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Human Rights Committee

 Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communications No. 2375/2014 and No. 2690/2015[[1]](#footnote-2)\*,[[2]](#footnote-3)\*\*

*Communications submitted by*: Aleksandr Grunov (deceased) and his mother, Olga Grunova (represented by counsel, Leonid Sudalenko)

*Alleged victims*: Alexandr Grunov (deceased) and Olga Grunova

*State party*: The Republic of Belarus

*Date of communications*: 8 April 2014 (2375/2014) and 27 February 2015 (2690/2015) (initial submissions)

*Document references*: Decision taken pursuant to rule 92 and 97 of the Committee’s rules of procedure, transmitted to the State party on 9 April 2014 (2375/2014) and pursuant to rule 97 of the rules of procedure on 27 November 2015 (2690/2015) (not issued in document form)

*Date of adoption of Views*: 12 July 2018

*Subject matter*: Imposition of a death sentence after unfair trial, based on confessions obtained without presence of a lawyer

*Procedural issues*: Failure of the State party to cooperate, non-respect of the Committee’s request for interim measures, non-exhaustion of domestic remedies

*Substantive issues*:Arbitrary deprivation of life; habeas corpus; right to a fair hearing by an independent and impartial tribunal; right to be presumed innocent

*Articles of the Covenant*: 2(2), 6(1) and (2); 7; 9(1) and (3); 14(1), (2), (3)(b)

*Articles of the Optional Protocol*:1, 2, 5(2) (b)

1.1 The authors of the communications are Aleksandr Grunov, born in 1967 (deceased) and his mother, Olga Grunova, born in 1947. The authors contend that the State party violated their rights under articles 6(1) and (2), 7, 9(1) and (3), 14(1), (2), and (3)(b) (for Aleksandr Grunov), and articles 7 and 14(1), read in conjunction with article 2(2) (for Olga Grunova) of the International Covenant on Civil and Political Rights. The Optional Protocol entered into force for the State party on 30 December 1992. The authors are represented by counsel.

1.2 On 9 April 2014, the Committee, acting through its Special Rapporteur on New Communications and Interim Measures, decided to grant interim measures under rule 92 of its rules of procedure within communication No. 2375/2014 and requested the State party not to carry out the death sentence of Aleksandr Grunov while his case was under examination by the Committee. On 13 November 2014, the Committee received information from counsel to the effect that Mr. Grunov’s death sentence had been carried out on 22 October 2014.[[3]](#footnote-4)

1.3 On 12 July 2018, pursuant to rule 94, paragraph 2, of the Committee’s rules of procedure, the Committee decided to join communications No. 2375/2014 and 2690/2015, submitted by the authors, for decision, in view of substantial factual and legal similarity.

 The facts as submitted by the authors

2.1 On 20 September 2012, the police found a body of a young woman in the city of Gomel. On the same day, Aleksandr Grunov was arrested, brought to a police station in Gomel and interrogated regarding this incident which was classified as murder. Initially, the police did not explain the reason for Mr. Grunov’s arrest. He was interrogated without a lawyer being present, and was not informed about his procedural rights. A lawyer was provided to him only three or four hours following the beginning of his interrogation and only after Mr. Grunov had confessed his guilt in the murder. On the same day, Mr. Grunov was detained in the temporary detention facility in Gomel.

2.2 On 27 September 2012, the Prosecutor of the Gomel District informed Mr. Grunov about the charges against him and issued a decision to hold him in detention pending trial. Mr. Grunov appeared before a judge only on 28 January 2013, more than four months after his initial arrest. On 14 June 2013, the Gomel Regional Court found Mr. Grunov guilty of “aggravated murder” (under article 139(2) (6) of the Criminal Code of Belarus) and sentenced him to a death. The authors submit that article 139(2) (6) envisages other types of punishment for the alleged crimes.

2.3 On 22 October 2013, the Supreme Court of Belarus dismissed the judgement of the Gomel Regional Court and requested the case to be reviewed by another judge. The Supreme Court maintained that the first instance court should have taken into account the defendant’s “sincere confession” to have committed the murder and his cooperation throughout the investigation as mitigating circumstances.

2.4 On 24 December 2013, Gomel Region Court again found Mr. Grunov guilty of “aggravated murder” and sentenced him to a death. On 24 January 2014, Mr. Grunov, through his lawyer, submitted a cassation appeal to the Supreme Court of Belarus. On 8 April 2014, the Supreme Court dismissed his appeal thus confirming the death sentence. Mr. Grunov’s sentence entered into force on 8 April 2014, and therefore, the authors contended at the time of submission that he could be executed at any moment. Mr. Grunov therefore requested granting of the interim measures, namely suspension of the execution of the death penalty pending the consideration of the communication.

2.5 On 11 November 2014, Ms. Olga Grunova received information from the Gomel Regional Court that the execution of her son had been carried out. On the same day, the Ms. Grunova received the death certificate of her son indicating date of carrying out the death sentence as 22 October 2014, in the city of Minsk.

2.6 On 13 November 2014, Ms. Grunova inquired with the Gomel Regional Court about the exact time of her son’s execution and the location of the burial site. On 24 November 2014, the Gomel Regional Court rejected her request to provide additional information based on article 175 of the Criminal Execution Code of Belarus. According to this provision of the law, the relatives are not informed in advance of the date of execution, the body is not handed over and the place of burial is not disclosed.

2.7 On 3 December 2014, Ms. Grunova appealed this refusal with the Central District Court in Gomel, which refused to initiate a civil case based on lack of jurisdiction. On 14 December 2014, she submitted a private complaint before the Gomel Regional Court, which upheld the decision by the district court. Ms. Grunova also attempted to initiate a review of the constitutionality of article 175 of the Criminal Execution Code of Belarus but this complaint was rejected as well.

 The complaint

3.1 The authors claim that the method of carrying out of the death penalty in Belarus, including the fact that (1) no information about the date of the execution is provided to the convicted person or to his family; (2) the convicted person awaits the execution on so-called “death row” where they are issued special type of clothing; (3) the execution is performed by shooting; amount to a violation of Mr. Grunov’s rights under article 7 of the Covenant. The waiting itself, without knowing the exact date, amounts to torture, the authors claim. According to some reports, the person, who is shot in the head, sometimes does not die right away, but instead, suffers a terrible slow death.[[4]](#footnote-5)

3.2 The authors further claim that the fact that Mr. Grunov was brought before a judge more than four months days after his actual arrest violates his rights under article 9 (1) and (3) of the Covenant. The Covenant requires the detainee to be brought promptly before a judge, and Mr. Grunov first saw a judge only more than four months after his initial arrest.

3.3 The authors also claim that that the use of his confession made in an absence of a lawyer in the determination of his guilt by the court violates Mr. Grunov’s rights under articles 6(1) and (2), and 14(1), of the Covenant. According to article 105(4) of the Criminal Procedure Code of Belarus, evidence, which was obtained in violation of procedural rights, must be considered inadmissible in the court of law.

3.4 The authors further claim that that Mr. Grunov was placed on “death row” even before the court sentence acquired the force of res judicata. At that time, Mr. Grunov was held in solitary confinement cell and had to wear special clothing for persons sentenced to death, with letters “ИМН”.[[5]](#footnote-6) During the court hearings, Mr. Grunov was held handcuffed and in a glass cage. The state media called Mr. Grunov a murderer before the court issued its verdict and sentence. The authors claim that this violated Mr. Grunov’s rights under article 14(2) of the Covenant.

3.5 The authors also claim that a failure to provide Mr. Grunov with a lawyer immediately after arrest violated his rights under article 14(3) (b) of the Covenant. Furthermore, according to the records of the detention facility, the lawyer, which was provided by the government authorities, never met with the defendant, therefore, Mr. Grunov could not properly prepare for his trial. Mr. Grunov was able to hire a private lawyer only after the trial to help him with filing a cassation appeal.

3.6 Ms. Grunova also claims a violation of her rights under articles 7 and 14(1), read in conjunction with article 2(2) of the Covenant. She submits that carrying out the death sentence in Belarus, notably, the refusal by the authorities to reveal the exact date, time and place of the execution and to disclose the location of her son’s burial site, caused her severe mental suffering and stress. The complete secrecy surrounding the execution and the burial place of her son, as well as the refusal to hand over the body for burial have the effect of intimidating and punishing her family by intentionally leaving it in a state of uncertainty and mental distress. Ms. Grunova also claims that such practice is in violation of article 25, paragraph 3 of the Constitution of the Republic of Belarus.

3.7 Ms. Grunova also claims a violation of her right under article 14(1) in conjunction with article 2(2). She claims that despite her numerous complaints to the authorities, she was not able to ensure the protection of her rights under article 7 of the Covenant, since a “competent, independent and impartial tribunal” did not hear her complaint. Furthermore, she was not able to obtain an effective remedy or a fair hearing when she requested information about the exact time of her son’s execution and the location of his burial site.

 State party’s observations on admissibility and the merits

4.1 The State party in its Note Verbale dated 25 January 2016,[[6]](#footnote-7) confirmed that Mr. Grunov was sentenced to death on 24 December 2013. On 8 April 2014, this court verdict and sentence came into force, and was carried out on 22 October 2014. On 8 December 2014, the Central District Court in the city of Gomel rejected Ms. Grunova’s complaint which she filed against the Gomel Regional Court and the Department of execution of punishments under the Ministry of Interior. The Central District Court indicated that this complaint was rejected for lack of jurisdiction.

4.2 In the complaint, Ms. Grunova challenged actions by the State party authorities in carrying out the death sentence against her son, and specifically, that she was not informed about time, date and place of the execution, and the place where her son was buried. The procedure to carry out a death penalty is described in article 175 of the Criminal Execution Code of Belarus. According to paragraph 5 of this article, the entity that carries out the death penalty, informs the court where the defendant was sentenced, and that court in turn informs the relatives that the punishment has been carried out. The location of the burial site is not disclosed, the body is not released to the relatives.

4.3 On 6 November 2014, Ms. Grunova was informed that the death penalty against her son has been carried out. As for the location of the burial site, and releasing the body to the relatives, the State party informs the Committee that such issues “fall outside of the jurisdiction” of the civil courts. Ms. Grunova therefore cannot “directly challenge” provisions of the Criminal Execution Code of Belarus.

4.4 The State party further refers to resolution No. 1984/50 issued by ECOSOС,[[7]](#footnote-8) and according to this document, the death penalty must be carried out in a way to cause as little suffering as possible. The Prosecutor General’s Office considers that here, the UN agency meant reducing suffering not only the convicted person, but also the relatives of that person, therefore, it was decided that the executions will not be public. This rule concerns the execution itself, but also the details regarding the burial site.

4.5 Ms. Grunova appealed the Central District Court’s decision to the Gomel Regional Court, which also rejected the author’s complaint on 3 February 2015. Ms. Grunova appealed this decision to the Supreme Court of Belarus under the supervisory review procedure, which the court rejected. Ms. Grunova, however, did not appeal to the Office of the Prosecutor General or to its deputies for them to bring a supervisory review request to the Supreme Court. Therefore, the State party considers that Ms. Grunova did not exhaust all available domestic remedies.

 Author’s comments on the State party’s observations

5. Ms. Grunova, responding to the State party’s comments, submits that the author in a complaint before the Committee does not need to exhaust all available domestic remedies, but only those that can be considered effective. The Committee has a long-standing jurisprudence, according to which, the supervisory review procedure, which still exists in post-Soviet countries, is deemed ineffective.[[8]](#footnote-9) The European Court of Human Right’s position is similar in that the supervisory procedure’s discretionary nature makes it an ineffective remedy, which does not need to be exhausted.[[9]](#footnote-10) Ms. Grunova submits that she did in fact submit a supervisory review request to the Chairperson of the Supreme Court, but she received a rejection letter signed by a deputy chairperson. This shows, again, the ineffectiveness of the procedure.

 Lack of cooperation from the State party

6.1 The Committee notes that the State party failed to respect the Committee’s request for interim measures by executing Mr. Grunov before the Committee had concluded its consideration of the communication.

6.2 The Committee recalls that article 39 (2) of the Covenant authorizes it to establish its own rules of procedure, which States parties have agreed to recognize. The Committee further observes that, by adhering to the Optional Protocol, a State party to the Covenant recognizes the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction who claim to be victims of a violation of any of the rights set forth in the Covenant.[[10]](#footnote-11) Implicit in the adherence of a State to the Optional Protocol is an undertaking to cooperate with the Committee in good faith, so as to permit and enable it to consider such communications and, after examination, to forward its Views to the State party and to the individual concerned.[[11]](#footnote-12) It is incompatible with its obligations under article 1 of the Optional Protocol for a State party to take any action that would prevent or frustrate the Committee in its consideration and examination of communications and in the expression of its Views.[[12]](#footnote-13)

6.3 In the present case, the Committee observes that, when Mr. Grunov submitted the communication on 8 April 2014, the author informed the Committee that he had been sentenced to death and that the sentence could be carried out at any time. On 9 April 2014, the Committee transmitted to the State party a request not to carry out the death sentence while the case was under examination by the Committee. On 13 November 2014, the Committee received information that Mr. Grunov had been executed, despite its request for interim measures of protection. The Committee observes that it is uncontested that the execution in question took place, despite the fact that a request for interim measures of protection had been duly addressed to the State party.

6.4 The Committee reiterates that, apart from any violation of the Covenant found against a State party in a communication, a State party commits serious violations of its obligations under the Optional Protocol if it acts to prevent or frustrate consideration by the Committee of a communication alleging a violation of the Covenant, or to render examination by the Committee moot and the expression of its Views concerning the implementation of the obligations of the State party under the Covenant nugatory and futile.[[13]](#footnote-14) In the present case, Mr. Grunov alleged that his rights under various provisions of the Covenant had been violated in a manner that directly reflected on the legality of his death sentence. Having been notified of the communication and the request by the Committee for interim measures of protection, the State party committed a serious violation of its obligations under the Optional Protocol by executing the alleged victim before the Committee had concluded its consideration of the communication.

6.5 The Committee recalls that interim measures under rule 92 of its rules of procedure, adopted in accordance with article 39 of the Covenant, are essential to its role under the Optional Protocol, in order to avoid irreparable damage to the victim of an alleged violation. Flouting of that rule, especially by irreversible measures, such as, in the present case, the execution of Mr. Grunov, undermines the protection of Covenant rights through the Optional Protocol.[[14]](#footnote-15)

 Issues and proceedings before the Committee

 Consideration of admissibility

7.1 Before considering any claim contained in a communication, the Committee must decide, in accordance with article 93 of its rules of procedure, whether the communication is admissible under the Optional Protocol.

7.2 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.

7.3 The Committee notes the State party’s contention that Ms. Grunova failed to exhaust all domestic remedies available to her, concerning her claims on the time of carrying out the death sentence, and disclosure of the burial place, by not filing a supervisory review appeal request to the Prosecutor General’s Office. The Committee recalls its jurisprudence, according to which the filing of requests to a court, or to a prosecutor’s office, for a supervisory review directed against court decisions that have entered into force and depend on the discretionary power of a judge or a prosecutor constitutes an extraordinary remedy and that the State party must show that there is a reasonable prospect that such requests would provide an effective remedy in the circumstances of the case.[[15]](#footnote-16) The State party has not shown, however, whether and in how many cases petitions under supervisory review procedures were applied successfully in cases concerning the procedure of carrying out death penalty sentences. In those circumstances, the Committee considers that it is not precluded by article 5 (2) (b) of the Optional Protocol from examining the present communication.[[16]](#footnote-17)

7.4 The Committee takes note of the allegations that Mr. Grunov’s rights under article 9 (1) article 14 (1) of the Covenant were violated. It notes that the State party has not refuted those allegations. However, in the absence of further detailed information, explanations or evidence in support of those claims on file, the Committee finds these allegations insufficiently substantiated for the purposes of admissibility, and declares this part of the communication inadmissible under article 2 of the Optional Protocol.

7.5 In the Committee’s view, the authors have sufficiently substantiated, for the purposes of admissibility, their remaining claims under 6(1) and (2), 7, 9(3), 14(2), and (3)(b) (for Aleksandr Grunov), and articles 7 and 14(1), read in conjunction with article 2(2) (for Olga Grunova), of the Covenant, declares them admissible and proceeds with their consideration on the merits.

 Consideration of the merits

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

8.2 The Committee first takes note of the authors’ allegations that the manner in which the death penalty is carried out constitutes violation of Mr. Grunov’s rights under article 7 of the Covenant. The Committee has already considered several methods of carrying out the death penalty sentence[[17]](#footnote-18) as contrary to article 7 of the Covenant. Failure to provide individuals on death row with timely notification about the date of their execution constitutes, as a rule, a form of ill-treatment.[[18]](#footnote-19) In the present case, Mr. Grunov was not informed about the date of execution, which could have been carried out at any moment. Ms. Grunova was informed about the date of the execution only after the death penalty was carried out. The Committee notes that the State party has not presented any plausible explanations (paras 4.2 and 4.4) as to why this information was withheld from Mr. Grunov and his relatives, arguing only that the death penalty was carried out in compliance with the Criminal Execution Code of Belarus. The Committee therefore concludes that the manner in which the death penalty sentence was carried out against Mr. Grunov, including the method of carrying out the death penalty imposed and a lack of notification to him, discloses a violation of Mr. Grunov’s rights under article 7 of the Covenant.

8.3 Regarding the claims that Mr. Grunov was not afforded his rights under article 9(3) of the Covenant, the Committee recalls that, in accordance with this article, any person arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power. The Committee also recalls that, while the exact meaning of “promptly” may vary depending on objective circumstances, delays should not exceed a few days from the time of arrest. In the view of the Committee, 48 hours is ordinarily sufficient to transport the individual and to prepare for the judicial hearing; any delay longer than 48 hours must remain absolutely exceptional and be justified under the circumstances.[[19]](#footnote-20) The Committee takes note of Mr. Grunov’s unchallenged allegations that he was apprehended on 20 September 2012, and was officially placed in pretrial detention by the order of a prosecutor on 27 September 2012, and was not brought before a judge until 28 January 2013. The Committee recalls that, in its general comment No. 35, it stated that it was inherent to the proper exercise of judicial power that such power should be exercised by an authority which was independent, objective and impartial in relation to the issues dealt with, and that a public prosecutor could not be considered as an officer authorized to exercise judicial power within the meaning of article 9 (3). In these circumstances, the Committee considers that the facts before it show that Mr. Grunov was not brought promptly before a judge or other officer authorized by law to exercise judicial power as required by article 9 (3) of the Covenant. Accordingly, the Committee concludes that the above-mentioned facts reveal a violation of the Mr. Grunov’s rights under article 9 (3) of the Covenant.

8.4 The Committee further notes allegations that the principle of presumption of innocence was not respected in Mr. Grunov’s case, because he was handcuffed and kept in a glass cage during the court hearings. In this respect, the Committee recalls its jurisprudence, as also reflected in its general comment No. 32, according to which the presumption of innocence, which is fundamental to the protection of human rights, imposes on the prosecution the burden of proving the charge, guarantees that no guilt can be presumed until the charge has been proved beyond reasonable doubt, ensures that the accused has the benefit of doubt, and requires that persons accused of a criminal act must be treated in accordance with this principle.[[20]](#footnote-21) In the same general comment, the Committee further states that defendants should normally not be shackled or kept in cages during trial, or otherwise presented to the court in a manner indicating that they may be dangerous criminals, and that the media should avoid news coverage that undermines the presumption of innocence.[[21]](#footnote-22) On the basis of the information before it and in the absence of any other pertinent information or argumentation from the State party as to the need to keep the author in a cage throughout the court trial, the Committee considers that the facts as presented demonstrate that the right of Mr. Grunov to be presumed innocent, as guaranteed under article 14 (2) of the Covenant, has been violated.

8.5 The Committee further notes the authors’ allegation that, during the pre-trial investigation stage, Mr. Grunov was not afforded the effective and continued assistance of a lawyer, and that he was able to hire a privately retained lawyer only in the framework of the preparation of his cassation appeal. In this context, the Committee notes, for example, that, the initial interrogation during which Mr. Grunov confessed to committing the alleged crime took place in the absence of a lawyer. The Committee further notes the allegations that the lawyer provided by the State party never visited the defendant in the pre-trial detention. The Committee also notes that these allegations have not been refuted by the State party. Accordingly, it considers that due weight must be given to the authors’ allegations. Referring to its general comment No. 32, the Committee also recalls that in cases involving capital punishment, it is axiomatic that the accused must be effectively assisted by a lawyer at all stages of the proceedings.[[22]](#footnote-23) In these circumstances, the Committee concludes that the facts as submitted by the authors reveal a violation of Mr. Grunov’s rights under article 14(3)(b) of the Covenant.

8.6 The authors further claim that Mr. Grunov’s right to life under article 6 of the Covenant was violated, since he was sentenced to death after an unfair trial. The Committee observes that these allegations have not been addressed by the State party. In that respect, the Committee recalls its general comment No. 6 (1982) on the right to life, in which it noted that the provision that a sentence of death may be imposed only in accordance with the law and not contrary to the provisions of the Covenant implies that the procedural guarantees therein prescribed must be observed, including the right to a fair hearing by an independent tribunal, the presumption of innocence, the minimum guarantees for the defence, and the right to review by a higher tribunal.[[23]](#footnote-24) In the same context, the Committee reiterates its jurisprudence that the imposition of a sentence of death upon the conclusion of a trial in which the provisions of article 14 of the Covenant have not been respected constitutes a violation of article 6 of the Covenant.[[24]](#footnote-25) In the light of the Committee’s findings of a violation of article 14(2) and (3)(b) of the Covenant, it concludes that the final sentence of death and the subsequent execution of Mr. Grunov 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.

8.7 The Committee also observes that the State party authorities refused to inform Ms. Grunova of her son’s execution date, that they did not release the body, and that they did not inform her of his burial site. The Committee cannot agree with the State party’s explanations that these regulations intend to reduce suffering On the contrary, in most circumstances, they would have an opposite effect, as shown in the present communication.[[25]](#footnote-26) The Committee therefore understands the continued anguish and mental stress caused to Ms. Grunova by this absence of information, which is amplified by the violations committed by the State party regarding her son. In its view, this amounts to inhuman treatment of Ms. Grunova, in violation of article 7 of the Covenant.

8.8 In light of this conclusion, the Committee decides not to examine Ms. Grunova’s claims under articles 7 and 14(1), read in conjunction with article 2 (2) of the Covenant.

9. The Committee, acting under article 5 (4) of the Optional Protocol, is of the view that the facts before it discloses a violation by the State party of Mr. Grunov’s rights under articles 6 (1), 7, 9(3), 14(2) and (3) (b), and of Ms. Grunova’s rights under article 7 of the Covenant. The Committee also concludes that by not respecting its request for interim measures, the State party violated its obligations under article 1 of the Optional Protocol.

10. Pursuant to article 2(3) (a) of the Covenant, the State party is under an obligation to provide individuals whose Covenant rights have been violated with an effective remedy, in the form of full reparation. Accordingly, the State party is obligated to, inter alia, take appropriate steps to: (a) inform Ms. Grunova of the exact time of the execution, and of the place of the burial of her son; (b) provide Ms. Grunova with compensation for the violations that her son suffered, and for the pain and anguish that she, herself, suffered as a result of her son’s unfair trial and execution. The State party is also under an obligation to take all steps necessary to prevent similar violations from occurring in the future. In this connection, the State party should review its legislation concerning death penalty as it was applied in the present case.

11. 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 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 it has been determined that a violation has occurred, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to the Committee’s Views. The State party is also requested to publish the present Views and disseminate them broadly in the official languages of the State party.

1. \* Adopted by the Committee at its 123rd session (2-27 July 2018). [↑](#footnote-ref-2)
2. \*\* The following members of the Committee participated in the examination of the present communication: Tania María Abdo Rocholl, Yadh Ben Achour, Ilze Brands Kehris, Sarah Cleveland, Ahmed Amin Fathalla, Olivier de Frouville, Christof Heyns, Bamariam Koita, Marcia V. J. Kran, Mauro Politi, José Manuel Santos Pais, Yuval Shany and Margo Waterval. [↑](#footnote-ref-3)
3. Counsel submits a copy of the author’s death certificate. [↑](#footnote-ref-4)
4. The authors refer to a book by Mr. Oleg Alkaev, former chief of death row detention center, but provide no further information. [↑](#footnote-ref-5)
5. Russian abbreviation for sentence of death penalty. [↑](#footnote-ref-6)
6. In this letter, the State party provides comments regarding communication 2690/2015. The State party’s observations on admissibility and merits of communication 2375/2014 were not submitted. [↑](#footnote-ref-7)
7. The State party seems to be referring to “Safeguards guaranteeing protection of the rights of those facing the death penalty”. No further reference is provided. [↑](#footnote-ref-8)
8. The author refers to *Iskiyaev v.Uzbekistan* (CCPR/C/95/D/1418/2005). [↑](#footnote-ref-9)
9. The author refers to European Court of Human Rights, Tumilovich v. Russia (application No. 47033/99, judgment of 22 June 1999. [↑](#footnote-ref-10)
10. Preamble and art. 1 of the Optional Protocol. [↑](#footnote-ref-11)
11. Art. 5 (1) and (4) of the Optional Protocol. [↑](#footnote-ref-12)
12. See, inter alia, communications No. 869/1999, *Piandiong et al v. the Philippines*, Views adopted on 19 October 2000, para. 5.1; Nos. 1461/2006, 1462/2006, 1476/2006 and 1477/2006, *Maksudov et al. v. Kyrgyzstan*, Views adopted on 16 July 2008, paras. 10.1-10.3; and No. 1906/2009, *Yuzepchuk v. Belarus,* Views adopted on 24 October 2014, para. 6.2. [↑](#footnote-ref-13)
13. See, inter alia, communications No. 1276/2004, *Idieva v. Tajikistan*, Views adopted on 31 March 2009, para. 7.3; and No. 2120/2011, *Kovaleva and Kozyar v. Belarus*, Views adopted on 29 October 2012, para. 9.4. [↑](#footnote-ref-14)
14. See, inter alia, communications No. 964/2001, *Saidova v. Tajikistan*, Views adopted on 8 July 2004, para. 4.4; No. 1280/2004; *Tolipkhuzhaev v. Uzbekistan*, Views adopted on 22 July 2009, para. 6.4; and *Kovaleva and Kozyar v. Belarus*, para. 9.5. [↑](#footnote-ref-15)
15. See communications No. 836/1998, *Gelazauskas v. Lithuania*, Views adopted on 17 March 2003, paragraph 7.4; No. 1851/2008, *Sekerko v. Belarus*, Views adopted on 28 October 2013, paragraph 8.3; Nos. 1919-1920/2009, *Protsko and Tolchin v. Belarus*, Views adopted on 1 November 2013, para. 6.5; No. 1784/2008, *Schumilin v. Belarus*, Views adopted on 23 July 2012, para. 8.3; No. 1814/2008, *P.L. v. Belarus*, decision of inadmissibility adopted on 26 July 2011, para. 6.2; No. 2021/2010, *E.Z. v. Kazakhstan*, decision of inadmissibility adopted on 1 April 2015, para. 7.3; No. 1873/2009, *Alekseev v. Russian Federation*, Views adopted on 25 October 2013, para. 8.4; No. 2041/2011, *Dorofeev v. Russian Federation*, Views adopted on 11 July 2014, para. 9.6. [↑](#footnote-ref-16)
16. See also communication No. 2141/2012, *Kostenko v. Russian Federation*, Views adopted on 23 October 2015, para 6.3. [↑](#footnote-ref-17)
17. See, for example, the Committee’s Concluding observations: Iran (2011) para 12, and US (2014), para 8. [↑](#footnote-ref-18)
18. See the Committee’s Concluding observations: Japan (2014), para 13. [↑](#footnote-ref-19)
19. See general comment No. 35 (2014) on liberty and security of person, para. 33. [↑](#footnote-ref-20)
20. See general comment No. 32, para. 30. [↑](#footnote-ref-21)
21. Ibid. See also communication No. 1405/2005, *Pustovoit v. Ukraine*, Views adopted on 20 March 2014, para. 9.2. [↑](#footnote-ref-22)
22. See general comment No. 32, para. 38. [↑](#footnote-ref-23)
23. See also communication No. 253/1987, *Kelly v. Jamaica*, Views adopted on 8 April 1991, para. 5.14. [↑](#footnote-ref-24)
24. See general comment No. 32, para. 59; and communications No. 719/1996, *Levy v. Jamaica*, Views adopted on 3 November 1998, para. 7.3; No. 1096/2002, *Kurbanov v. Tajikistan*, Views adopted on 6 November 2003, para. 7.7; No. 1044/2002, *Shukurova v. Tajikistan*, Views adopted on 17 March 2006, para. 8.6; *Idieva v. Tajikistan*, para. 9.7; No. 1304/2004, *Khoroshenko v. Russian Federation*, Views adopted on 29 March 2011, para. 9.11; and No. 1545/2007, *Gunan v. Kyrgyzstan*, Views adopted on 25 July 2011, para. 6.5. [↑](#footnote-ref-25)
25. See Committee’s Concluding Observations on the sixth periodic report of Japan, paragraph 13(b) (CCPR/C/JPN/CO/6) [↑](#footnote-ref-26)