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|  | United Nations | CCPR/C/130/D/2540/2015 |
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**Human Rights Committee**

 Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2540/2015[[1]](#footnote-2)\*,[[2]](#footnote-3)\*\*

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| *Communication submitted by:* | Ayauzhan Kurtinbaeva (represented by the NGO ‘Ar.Rukh.Khak’)  |
| *Alleged victim:* | The author |
| *State party:* | Kazakhstan  |
| *Date of communication:* | 2 September 2014 (initial submission) |
| *Document references:* | Special Rapporteur’s rule 92 decision, transmitted to the State party on 11 December 2014 (not issued in document form) |
| *Date of adoption of Views:* | 5 November 2020 |
| *Subject matter:* | Sanctioning of the author for expressing her opinion; unfair trial.  |
| *Procedural issues:* | Exhaustion of domestic remedies; substantiation of claims. |
| *Substantive issues:* | Freedom of assembly; freedom of expression; fair trial |
| *Articles of the Covenant:* | 14 (3) (d) (g), 19, 21 |
| *Articles of the Optional Protocol:* | 2 and 5(2)(b) |

1. The author is Ms. Ayauzhan Kurtinbaeva, a Kazakh national born in 1980. She claims that Kazakhstan has violated her rights under articles 14 (3) (d) (g); 19 and 21, of the International Covenant on Civil and Political Rights (“the Covenant”). The Optional Protocol entered into force for Kazakhstan on 30 June 2009. The author is represented by counsel.

 The facts as presented by the author

2.1 The author is unemployed. On 15 February 2014, she participated in a peaceful demonstration in Almaty to protest against the 30% devaluation of the Kazakh national currency. The author happened to be around and joined the demonstration when she found out what it was about, without planning in advance to attend. Participants in the demonstration, including the author, were apprehended brutally by the police.

2.2 On the same day, the specialized inter-district Administrative Court of Almaty found the author guilty under article 373 (violation of legislation on peaceful demonstrations) of the Code of Administrative Offences and fined her 3,704 tenge (around 16 EUR). The author claims that she was not provided with a lawyer after being arrested, despite her request, and that her family as well as journalists and observers from human rights organizations were denied access to the hearing.

2.3 On 24 February 2014, the author appealed to the Almaty City Court. Her appeal was rejected on 4 March 2014.

2.4. The author submitted a request for a supervisory review of the trial court decision to the Almaty Prosecutor on 31 March 2014 and to the Prosecutor General’s Office of Kazakhstan on 26 May 2014. Her requests were rejected on 4 April 2014 and on 14 July 2014, respectively.

 The complaint

3.1 The author claims a violation of her rights under articles 19 and 21 of the Covenant due to the sanctions imposed on her for participating in a peaceful demonstration.

3.2 The author claims that her rights under article 14 (3) (d), of the Covenant were violated because she was not provided with a lawyer after apprehension and her family, journalists and observers from human rights organizations were denied access to the hearing. The author also claims a violation of article 14 (3) (g), of the Covenant, without, however, presenting any further details.

3.3 The author requests the Committee to recommend to the State party to bring to justice those responsible for the violation of her rights;[[3]](#footnote-4) to compensate her for the moral and material damages (the amount of fine and the cost of legal aid) suffered; to adopt measures to eliminate existing limitations to the right of peaceful assembly in the State party’s legislation; to adopt measures to eliminate violations on the right to fair trial under article 14 (3) (d) and (g), of the Covenant; and to urge the State party to guarantee that peaceful protests are not followed by unjustified interference and prosecution of their participants by state authorities.

 State party’s submissions on admissibility

4.1 By a *note verbale* of 26 March 2015, the State party presented its observations on the admissibility of the communication and requested the Committee to declare it inadmissible and unsubstantiated.

4.2 The State party recalls the facts of the case and observes that the author took part in an unauthorised mass event. The participants were disturbing the peace of others, chanting slogans and urging other people to join them. The police requested the participants to stop the unauthorised event, but this request was ignored.

4.3 The State party submits that the author was sanctioned for a violation of the order of the mass events holding which constitutes an administrative offence under article 373, paragraph 1, of the Code of Administrative Offences. The State party submits that the author never requested to be represented by a lawyer or any other representative. She also did not request that her relatives and the journalists be granted access to the court room.

4.4 The State party disagrees with the arguments of the author to the effect that her actions did not constitute an offence since her decision to attend the meeting was spontaneous and thus she could not seek authorization, and that she just happened to be around to join the demonstration. The State party submits that the rights enshrined in articles 19 and 21 of the Covenant are subject to certain restrictions. While stating that freedom of peaceful assembly is not prohibited in Kazakhstan, the State party explains that there is a certain procedure to follow in order to carry out an assembly. The State party refers to article 32 of the Constitution and articles 2 and 9 of the Law on organizing and holding peaceful assemblies, meetings, marches, pickets and demonstrations, according to which organizers should request authorization from the local authorities to hold an assembly otherwise those violating this order should be found liable.

4.5 The State party considers that certain limitations on the freedom of assembly are necessary. As the recent European experience shows, realization of the freedom of assembly by a certain part of the society can result in damage to the state and to private property, transport, etc., even if the mass events have initially started as peaceful. Thus, it is necessary to regulate (but not to prohibit) the conduct of mass events.

4.6 The State party maintains that the events the author participated in can provoke counteraction from other people who hold another point of view, disturb the peace and safety, and interfere with the functioning of the public transport and infrastructure, since it was held in an inappropriate venue where people rest and public transport operates. The people exercising this right have specific obligations and responsibilities since their actions can have severe consequences. Thus, the limitations imposed constitute an adequate response by the law. In the present case, the police timely suppressed the unlawful actions of the author and other persons and severe results were prevented.

4.7 The State party submits that in order to guarantee the protection of the rights and freedoms of others and public safety, normal functioning of public transport and infrastructure, and protection of green spaces and architectural objects, specific places for holding public events have been allocated. The State party recalls that international human rights law recognises the needs for certain limitations to be imposed on freedom of assembly.

4.8 Thus, the State party claims that the realisation of the freedom of assembly in Kazakhstan is in full conformity with the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

4.9 The State party submits that the author was found liable not for expressing her opinion, but for a violation of the order to hold a mass event during which this opinion was expressed.

4.10 The State party submits that the author’s arguments about the violation of her rights under article 14 of the Covenant were the subject of an examination and were found to be unfounded. The author was informed of all her rights and she confirmed this fact with her signature. Also there are no court records in the administrative file containing the author’s request to allow the presence of her representative or observers.

4.11 The State party also submits that the police actions towards the participants of the mass event were lawful since they had to stop a violation of the law.

4.12 The State party submits that legislation of Kazakhstan does not recognize the concept of spontaneous mass events, all mass events should be organized and held under the Law on the organization and conduct of peaceful assemblies, meetings, processions, pickets and demonstrations.

4.13 The State party further submits that it studied the practice of several other countries and found that the restrictions on public events in some countries were more stringent than in Kazakhstan. In New York, for example, it is necessary to request permission 45 days before a planned event, and to indicate the exact itinerary of the event. The city authorities have a right to move the location of the event. Other countries, such as Sweden, have a “black list” of organizers of previously prohibited or dispersed demonstrations. In France, local authorities have a right to prohibit any demonstration, and in the United Kingdom, the authorities have a right to introduce “temporary bans”. Also in the United Kingdom, street events are allowed only after receiving permission from the police. In Germany, any “mass event, meeting, or a demonstration” inside or outside must be permitted by the authorities.

4.14 The State party contends that the author had not requested the Prosecutor General to submit a protest motion seeking a supervisory review in her case and had thus failed to exhaust domestic remedies.

 Author’s comments on the State party’s observations on admissibility

5.1 On 17 November 2015, the author provided comments to the State party’s observations. She submits that although the rights under articles 19 and 21 of the Covenant are guaranteed in Kazakhstan and can only be restricted under certain circumstances, the State party did not explain why it was necessary to sanction her with an administrative fine. She reiterates that her right to a fair trial was violated, and that despite her request, she was not provided with a lawyer when she was apprehended. She also submits that she could not present any written petition in court, and that her oral petitions were ignored. The court did not keep any record of the hearing.

5.2 She claims that according to international obligations as assumed by the State party, any restrictions on freedom of assembly must be proportionate and applied depending on the specific circumstances of each case, that the involvement of the authorities in the process of organization of public events should be reduced to a minimum. The author alleges that the State party ignored and violated these principles.

5.3 With regard to the State party’s argument that she failed to exhaust domestic remedies, the author argues that a request for a supervisory review submitted to the Prosecutor General does not constitute an effective domestic remedy. She notes that she submitted such requests to the Prosecutor’s Office of Almaty and to the Prosecutor General’s Office, but both were rejected.

5.4 The author refers to the report of the United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association in connection to his visit to Kazakhstan in January 2015, criticizing the restrictive approach to freedom of assembly in the country.[[4]](#footnote-5) She also refers to the Guidelines on Freedom of Peaceful Assembly,[[5]](#footnote-6) developed in 2007 by the OSCE, and notes the commitment of the State party to follow them. She submits that, although article 10 of the Law on organizing and holding peaceful assemblies, meetings, marches, pickets and demonstrations allows local authorities to regulate the procedure of a peaceful assembly, it does not grant them the power to determine permanent places where assemblies are to take place, and especially to limit them to just one location. In this context, she adds that any restriction imposed to freedom on assembly should be proportional, and its application should not be automatic but reviewed according to every single concrete event, taking into account specific circumstances.

5.5 The author claims the violation of her rights under articles 14, 19 and 21 of the Covenant.

 State party’s further observations

6.1 On 16 March 2016, the State party submitted its observations on the merits. It contends that no violation of the author’s rights under article 21 of the Covenant occurred in the present case. It also reiterated its inadmissibility arguments. The State party reiterates that that freedom of peaceful assembly is not prohibited in Kazakhstan, but is regulated by certain limitations.

6.2 The State party refutes the author’s statement that there was no explanation as to why the limitation of the author’s rights was necessary. The State party recalls that the rights enshrined in articles 19 and 21 of the Covenant are subject to certain limitations. While stating that freedom of peaceful assembly is not prohibited in Kazakhstan, it could be restricted in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. In Kazakhstan, the provision of public order is the most important element of human rights respect guaranteed by the law, and authorized officials should stop violations of public order and administrative offences.

6.3 The State party observes that the imposed limitation to the freedom of assembly in particular relating to the venue of the mass events is compliant with the provisions of the Covenant. Decision No 167 was adopted by a legitimate body, within its competence. The State party submits that Decision No 167 does not discriminate based on political grounds; it only recommends the venues for mass events. So, the Akimat[[6]](#footnote-7) can identify the venue - the square behind the cinema “Sary Arka” – for official and all other events depending on the circumstances.

6**.**4 The State party also submits that the complaint of the author should be found inadmissible as incompatible with the provisions of the Covenant since a violation claimed in a complaint should concern the rights which are protected by the Covenant; the Committee is generally not in a position to review a sentence imposed by national courts, nor can it review the question of innocence or guilt, and is generally not in a position to review the evaluation of facts and evidence made by the national courts and authorities, nor can it review the interpretation of domestic legislation unless the author of the communication can demonstrate that such evaluation was arbitrary or amounted to a manifest error or denial of justice, or that the courts otherwise failed in their duty of independence and impartiality.

6.5The State party submits that the claims of the author are not compatible with the above mentioned principles. The author requests the Committee to go beyond its competence and to intervene in the internal affairs of an independent State, and to have a direct impact on public policies in the field of human rights. At the same time, the author did not provide any substantiated or expert conclusions that the national law on freedom of associations and freedom of expression contradicts international standards.

6.6 The State party also submits that the appeal to the General Prosecutor is an effective remedy. It provides three examples when an appeal to the General Prosecutor was successful.

6.7 The State party submits that the complaint should be found inadmissible under article 3 of the Optional Protocol and rule 99 (b) of the Rules of Procedure since the author did not provide any information why she was unable to complain personally when the Rules of Procedure allow an author submission of a complaint by means of representative when a person is unable to do so.

6.8 The State party reiterates that the author was found liable not for realization of her right to freedom of assembly, but for violation of the order of this right’s realization as prescribed by the law. The mass event the author participated in violated public order, which is why the applied measures were proportionate and justified.

 Author’s comments on the State party’s observations on admissibility

7. On 27 September 2016, the author informed the Committee that she does not have additional comments.

 Issues and proceedings before the Committee

 Consideration of admissibility

8.1 Before considering any claim contained in a communication, the Committee must decide, in accordance with rule 97 of its rules of procedure, whether the communication is admissible under the Optional Protocol.

8.2 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.

8.3 The Committee notes that the State party challenges the admissibility of the communication, as, according to it, the author has failed to file a petition for supervisory review to the Prosecutor-General against the court decisions in the case. It notes that on 26 May 2014, the author petitioned the Prosecutor General’s Office for a supervisory review of her administrative case. The request was, however, rejected by a Deputy Prosecutor-General on 14 July 2014. The Committee further recalls its jurisprudence according to which a petition for supervisory review to a prosecutor’s office, dependent on the discretionary power of the prosecutor, requesting a review of court decisions that have taken effect does not constitute a remedy that has to be exhausted for the purposes of article 5 (2) (b) of the Optional Protocol.[[7]](#footnote-8) Accordingly, the Committee finds that it is not precluded by article 5 (2) (b) of the Optional Protocol from examining the present communication.

8.4 The Committee notes the State party’s submission that the communication had been brought before the Committee by a third-party instead by the author herself. In this respect, the Committee recalls that rule 99 (b) of its rules of procedure provides that a communication should normally be submitted by the individual personally or by that individual’s representative. In the present case, the Committee notes that the alleged victim duly issued a power of attorney authorizing her counsel to represent her before the Committee. Accordingly, the Committee considers that it is not precluded by article 1 of the Optional Protocol from examining the communication.

8.5 Regarding the author’s claim, framed under article 14 (3) (d), that her legal representatives were not allowed into the courtroom, the Committee notes the State party’s argument that the author did not request a counsel either at the police station or in court. In light of the information before it, the Committee considers that the author has failed to sufficiently substantiate this part of the communication for the purposes of admissibility and declares it inadmissible under article 2 of the Optional Protocol.

8.6 The Committee notes that the author has not provided any information supporting her claims under article 14 (3) (g) of the Covenant. It concludes that this part of the communication is insufficiently substantiated for purposes of admissibility, and thus inadmissible under article 2 of the Optional Protocol.

8.7 The Committee notes that the author’s remaining claims, raising issues under articles 19 and 21, given that she was sanctioned without justification for having participated in a peaceful assembly with others to protest against the 30% devaluation of the Kazakh tenge have been sufficiently substantiated, for the purposes of admissibility. It therefore declares these claims admissible and proceeds with their examination of the merits.

 Consideration of the merits

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

9.2 The Committee notes the author’s claim that her right to freedom of assembly under article 21 of the Covenant was violated as, on 15 February 2014, she was apprehended, tried and fined for having participated in an unauthorised mass event to protest against the governmental devaluation of the national currency. The Committee recalls that the right of peaceful assembly, as guaranteed under article 21 of the Covenant, is a fundamental human right that is essential for the public expression of an individual’s views and opinions and indispensable in a democratic society.[[8]](#footnote-9) Given the typically expressive nature of assemblies, participants must as far as possible be enabled to conduct assemblies within “sight and sound” of the target audience[[9]](#footnote-10) and no restriction on that right is permissible unless it is: (a) imposed in conformity with the law; and (b) necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. While the right of peaceful assembly may in certain cases be limited, the onus is on the authorities to justify any restrictions.[[10]](#footnote-11) Authorities must be able to show that any restrictions meet the requirement of legality, and are also both necessary for and proportionate to at least one of the permissible grounds for restrictions enumerated in article 21. Where this onus is not met, article 21 is violated.[[11]](#footnote-12) The imposition of any restrictions should be guided by the objective of facilitating the right, rather than seeking unnecessary and disproportionate limitations to it.[[12]](#footnote-13) Restrictions must not be discriminatory, impair the essence of the right, or be aimed at discouraging participation in assemblies or causing a chilling effect.[[13]](#footnote-14)

9.3The Committee observes that authorization regimes, where those wishing to assemble have to apply for permission (or a permit) from the authorities to do so, undercut the idea that peaceful assembly is a basic right.[[14]](#footnote-15) Where such requirements persist, they must in practice function as a system of notification, with authorization being granted as a matter of course, in the absence of compelling reasons to do otherwise. Such systems should also not be overly bureaucratic.[[15]](#footnote-16) Notification regimes, for their part, must not in practice function as authorization systems.[[16]](#footnote-17) The Committee also observes that spontaneous assemblies, which are typically direct responses to current events, whether coordinated or not, are equally protected under article 21.[[17]](#footnote-18)

9.4 The Committee observes that the obligation to respect and ensure peaceful assemblies imposes negative and positive duties on States before, during and after assemblies. The negative duty entails that there be no unwarranted interference with peaceful assemblies. States are obliged, for example, not to prohibit, restrict, block, disperse or disrupt peaceful assemblies without compelling justification, nor to sanction participants or organizers without legitimate cause.[[18]](#footnote-19) Moreover, States parties have certain positive duties to facilitate peaceful assemblies and to make it possible for participants to achieve their objectives. States must thus promote an enabling environment for the exercise of the right of peaceful assembly without discrimination, and put in place a legal and institutional framework within which the right can be exercised effectively. Specific measures may sometimes be required on the part of the authorities. For example, they may need to block off streets, redirect traffic or provide security. Where needed, States must also protect participants against possible abuse by non-State actors, such as interference or violence by other members of the public, counter demonstrators and private security providers.[[19]](#footnote-20) Moreover, States have a duty to protect participants from all forms of discriminatory abuse and attacks.[[20]](#footnote-21) The possibility that a peaceful assembly may provoke adverse or even violent reactions from some members of the public is not sufficient grounds to prohibit or restrict the assembly. States are obliged to take all reasonable measures that do not impose disproportionate burdens upon them to protect all participants and to allow such assemblies to take place in an uninterrupted manner.[[21]](#footnote-22)

9.5 The Committee notes the author’s claim that no State party’s authorities or courts have justified the imposition of her administrative fine for having participated in a peaceful, albeit unauthorized assembly. The Committee also notes the State party’s submission that the restriction was imposed on the author in conformity with the Administrative Offences Code and the provisions of the Law on organizing and holding peaceful assemblies, meetings, marches, pickets and demonstrations. The Committee also notes the State party’s argument that the requirement to file a request is aimed at protecting public order, as well as the rights and freedoms of others. The Committee further notes, however, the author’s claim that, although the restriction may have been lawful under national law, her apprehension and conviction were unnecessary in a democratic society for the pursuance of the legitimate aims invoked by the State party. The author further argues that the protest, in response to an important issue – the 30% devaluation of the Kazakhstan national currency by the government– was peaceful and did not harm or endanger anyone or anything.

9.6 The Committee notes that the State party relied on the provisions of the law on public events, which requires a request to be made 10 days prior to the event and the permission of the local executive authorities, these constituting restrictions to the right of peaceful assembly. The Committee recalls that freedom of assembly is a right, not a privilege. Restrictions on this right, even if authorized by law, must also meet the criteria under the second sentence of article 21 of the Covenant, in order to comply with the Covenant. The Committee further notes the State party’s observation that the author’s apprehension was needed for the protection of public order, because the participants in the assembly disturbed people and public transport functioning**.** In this connection, the Committee observes thatrestrictions imposed for the protection of “the rights and freedoms of others” may relate to the protection of Covenant or other human rights of people not participating in the assembly. At the same time, assemblies are a legitimate use of public and other spaces, and since they may entail by their very nature a certain level of disruption to ordinary life, such disruptions have to be accommodated, unless they impose a disproportionate burden, in which case the authorities must be able to provide detailed justification for any restrictions.[[22]](#footnote-23) The Committee also observes that “public order” refers to the sum of the rules that ensure the proper functioning of society, or the set of fundamental principles on which society is founded, which also entails respect for human rights, including the right of peaceful assembly.[[23]](#footnote-24) States parties should not rely on a vague definition of “public order” to justify over-broad restrictions on the right of peaceful assembly.[[24]](#footnote-25) Peaceful assemblies can in some cases be inherently or deliberately disruptive and require a significant degree of toleration. “Public order” and “law and order” are not synonyms, and the prohibition of “public disorder” in domestic law should not be used unduly to restrict peaceful assemblies.[[25]](#footnote-26) Furthermore, the Committee notes that the State party has not provided any specifics as to the nature of the disturbance occasioned by the assembly in question, nor any information as to how it crossed the threshold of permissible disruption to be tolerated.

9.7 The Committee recalls that Article 21 provides that any restrictions must be “necessary in a democratic society”. Restrictions must therefore be *necessary* and proportionate in the context of a society based on democracy, the rule of law, political pluralism and human rights, as opposed to being merely reasonable or expedient.[[26]](#footnote-27) Such restrictions must be appropriate responses to a pressing social need, related to one of the permissible grounds in article 21. They must also be the least intrusive among the measures that might serve the relevant protective function.[[27]](#footnote-28) Moreover, they have to be proportionate, which requires a value assessment, weighing the nature and detrimental impact of the interference on the exercise of the right against the resultant benefit to one of the grounds for interfering.[[28]](#footnote-29) If the detriment outweighs the benefit, the restriction is disproportionate and thus not permissible. The Committee further observes that the State party has not demonstrated that the author’s administrative fine for participating in a peaceful public protest was necessary in a democratic society to pursue a legitimate aim or was proportionate to such an aim in accordance with the strict requirements under the second sentence of article 21 of the Covenant. The Committee also recalls that any restrictions on participation in peaceful assemblies should be based on a differentiated or individualized assessment of the conduct of the participants and the assembly concerned. Blanket restrictions on peaceful assemblies are presumptively disproportionate. [[29]](#footnote-30)For these reasons, the Committee concludes, that the State party failed to justify the restriction of the author’s right, thus the State party has violated article 21 of the Covenant.

9.8 The Committee also notes the author’s claim that her right to freedom of expression under articles 19 of the Covenant was violated. The Committee must therefore decide whether the limitations imposed on the author are allowed under one of the permissible restrictions laid out in article 19 (3) of the Covenant.

9.9 The Committee notes that sanctioning the author for expressing her views through participation in a public event in protest interfered with her right to impart information and ideas of any kind, as protected under article 19 (2) of the Covenant. It recalls that article 19 (3) of the Covenant allows certain restrictions, but only if they are provided by law and are necessary for respect of the rights or reputations of others and for the protection of national security or of public order (*ordre public*) or of public health or morals. In its general comment No. 34 (2011) on the freedoms of opinion and expression, the Committee stated that those freedoms were indispensable conditions for the full development of the person and were essential for any society. These freedoms constitute the foundation stone for every free and democratic society. Any restriction on the exercise of those freedoms must conform to the strict tests of necessity and proportionality. Restrictions must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they were predicated. The Committee recalls that it is for the State party to demonstrate that the restrictions on the author’s rights under article 19 were both necessary and proportionate.[[30]](#footnote-31)

9.10 Regarding the restriction on the author’s freedom of expression, the Committee recalls that political speech enjoys a heightened level of accommodation and protection as a form of expression.[[31]](#footnote-32) The Committee notes the author’s claim that the assembly was held to protest against the governmental 30% devaluation of the Kazakhstan national currency the tenge. In the absence of any pertinent information from the State party explaining how the restriction was in line with the provisions of article 19 (3) of the Covenant (para. 4.9), the Committee concludes that the author’s rights under article 19 (2) of the Covenant have been violated.

10. The Committee, acting under article 5 (4) of the Optional Protocol, is of the view that the facts before it disclose a violation by the State party of articles 19 and 21 of the Covenant.

11. Pursuant to article 2 (3) (a) of the Covenant, the State party is under an obligation to provide the author with an effective remedy. This requires it to make full reparation to individuals whose Covenant’s rights have been violated. Accordingly, the State party is obligated, inter alia, to take appropriate steps to provide the author with adequate compensation and reimbursement of the fine imposed on her and any legal costs incurred by her. 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 Committee reiterates that, pursuant to its obligations under article 2 (2) of the Covenant, the State party should review its legislation and practice with a view to ensuring that the rights under articles 19 and 21 of the Covenant, including organizing and conducting peaceful assemblies, meetings, processions, pickets and demonstrations, may be fully enjoyed in the State party.

12. 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 and subject to its jurisdiction the rights recognized in the Covenant and to provide an effective 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 widely in the official languages of the State party.

1. \* Adopted by the Committee at its 130 th session (12 October–6 November 2020). [↑](#footnote-ref-2)
2. \*\* The following members of the Committee participated in the examination of the communication: Yadh Ben Achour, Arif Bulkan, Ahmed Amin Fathalla, Schuichi Furuya, Christoph Heyns, David Moore, Marcia V.J. Kran, Duncan Laki Muhumuza, Photini Pazartzis, Hernán Quezada Cabrera, Vasilka Sancin, José Manuel Santos Pais, Yuval Shany, Hélène Tigroudja, Andreas Zimmermann and Gentian Zyberi. [↑](#footnote-ref-3)
3. The author does not specify who these persons are. [↑](#footnote-ref-4)
4. A/HRC/29/25/Add.2. [↑](#footnote-ref-5)
5. Available at <https://www.osce.org/odihr/73405>. [↑](#footnote-ref-6)
6. Equivalent of a mayor’s office (municipal, district or provincial government). [↑](#footnote-ref-7)
7. See, for example, *Alekseev v. Russian Federation* (CCPR/C/109/D/1873/2009), para. 8.4; *Lozenko v. Belarus* (CCPR/C/112/D/1929/2010), para. 6.3; *Sudalenko v. Belarus* (CCPR/C/115/D/2016/2010), para. 7.3; *Poplavny and* Sudalenko *v. Belarus* (CCPR/C/118/D/2139/2012), para. 7.3. [↑](#footnote-ref-8)
8. General Comment No. 37, (2020), para.1. [↑](#footnote-ref-9)
9. Ibid, para. 22, see also *Strizhak v. Belarus*, (CCPR/C/124/D/2260/2013), para. 6.5. [↑](#footnote-ref-10)
10. *Gryb v. Belarus* (CCPR/C/108/D/1316/2004), para. 13.4. [↑](#footnote-ref-11)
11. *Chebotareva v. Russian Federation* (CCPR/C/104/D/1866/2009), para. 9.3. [↑](#footnote-ref-12)
12. *Turchenyak and others v. Belarus* (CCPR/C/108/D/1948/2010 and Corr.1), para. 7.4. [↑](#footnote-ref-13)
13. General Comment No. 37, (2020), para. 36. [↑](#footnote-ref-14)
14. CCPR/C/MAR/CO/6, para. 45; CCPR/C/GMB/CO/2, para. 41; and ACHPR, *Guidelines on Freedom of Association and Assembly in Africa*, para. 71. [↑](#footnote-ref-15)
15. *Poliakov v. Belarus*, para. 8.3. [↑](#footnote-ref-16)
16. General Comment No. 37, (2020), para. 73, CCPR/C/JOR/CO/5, para. 32. [↑](#footnote-ref-17)
17. General Comment No. 37, (2020), para. 14. [↑](#footnote-ref-18)
18. Ibid, para. 23. [↑](#footnote-ref-19)
19. Ibid, para. 24. [↑](#footnote-ref-20)
20. Ibid, para. 25. [↑](#footnote-ref-21)
21. Ibid, para. 27. [↑](#footnote-ref-22)
22. *Stambrovsky v. Belarus* (CCPR/C/112/D/1987/2010), para. 7.6; *Pugach v. Belarus* (CCPR/C/114/D/1984/2010), para. 7.8. [↑](#footnote-ref-23)
23. Siracusa Principles., para. 22. [↑](#footnote-ref-24)
24. CCPR/C/KAZ/CO/1, para. 26; CCPR/C/DZA/CO/4, para. 45. [↑](#footnote-ref-25)
25. General Comment No. 37, (2020), para. 44. [↑](#footnote-ref-26)
26. Ibid, para. 40. [↑](#footnote-ref-27)
27. *Toregozhina v. Kazakhstan* (CCPR/C/112/D/2137/2012), para. 7.4. [↑](#footnote-ref-28)
28. General Comment No. 37, (2020), para. 40. [↑](#footnote-ref-29)
29. Ibid, para. 38. [↑](#footnote-ref-30)
30. See, for example, *Pivonos v. Belarus* (CCPR/C/106/D/1830/2008), para. 9.3; and *Olechkevitch v. Belarus* (CCPR/C/107/D/1785/2008), para.  8.5. [↑](#footnote-ref-31)
31. General comment No. 34 (2011) paras. 34, 37–38 and 42-43. [↑](#footnote-ref-32)