



# 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. 2368/2014\*, \*\*

<i>Communication submitted by:</i>	Viktor Taran (represented by counsel, Oleg Golovchak)
<i>Alleged victim:</i>	The author
<i>State party:</i>	Ukraine
<i>Date of communication:</i>	28 July 2011 (initial submission)
<i>Document references:</i>	Decision taken pursuant to rule 92 of the Committee's rules of procedure, transmitted to the State party on 27 March 2014 (not issued in document form)
<i>Date of adoption of Views:</i>	12 March 2020
<i>Subject matter:</i>	Unlawful detention, torture and mistreatment of the author
<i>Procedural issues:</i>	None
<i>Substantive issues:</i>	Torture; arbitrary arrest – detention; conditions of detention; fair trial; fair trial – appeal; fair trial – legal assistance
<i>Articles of the Covenant:</i>	2 (3), 7, 9, 14 (3) (b) and (g) and (5), 15, 16 and 26
<i>Articles of the Optional Protocol:</i>	None

1. The author of the communication is Viktor Filippovich Taran, a national of Ukraine born in 1970. He claims that the State party has violated his rights under article 2 (3), article 7, article 9, article 14 (3) (b) and (g) and (5), article 15, article 16 and article 26 of the Covenant. The Optional Protocol entered into force for the State party on 25 October 1991. The author is represented by counsel.

\* Adopted by the Committee at its 128th session (2–27 March 2020).

\*\* The following members of the Committee participated in the examination of the communication: Yadh Ben Achour, Arif Bulkan, Ahmed Amin Fathalla, Christof Heyns, Duncan Laki Muhumuza, Hernán Quezada Cabrera, Vasilka Sancin, José Manuel Santos Pais, Yuval Shany, Hélène Tigroudja, Andreas Zimmermann and Gentian Zyberi.



**The facts as submitted by the author**

2.1 On 1 March 2002 at 7 a.m., several police officers searched the author's apartment in the city of Odessa, where the author resided with his wife. Subsequently, police officers took the author into custody and brought him to the Ilyichevsk district police station for questioning.<sup>1</sup> When he was taken from his home, the author was a perfectly healthy individual with no medical complaints.

2.2 The author claims that from 1 to 3 March 2002,<sup>2</sup> he was held in the Ilyichevsk police station. There, he suffered torture and mistreatment at the hands of several police officers. Specifically, he was beaten several times, with a rubber baton and a wooden baseball bat, was suffocated with a plastic bag, was electrocuted, and suffered burns to his shoulder. He was also hung on a metal bar. As a result, he lost consciousness several times. The investigator entered in the records that the author had been detained on 4 March 2002. But the author had been detained on 1 March, and remained in detention until 3 March 2002, and he was forced to sign a confession.<sup>3</sup> Immediately after he saw his lawyer on 4 March 2002, he retracted his statements, pointing out that they had been made under duress.

2.3 Upon his arrest, the author asked for the presence of his lawyer, but was beaten up after each such request. A medical examination on 4 March 2002 established that he had sustained a number of grave bodily injuries, which was confirmed on a medical certificate.<sup>4</sup> On 20 March 2002, he was hospitalized and diagnosed with internal bleeding resulting from severe beating; this was also confirmed on a medical certificate.<sup>5</sup> During his hospitalization, the author complained about the torture and mistreatment to the deputy chief of the Odessa Regional Department of the Ministry of the Interior, but he never received a response to the complaint. On 12 April 2002, the author again filed a complaint with the Odessa Regional Department of the Ministry of the Interior,<sup>6</sup> detailing the torture that he had suffered at the hands of the police officers, but his complaint was ignored.

2.4 On 15 April 2002, the author's lawyer filed another complaint with the Ministry of the Interior regarding torture, which was also ignored. During the author's pretrial detention, police officers denied him proper medical care and access to his lawyer, and ignored his numerous complaints about torture and mistreatment. The police officers suggested that the author would be treated better if he confessed to committing a murder. The author's lawyer also filed a complaint with the prosecutor's office of the Odessa region on 19 July 2002, which was redirected to the prosecutor's office of the city of Odessa. On 17 September 2002, the prosecutor's office of the city of Odessa responded by rejecting the author's complaint.

2.5 The author submits that on 29 October 2002, the pretrial investigation was concluded and he requested unlimited access to his criminal case file, but was granted only two hours a week to prepare for his defence. Several complaints that had been filed by the author and his lawyer, Mr. B.A.B.,<sup>7</sup> were ignored and were not included in the file. Studying his case file, the author stated again that he had only made certain statements because he had been tortured, and that his confessions should not be retained.

2.6 Article 156 of the Criminal Procedure Code of Ukraine limits the duration of pretrial detention to two months. This period can be extended for another four months by a judge. An additional extension of up to nine months must be granted by an appellate judge, and further extensions must be granted by a Supreme Court judge. The author further claims

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<sup>1</sup> The author claims that initially, he was not informed of the charges against him. Subsequently, he and his co-defendants were charged with 30 crimes, including theft, robbery, attempted murder and murder, and drug-related charges, which were allegedly committed by the group in 1995 and then from 1999 until 2002.

<sup>2</sup> In other parts of the communication, the author refers to 4 March 2002 instead of 3 March 2002.

<sup>3</sup> The author claims that the fact that he was unlawfully detained is evident from the records, which include copies of statements taken from him by Mr. T.A.R., a criminal investigator, dated 1, 2 and 3 March 2002, and a medical certificate dated 4 March 2002.

<sup>4</sup> The author submits a copy of the certificate.

<sup>5</sup> A copy is provided by the author.

<sup>6</sup> The author submits a copy of this complaint.

<sup>7</sup> No further details are provided.

that he was held unlawfully from 4 July 2002 to 1 September 2003, prior to his trial. Under the Criminal Procedure Code, a pretrial detention of 18 months must be sanctioned by a Supreme Court judge, which, the author alleges, has not happened in his case.

2.7 The author also submits that his claims of torture and mistreatment, as well as of violations of his procedural rights under the Criminal Procedure Code, were ignored during his trial. Additionally, the court ignored the fact that he had been unlawfully detained from 1 to 4 March 2002.

2.8 On 10 October 2005, the author was sentenced to life imprisonment for participating in 30 crimes ranging from theft to murder.<sup>8</sup> Since then, the author and his lawyers have filed numerous appeals, including to the Supreme Court, the Verkhovna Rada (Parliament) and the Office of the Prosecutor General. On 4 September 2007, the Supreme Court rejected the author's appeal. Two other complaints to the Supreme Court were rejected, on 13 and 28 September 2010.<sup>9</sup> The author therefore claims that all available domestic remedies have been exhausted.

### **The complaint**

3.1 The author claims to have been subjected to torture and mistreatment, in violation of his rights under article 7 of the Covenant, and his complaints thereon were not properly investigated, in violation of his rights under article 2 (3) of the Covenant. As he was tortured for the purpose of obtaining self-incriminatory statements, his rights under article 14 (3) (g) of the Covenant were also violated.

3.2 The author claims that although he was apprehended on 1 March 2002, his detention was not formalized until 4 March 2002. In violation of his procedural rights, he was unlawfully detained pending trial without a court order. At the time of arrest, he was not informed of the charges against him, and was not brought promptly before a judge, in violation of his rights under article 9 of the Covenant.

3.3 Furthermore, the author submits that he did not have adequate time and facilities to prepare his defence and to communicate with his lawyer, in violation of article 14 (3) (b) of the Covenant.

3.4 The author also claims that the Supreme Court examined his appeal in his absence, in spite of his request to be present which was in accordance with provisions of article 391 of the Criminal Procedure Code. Moreover, he was not represented during this hearing, and the court based its decision on an appeal brief that the author had requested to be disregarded. The author claims that this violated his rights under article 14 (5) of the Covenant.

3.5 The author also contends that the replacement of his death sentence with life imprisonment violates his rights under article 15 of the Covenant. The death penalty was abolished by the Constitutional Court on 29 December 1999. The law dated 22 February 2000 which introduced life imprisonment did not mandate that the death penalty should necessarily be replaced by life imprisonment.

3.6 Without further substantiation, the author also claims a violation of articles 16 and 26 of the Covenant.

### **State party's observations on admissibility and the merits**

4.1 In a note verbale dated 22 December 2014, the State party submitted its observations on the admissibility and the merits of the communication. The State party notes that the author claims that from 1 to 4 March 2002 he was tortured in order to force a confession from him, which caused him great moral and physical suffering. The State party notes that on 4 March 2002, he was detained by the police on suspicion of committing a crime under

<sup>8</sup> The author and his co-defendants were charged with multiple crimes. Please see footnote 1 for details.

<sup>9</sup> The author claims that these two complaints were filed under the so-called "extraordinary" procedure to the Supreme Court.

article 187 (4) – robbery – of the Criminal Code. On the same day, he was interrogated by a senior investigative officer, O.L., but he refused to provide any information.<sup>10</sup>

4.2 On 6 March 2002, the author was formally charged with robbery. Zhovtnevy Regional Court in Odessa ordered that he be placed in pretrial detention. On 12 April 2002, the author complained to the prosecutor’s office in regard to the beatings he had suffered. The prosecutor’s office refused to open a criminal case on this basis. Nevertheless, the prosecutor’s office initiated a criminal case in regard to alleged abuse of authority by police officers “against other persons”, where the author had been a witness.<sup>11</sup>

4.3 The author was placed in a pretrial detention centre (a “SIZO”) on 18 March 2002. A letter was recorded in his file, which is dated 4 March 2002, issued by a local hospital. This letter contains a diagnosis of multiple hematomas on the author’s buttocks and femurs. On 5 March, another letter was issued by a hospital, noting that the author had a bruise in his left eye but concluding that he needed no treatment. The same day, an ultrasound examination was performed on the author, and it concluded that the author’s health was “normal”.

4.4 When the author was placed in the SIZO detention centre, “five-day old haemorrhages were found in the lumbar region on both sides, as well as a burn measuring 4 cm<sup>2</sup>”. From 20 to 21 March 2002, the author was admitted to hospital in Odessa on “suspicion of closed abdominal trauma”, and with “an injury to his liver and an injury to his lumbar region”. He was discharged from hospital with “a recommendation for further supervision by the SIZO medical unit”.

4.5 On 31 March 2004, the appeal court in Odessa requested the prosecutor’s office to conduct an investigation into the author’s complaints that he had been subjected to “unlawful investigation methods”. On 12 April 2005, the criminal proceedings instituted against police officers were discontinued. On 9 June 2005, the appeal court again requested an investigation into the author’s complaints.<sup>12</sup>

4.6 The author had also complained that he was unlawfully detained and that he could not challenge his detention, in violation of his rights under article 9 of the Covenant. The State party submits that the author was detained on 4 March 2002 and that a preventive measure against him was decided at court on 6 March 2002. On 26 April 2002, this pretrial detention was extended for an additional four months, until 4 July 2002. The court took into consideration that the author was accused of committing “intentional, grave and especially grave crimes in an organized criminal group”, that there was sufficient reason to believe that if freed, he would “continue criminal activity”, would “abscond from the investigation” and would hinder “the establishment of the truth”. The author was also accused of crimes for which the potential punishment was more than five years. The author’s detention was extended two more times: on 19 June 2002, until 4 September 2002; and on 23 August 2002 for an additional nine months.

4.7 On 10 October 2005, the author was found guilty and was sentenced to life imprisonment with confiscation of all of his property.

4.8 The State party notes the author’s claim that his right to legal assistance was violated and he could not challenge his verdict to a higher court. It observes that on 12 April 2002, a senior investigator, Mr. B., informed the author about his right to defence counsel, and the author replied that his interests would be represented by a lawyer, Mr. T.S., who was appointed later. On 28 January 2004, Mr. K. was allowed to represent the author, in response to a request submitted to the Odessa Bar Association. On 4 March 2004 and 14 April 2004 respectively, the author refused the services of lawyers Mr. K. and Mr. D. On 22 April, another lawyer, Mr. B., was appointed to defend the author. Thus, the author was assisted by lawyers during his trial.

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<sup>10</sup> Here, and also in relation to points made further on in the submission, the State party refers to its “annexes” as proof, but provides no documents, other than the 12-page submission itself.

<sup>11</sup> No further information is provided.

<sup>12</sup> No further details are provided.

4.9 Regarding the author's complaints that his right to an appeal was violated, the State party submits that the author was able to complain to the Supreme Court, which, on 21 December 2006, requested that the prosecutor's office conduct an additional investigation. On 4 September 2007, the Supreme Court upheld the verdict.

4.10 The State party further notes the author's claim under article 15 of the Covenant, made on the grounds that a sentence of life imprisonment is unlawful for crimes committed before 4 April 2000 on which date life imprisonment was introduced. On 29 December 1999, the Constitutional Court declared the death penalty unconstitutional. From that date, the death penalty as a sentence became null. On 22 February 2000, the Verkhovna Rada (Parliament) changed death penalty sentences to life imprisonment sentences. Starting from 29 March 2000, the authorities of the State party have applied new sanctions under article 93 of the Criminal Code, ranging from 8 to 15 years of imprisonment or life imprisonment. Life imprisonment as a punishment constitutes a lesser sentence than the death penalty. On this basis, the appeal court decided on 10 July 2009 that life imprisonment did not violate the author's rights to non-application of the heavier penalty.

#### **Author's comments on the State party's observations on admissibility and the merits**

5.1 On 24 February 2015, the author reiterated in his comments on the State party's observations that he had been arrested on 1 March 2002, and until 3 March 2002 had been held unlawfully, tortured, and forced to confess guilt for crimes he had not committed. The author notes that the State party is trying to intentionally hide this. However, when the author met with a lawyer, he complained about the torture by S.O.R. and T.A.R. – officers of the criminal investigation unit. Furthermore, the author clearly stated on 4 March 2002 to the investigator that his previous statements had been obtained under duress.

5.2 As confirmed by the State party, the author filed a complaint with the prosecutor's office of the city of Odessa, but did not receive an "adequate reaction". It is an absurd situation when the State party submits that the author was only a witness to other persons being tortured, when the author himself had complained of having been tortured. Meanwhile, the State party has not informed the Committee that other persons were also tortured, although the European Court of Human Rights confirmed the fact that Mr. Grigoryev,<sup>13</sup> the applicant in case No. 51671/07, and author's co-defendant, was found to have been tortured. This shows that the likelihood is high that the author was tortured too, since these events occurred simultaneously.

5.3 The author was formally charged on 6 March 2002, and from that date, he should have been kept in pretrial detention (in a SIZO). However, he was taken there only on 18 March 2002, and until then he was kept in a temporary detention ward. This was done on purpose, since he had been severely beaten, and the law enforcement officers wanted to hide his injuries. On 18 March 2002, the author was taken to the SIZO, but in light of his injuries, the SIZO administration refused to admit him. The author was in such a bad state that on 20 March 2002 he lost his consciousness and was taken by ambulance to the Odessa city hospital, where he was diagnosed with blunt trauma in the abdomen, trauma of the right kidney, liver trauma, and injuries to his back. These findings were reflected in medical certificate No. 2314/376.<sup>14</sup>

5.4 Even though the State party lists some of the author's injuries, such as burn marks, it intentionally fails to explain who caused them, given that the author, when arrested, was a healthy individual, but then almost died in detention. The appellate court of the Odessa region did consider the author's complaint, but never came up with any results. The State party therefore violated the author's rights under article 7 of the Covenant.

5.5 The State party also does not mention that the author was never brought before a judge, even though his pretrial detention was extended many times. The author should have been able to challenge his detention, file petitions and motions and provide evidence during such hearings.

<sup>13</sup> The author refers to *Grigoryev v. Ukraine*, application No. 51671/07, final decision dated 15 August 2012.

<sup>14</sup> The author refers to a copy that he provided with his initial complaint.

5.6 The author further notes the State party's objection that on 12 April 2002 he was informed about his right to defence. He notes that the State party has not reacted to his claim of having been detained on 1 March 2002, and tortured, in the absence of a lawyer. He claims that he never refused the services of his lawyer, B.A.B., and that he never requested a new lawyer. In addition, the authorities of the State party actively prevented his lawyer from speaking to him from 25 December 2003 to 3 February 2004. This was done in order to make sure that the author could not file any complaints about the conduct of the investigation.

5.7 As for the State party's objection that the author's rights of appeal were respected, the author notes that he requested a new lawyer, S.P.E., to represent him in cassation before the Supreme Court. He also requested to be present during the hearings. On 28 April 2007, he received a decision of Judge Korotkikh refusing his presence during the hearings. On 4 August 2007, the Supreme Court confirmed the author's verdict and sentence, in his absence.

5.8 The Supreme Court ignored the fact that the author's conviction had been based on testimony from other defendants who had later retracted their testimonies saying that they had been obtained under duress. For example, the defendant Mr. Grigoryev stated that he had been tortured and forced to testify against the author, but this had been ignored by the court. The State party should have discontinued the proceedings against the author at that time, and sent the case for new investigation.

5.9 The author submits that in Ukraine, the death penalty was indeed abolished by the Constitutional Court on 29 December 1999. A law dated 22 February 2000 introduced life imprisonment, but without mandating that the death penalty should necessarily be replaced by life imprisonment. In the meantime, the maximum sentence for any crime was up to 15 years of imprisonment. This means that for crimes committed up until 29 December 1999, the maximum sentence should have been 15 years of imprisonment. Even with the adoption of the new sentence of life imprisonment, the maximum sentence for crimes committed before this date should not exceed 15 years.

## **Issues and proceedings before the Committee**

### *Consideration of admissibility*

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

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

6.3 The Committee takes note of the claim that the author has exhausted all available effective domestic remedies. In the absence of any objection by the State party in this connection, the Committee considers that the requirements of article 5 (2) (b) of the Optional Protocol have been met.

6.4 The Committee has noted the author's rather general claims under articles 16 and 26 of the Covenant. In the absence of any further pertinent information on file, the Committee considers that the author has failed to sufficiently substantiate, for the purposes of admissibility, these allegations. Accordingly, it declares this part of the communication inadmissible under article 2 of the Optional Protocol.

6.5 The Committee has considered the author's contention that his rights under article 15 of the Covenant were also violated when the authorities of the State party abolished the death penalty and instead imposed a sentence of life imprisonment on him. In the absence of any further pertinent information on the file, and considering the Committee's previous jurisprudence<sup>15</sup> on the subject, the Committee considers that the author has failed to

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<sup>15</sup> See the Committee's Views in *Tofanyuk v. Ukraine* (CCPR/C/100/D/1346/2005), para. 11.3.

substantiate, for the purposes of admissibility, these allegations, and in finding so, declares this part of the communication inadmissible under article 2 of the Optional Protocol.

6.6 The Committee considers that the author has sufficiently substantiated, for the purposes of admissibility, his claims of violations of his rights under article 7, read alone and in conjunction with article 2 (3), article 9 and article 14 (3) (b) and (g) and (5) of the Covenant, declares them admissible and proceeds with its consideration of the merits.

#### *Consideration of the merits*

7.1 The Committee has considered the communication in the light of all the information submitted to it by the parties, in accordance with article 5 (1) of the Optional Protocol.

7.2 Firstly, the Committee notes the author's claim that on 1 March 2002, after being brought to the Ilyichevsk police station, he was beaten, including with a rubber baton and a wooden bat, was suffocated with a plastic bag, and was electrocuted, parts of his body were burned and he was hung on a metal bar. As a result, he suffered multiple injuries, lost consciousness and had to be hospitalized, as confirmed by medical certificates that he presented. The State party, in its response, seems to admit that the author sustained injuries, but provides no particular explanations about the specific circumstances of the reported injuries. The Committee also notes the author's claims that he was unlawfully detained and tortured to force him to confess guilt for crimes he had not committed, and that, subsequently, those confessions were retained as evidence against him in court, despite his numerous retractions and complaints of torture, including in court during the trial, and during the cassation appeal. The Committee considers that, in the circumstances of the present case, and in particular in the light of the State party's failure to provide detailed explanations regarding the treatment the author was subjected to at the early stages of detention and during his interrogation, due weight should be given to the author's allegations.

7.3 Regarding the State party's obligation to properly investigate the author's claims of torture, the Committee recalls its jurisprudence according to which criminal investigation and consequential prosecution are necessary remedies for violations of human rights such as those protected by article 7 of the Covenant.<sup>16</sup> The Committee notes that the material on file does not allow it to conclude that the investigation into the allegations of torture was carried out promptly or effectively or that any suspects were identified, despite detailed reports from the author, witness statements, and detailed medical records indicating injuries. The Committee also notes that the court used the author's confession, among other evidence, in finding the author guilty, despite his contention made during the trial hearings that he had been tortured. Accordingly, in these circumstances, the Committee concludes that the facts before it disclose a violation of the author's rights under article 7, read alone and in conjunction with article 2 (3) and article 14 (3) (g), of the Covenant.

7.4 The Committee next considers the author's claim that from 1 to 4 March 2002, he was detained unlawfully, and that the police officers tortured him and obtained his confession under duress. The Committee also notes the author's claims that upon his unlawful apprehension, he was not informed of the reasons for his arrest, and he was not brought promptly before a judge. The Committee notes in this regard that the State party provides no explanation whatsoever regarding the events during this period, claiming only that the author was arrested on 4 March 2002 and charged with robbery under the Criminal Code.

7.5 The Committee recalls its general comment No. 35 (2014) on liberty and security of person, in which it refers to the prohibition on arbitrary and unlawful deprivation of liberty, that is, deprivation of liberty that is not imposed on such grounds and in accordance with such procedure as are established by law. The two prohibitions overlap, in that arrests or detentions may be in violation of the applicable law but not arbitrary, or legally permitted but arbitrary, or both arbitrary and unlawful. Arrest or detention that lacks any legal basis is

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<sup>16</sup> See the Committee's general comment No. 20 (1992) on the prohibition of torture or other cruel, inhuman or degrading treatment or punishment, para. 14; and its general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, para. 18.

also arbitrary.<sup>17</sup> Article 9 also requires compliance with domestic rules that define when authorization to continue detention must be obtained from a judge or other officer,<sup>18</sup> where individuals may be detained,<sup>19</sup> when the detained person must be brought to court<sup>20</sup> and the legal limits on the duration of detention.<sup>21</sup> Persons deprived of their liberty must be assisted in obtaining access to effective remedies to enforce their rights, including initial and periodic judicial review of the lawfulness of the detention, and to prevent conditions of detention that are incompatible with the Covenant.<sup>22</sup>

7.6 In the present case, the author claims that his initial detention was both arbitrary and unlawful, as he was not informed, at the time of apprehension, of the reasons for his arrest or of any charge against him, and he was not brought promptly before a judge. In the circumstances as described, and in the absence of further relevant information or explanations by the State party, the Committee concludes that the author's rights under article 9 of the Covenant have been violated.

7.7 The Committee further notes the author's contention that he was not able to prepare for his defence, as he requested unlimited time to meet with his lawyer but was only allowed two hours per week (see para. 2.5 above), and he was prevented from talking to his lawyer from 25 December 2003 to 3 February 2004 (see para. 5.6 above). The State party, in its observations, does not specifically comment on the aspect of the author having adequate time and facilities for the preparation of his defence. The Committee recalls its jurisprudence according to which the requirement of adequate time is an important element of the guarantee of a fair trial and of application of the principle of equality of arms.<sup>23</sup> The Committee notes the uncontested claim from the author that he was only granted two hours a week to prepare for a trial in which he was charged with multiple crimes and was ultimately sentenced to life imprisonment. In the circumstances as described by the author, and in the absence of any pertinent explanations from the State party, the Committee finds that the State party violated the author's rights under article 14 (3) (b) of the Covenant.

7.8 Finally, the Committee notes the author's claim that, despite his specific requests, he was not present when his appeal was heard by the Supreme Court, and he was not represented by counsel. The State party did not provide any explanations regarding this part of the author's communication. The Committee notes that despite the fact that under the Criminal Procedure Code, participation of the accused at the appeal hearing is decided upon by the court itself, the State party failed to explain the reasons why it did not allow the participation of the author and his lawyers at the proceedings before the Supreme Court. In these circumstances, and in the absence of any other pertinent information on file, the Committee considers that there has been a violation of article 14 (5) of the Covenant.

8. The Committee, acting under article 5 (4) of the Optional Protocol, is of the view that the facts before it disclose a violation of the author's rights under article 7, read alone and in conjunction with article 2 (3), article 9 and article 14 (3) (b) and (g) and (5), of the Covenant.

9. 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 rights have been violated. Accordingly, the State party is obligated, *inter alia*, to take appropriate steps to: (a) quash the author's conviction and, if necessary, conduct a new trial, in accordance with the principles of fair hearings, and other procedural safeguards; (b) conduct a thorough, prompt and impartial investigation into the author's allegations of torture; and (c) provide the author with adequate compensation and other measures of satisfaction for the violations that occurred. The State party is also under

<sup>17</sup> See the Committee's general comment No. 35 (2014) on liberty and security of person, para. 11.

<sup>18</sup> *Gridin v. Russian Federation* (CCPR/C/69/D/770/1997), para. 8.1.

<sup>19</sup> *Umarov v. Uzbekistan* (CCPR/C/100/D/1449/2006), para. 8.4.

<sup>20</sup> *Gómez Casafranca v. Peru* (CCPR/C/78/D/981/2001), para. 7.2.

<sup>21</sup> *Israil v. Kazakhstan* (CCPR/C/103/D/2024/2011), para. 9.2.

<sup>22</sup> *Fijałkowska v. Poland* (CCPR/C/84/D/1061/2002), paras. 8.3–8.4; *A v. New Zealand* (CCPR/C/66/D/754/1997), para. 7.3; and general comment No. 31, para. 15.

<sup>23</sup> See the Committee's general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, para. 32.

an obligation to take all steps necessary to prevent similar violations from occurring 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 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 have them widely disseminated in the official languages of the State party.

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