges of misappropriation of public funds.

4.2 The communication submitted to the Committee by the author relates to the second case, which refers to the misappropriation of CFAF 1.4 million. After a preliminary investigation conducted in December 2007, a judicial investigation was initiated on 19 March 2008, and the author was remanded in custody on the same day. At the end of the judicial investigation, he was called to appear before the Moungo High Court. Upon conclusion of the hearing, on 14 January 2011, the Court found him guilty and sentenced him to 10 years' imprisonment. The defendant appealed to the Littoral Court of Appeal, which acquitted him on 26 March 2012 for lack of evidence.

4.3 The third case arose in connection with a spot check carried out on 17 January 2008 by the accounts inspection brigade of the Ministry of Territorial Administration, which identified irregularities in the management of the revenue and expenditure of the Commune of Njombé-Penja. The author was convicted of misappropriation of public funds and sentenced to life imprisonment in the first-instance ruling and to 10 years' imprisonment on appeal on 14 November 2012.

4.4 The State party indicates that, on 19 March 2008, two remand warrants were issued against the author in the course of the first two legal cases. In the proceedings that form the basis for the communication submitted to the Committee, the author's pretrial detention was not preceded by an arrest or even by a period of police custody. These proceedings were the result of a preliminary investigation conducted in December 2007 by the Moungo district gendarmerie, during which the author was examined; it was concluded on 3 January 2008. At the conclusion of the preliminary investigation, the case was referred to the public prosecutor attached to Moungo High Court on 7 January 2008. The records of the hearing and of the decision to refer the case to the public prosecutor make no mention of the author being arrested or taken into custody.

4.5 The State party notes that the order for the author's detention in the course of the proceedings that are the subject of his submission to the Committee was issued on lawful grounds, in conformity with due process of law and in recognition of the guarantees set forth in article 9 of the Covenant for persons deprived of their liberty. In accordance with the foregoing, the author was informed of the reasons for his detention and was brought promptly before the trial court, which issued its judgment without undue delay.²⁵

Author's comments on the State party's observations

5.1 On 31 August 2015, the author pointed out that the State party does not contest the fact that, in the second case, which concerned the misappropriation of CFAF 1.4 million, he was detained for more than four years (from 19 March 2008 to 26 March 2012). It is to this case that the present communication relates, and it is in respect of this period of detention that he has sought compensation in accordance with Cameroonian law and international

property belonging to private individuals and businesses including the property of Société des Plantations de Mbanga and Société des Plantations du Haut-Penja. In the course of the ensuing investigations, some of the rioters named the author as one of the instigators of the reported incidents.

²⁵ The State party specifies that the first hearing in this case took place on 20 August 2008. In the course of these proceedings, the defendants raised a motion to nullify the hearing of 29 October 2008. First an appeal, and then an appeal in cassation, were lodged against the first-instance judges' decision to reject this motion of nullity. The Court of Appeal handed down its decision on 10 March 2009, while the Supreme Court issued its decision on 10 June 2010. It was only after the Supreme Court's decision that the first-instance judges were able to resume the consideration of the merits. Their judgment was issued on 14 January 2011. An appeal was lodged against this decision, and the Court of Appeal acquitted the author on 14 November 2012.

standards. With remedies in domestic courts being either inaccessible or ineffective — an assertion that has not been contested by the State party — the author had no choice but to petition the Committee in an attempt to obtain effective compensation for the various injuries he suffered as a result of his wrongful detention.

5.2 The author states that the State party's response is without substance and misleading. Firstly, the fact that he was detained for more than four years until a decision was issued to acquit him — a fact that is not disputed — proves that, broadly speaking, his detention was unlawful, meaning that it was contrary to the law, thus rendering the circumstances of his detention irrelevant. Secondly, the State party appears to be claiming that the author's detention began with the issue of a remand warrant on 19 March 2008 and that there was no prior arrest or period of police custody in the case which forms the basis of this communication, since it fails to provide the custody records for any of these proceedings and is the only party in possession of such records. Despite this, the State party acknowledged, in a letter to the Working Group on Arbitrary Detention dated 13 March 2014, that the author's arrest had indeed taken place on 29 February 2008. In order to demonstrate the legality of this arrest, the State then claimed that the arrest had been carried out in application of the flagrante delicto procedure. However, the Working Group concluded that none of the proceedings brought against the author involved cases of flagrante delicto, which means that the author's arrest was required to have been based exclusively on a court or administrative order. For its part, the Supreme Court of Cameroon recently declared all proceedings arising from the author's arrest and custody (the first and third proceedings), as well as the subsequent convictions, to be unlawful.

Issues and proceedings before the Committee

Consideration of admissibility

6.1 Before considering any claim contained in a communication, the Human Rights Committee must decide, in accordance with rule 93 of its rules of procedure, whether the communication is admissible under the Optional Protocol to the Covenant.

6.2 As required under article 5 (2) (a) of the Optional Protocol, the Committee has ascertained that the same matter is not being examined under another procedure of international investigation or settlement.

6.3 The Committee notes that the State party has not commented on the admissibility of the communication. It notes in particular the author's claim, which is not contested by the State party, that domestic remedies have been exhausted because there is no effective remedy to repair the injury that he suffered as a victim of arbitrary arrest and detention. The compensation commission created for this purpose under the Code of Criminal Procedure has reportedly not yet been set up, and recourse to the administrative courts would be pointless since settled case law excludes from the jurisdiction of these courts issues of compensation for injury attributable to the functioning of the public justice system and since a subsequently adopted law confirms this exclusion. In these circumstances, the Committee finds that it is not precluded by the terms of article 5 (2) (b) of the Optional Protocol from examining the present communication.

6.4 The Committee also notes that the author has sufficiently substantiated his claims under articles 9 (5) and 2 (3) of the Covenant for the purposes of admissibility and considers that the author's communication also raises issues under article 9 (1) and (3) of the Covenant. The Committee therefore declares the communication admissible and proceeds to its examination on the merits.

Consideration of the merits

7.1 The Committee has considered the communication in the light of all the information made available to it by the parties, as required under article 5 (1) of the Optional Protocol.

7.2 The Committee notes the author's claim that he is a victim of a violation of article 9 (5) of the Covenant because he has not been compensated for the damages he suffered following his arrest and his detention for more than four years.

7.3 The Committee recalls its general comment No. 35 (2014), which establishes that, within the meaning of article 9 (5) of the Covenant: "The 'unlawful' character of an arrest or detention may result from violation of domestic law or violation of the Covenant itself, such as substantively arbitrary detention and detention that violates procedural requirements of other paragraphs of article 9. However, the fact that a criminal defendant was ultimately acquitted, at first instance or on appeal, does not in and of itself render any preceding detention 'unlawful'."²⁶

7.4 In this case, the Committee notes that the author was arrested on 29 February 2008 without a warrant and was taken to prison where he was placed in solitary confinement and detained for longer than the maximum six days in custody permitted under article 119 (2) of the Code of Criminal Procedure of Cameroon. It was not until 19 March 2008 that a remand warrant was issued against him. Following his conviction at first-instance and on appeal in connection with the offences of, inter alia, aiding and abetting gang looting, the author filed an appeal in cassation before the Supreme Court. The Supreme Court annulled the previous judgments, as well as the judicial investigation proceedings and the remand warrant issued on 19 March 2008 (para. 2.7). The Committee also notes that, on 19 March 2008, while the author was still being held in the conditions described above, a second remand warrant was issued against him, this time in relation to a charge of misappropriation of funds, on which the author was later convicted and then acquitted on appeal. Lastly, a third case was brought against the author in June 2009, at the end of which he was convicted of misappropriation of public funds. The Supreme Court later annulled the ruling on the grounds of procedural irregularities, and on the same occasion, annulled the remand warrant issued against the author on 30 June 2009 on the grounds that the warrant had not been accompanied by an order specifying the reasons for its issue, of which the accused should have been notified.²⁷

7.5 In the light of the above, the Committee cannot fail to find a causal and temporal link between the three criminal cases brought against the author and considers that they cannot be totally disassociated from each other for purposes of considering the author's complaints, as set out in the present communication. The Committee notes in this regard that the author was arrested on 29 February 2008; that two remand warrants were issued against him on 19 March 2008; that he was sentenced to imprisonment for the first time on 19 January 2009 (in the proceedings for aiding and abetting gang looting, among other charges) and again on 14 June 2011 and 29 February 2012 (in the two proceedings for misappropriation of funds); that the author was released following his acquittal on 26 March 2012; and that two of the three cases were annulled on appeal in cassation owing to procedural irregularities, while one culminated in the author's acquittal on appeal for lack of evidence.

7.6 The Committee observes that during the first period of the author's deprivation of liberty (from 29 February to 19 March 2008), his detention was unlawful because he was arrested without a warrant, placed in a solitary confinement cell and held incommunicado for 20 days; that two of the remand warrants issued against him in two different proceedings were declared null and void by the Supreme Court; and that two proceedings were annulled by the Supreme Court, while the third ended in his acquittal on appeal. Consequently, the arbitrary character of the author's arrest and detention, and his prolonged imprisonment on the basis of proceedings that were subsequently annulled by the Supreme Court or on the basis of charges that were annulled on appeal, support the allegation that the

²⁶ General comment No. 35 (2014): Article 9 (Liberty and security of person), para. 51.

²⁷ General comment No. 32 (2007): Article 14 (Right to equality before courts and tribunals and to a fair trial), para. 52.

author was targeted by the State authorities because of his activities as mayor, as described in the 2011 report of the National Commission on Human Rights — an allegation that has not been contested by the State party. In these circumstances, the Committee considers that the author has been a victim of arbitrary and unlawful detention, within the meaning of article 9 (1) of the Covenant. The Committee also considers that, with reference to the author's deprivation of liberty from 29 February to 19 March 2008, the author's rights under article 9 (3) of the Covenant to be brought promptly before a judge and to be tried within a reasonable time have been violated.

7.7 Accordingly, the Committee considers that, in accordance with article 9 (5) of the Covenant, the author was entitled to compensation. Since his efforts to obtain such compensation have been fruitless, the Committee considers that the author has suffered a violation of article 9 (5) of the Covenant.

7.8 As it has found a violation of article 9 (1), (3) and (5) of the Covenant, the Committee decides not to deal separately with the author's claim, in relation to the same facts, that his rights under article 2 (3) of the Covenant have been violated.

8. The Committee, acting under article 5 (4) of the Optional Protocol, is of the view that the State party has violated the author's rights under article 9 (1), (3) and (5) of the Covenant.

9. In accordance with article 2 (3) (a) of the Covenant, the State party is under an obligation to provide the author with an effective remedy. Accordingly, States parties must make full reparation to individuals whose Covenant rights have been violated. In the present case, the State party is obliged, *inter alia*, to provide the author with an effective remedy, including adequate compensation,²⁸ for the damage suffered. The State party is also under an obligation to take measures to prevent similar violations in the future.

10. Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether or not there has been a violation of the Covenant and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory or subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy when a violation has been established, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to its Views and to have them widely disseminated in the official languages of the State party.

²⁸ General comment No. 35: Article 9 (Liberty and security of person), para. 49.