



## 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. 2520/2015\*, \*\*

<i>Communication submitted by:</i>	Zhanna Baytelova (represented by Ar. Rukh. Khak)
<i>Alleged victim:</i>	The author
<i>State party:</i>	Kazakhstan
<i>Date of communication:</i>	2 September 2015 (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 8 January 2015 (not issued in document form)
<i>Date of adoption of Views:</i>	22 July 2020
<i>Subject matters:</i>	Suppression of a spontaneous demonstration; public order; fair trial; right to counsel
<i>Procedural issue:</i>	Exhaustion of domestic remedies
<i>Substantive issues:</i>	Freedom of expression; freedom of assembly; right to a fair and public hearing; right to legal assistance
<i>Articles of the Covenant:</i>	14 (1), (3) (d) and (g), 19 (2) and 21
<i>Articles of the Optional Protocol:</i>	2 and 5 (2) (b)

1. The author of the communication is Zhanna Baytelova, a Kazakh national born in 1986 who claims to be a victim of violations by the State party of her rights under articles 14 (3) (d) and (g), 19 (2) and 21 of the Covenant. Although not expressly invoked, the author also raises claims under articles 14 (1) of the Covenant. The Optional Protocol entered into force for the State party on 30 September 2009. The author is represented by counsel.

\* Adopted by the Committee at its 129th session (29 June–24 July 2020).

\*\* The following members of the Committee participated in the examination of the present communication: Tania Maria Abdo Rocholl, Yadh Ben Achour, Arif Bulkan, Furuya Shuichi, Christof Heyns, Bamariam Koita, 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.



**Facts as presented by the author**

2.1 The author is a journalist and a human rights activist. On 16 February 2014, she and two female colleagues participated in a spontaneous<sup>1</sup> peaceful artistic performance in the central square of Almaty in a protest against the prohibition of import to Kazakhstan of lace underwear for women. The participants held new lace lingerie in their hands. Five minutes later, police officers brutally arrested them, twisting their arms and beating the author's colleagues.

2.2 On the same day, the specialized inter-district administrative court of Almaty found the author guilty of an administrative offence under article 330.1 of the Code of Administrative Offences (petty hooliganism) owing to lack of respect for other people and violation of public order. The author was fined 18,520 tenge (about \$100<sup>2</sup>). Her representatives, journalists and observers from human rights organizations were not allowed into the courtroom.

2.3 On 25 February 2014, the author appealed to the Almaty city court invoking a violation of her rights under articles 19 and 21 of the Covenant. On 6 March 2014, her appeal was rejected by the appellate judicial panel on civil and administrative affairs of the Almaty city court. Contrary to what is stated in the decision of the judicial panel, the author claims that she was not duly notified of the place and time of the appellate hearing, which took place in her absence.

2.4 On 9 April 2014, the author submitted an appeal for a supervisory review to the Almaty City Prosecutor's Office, requesting revision of the trial court judgment of 16 February 2014 and referring to articles 19 and 21 of the Covenant. By a letter of 16 April 2014, the First Deputy Prosecutor refused to lodge a protest motion against the court decision. On 5 May 2014, the author submitted an appeal for a supervisory review to the General Prosecutor's Office of Kazakhstan, again invoking articles 19 and 21 of the Covenant. On 14 July 2014, the Deputy Prosecutor General refused to lodge a protest motion and stated that the author's allegations of violation of the Covenant could not be taken into account because she had infringed public order and had committed an act of petty hooliganism.

**Complaint**

3.1 The author claims that the State party violated her right to freedom of expression under article 19 (2) of the Covenant and her right of peaceful assembly under its article 21. The author invokes article 4.3 of the Constitution of Kazakhstan, according to which international treaties ratified by the State party have priority before its laws and are applied directly, and article 32 of the Constitution, which proclaims the right to express one's opinion and the right to peaceful assembly. She maintains that her actions did not amount to hooliganism but instead were an expression of her opinion and a peaceful protest against the ban on the import of lace lingerie. She claims that restrictions of her rights were not necessary because the peaceful assembly did not pose any threat to State security, to public order and health, or to the rights or freedoms of other persons. She claims that she was arrested despite the fact that there was no situation of conflict or public disturbance. Police officers could not provide valid reasons for her arrest and instead mentioned pretexts, such as the use of obscene language and infringement of public order. She claims that the court did not provide any reasons for restricting her right to freedom of expression and that its finding, according to which she compromised public order by holding new lingerie in her hands, was unsubstantiated. She believes that she was arrested and held administratively liable for expressing her opinion and organizing a spontaneous performance.

3.2 The author claims that the domestic courts disregarded article 13.1 of the Code of Administrative Offences, according to which a "natural person can be held administratively liable only for offences for which their guilt has been established". She claims that the judges failed to establish her guilt under article 330.1 of the Code of Administrative Offences and that their conclusions did not correspond to the facts of the case. She further refers to the

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<sup>1</sup> This claim contradicts the author's further submissions, according to which she had warned journalists about the planned performance.

<sup>2</sup> Exchange rate as of 17 February 2014.

order of the Minister of Internal Affairs of Kazakhstan of 6 December 2000, according to which organizers and participants of demonstrations should not be arrested on the spot in order to avoid protests. The author further claims that the State party's legislation does not provide for the modalities of spontaneous meetings, which is why there was no obligation for her to notify the authorities of the event in which she took part.

3.3 The author claims, with a reference to article 14 of the Covenant, that journalists and observers from human rights organizations were denied access to the courtroom. In addition, the court did not allow her legal representatives to be present, thereby denying her the right to a counsel and violating article 14 (3) (d) of the Covenant and article 23 of the Code of Administrative Offences, according to which each person has the right to qualified legal assistance under administrative proceedings. The author claims that the trial court judge was partial, acted in the interest of the police and ignored her arguments of violation of her constitutional rights. Neither the first tier court nor the appellate court took into account the relevant provisions of national law and of the Covenant, despite her providing valid arguments. Finally, the author claims violation of article 14 (3) (g) of the Covenant.<sup>3</sup>

3.4 The author requests the Committee to recommend that the State party bring to justice those responsible for violation of her rights; offer her compensation for moral damage; offer her compensation for pecuniary damage in the amount of 18,520 tenge and compensation of the costs and expenses related to legal assistance; eliminate existing legislative restrictions on the freedom of expression, the freedom of peaceful assembly and the right to fair trial, which are incompatible with articles 19, 21 and 14 of the Covenant; and ensure that peaceful protests can be held without unjustified interference by State authorities and without organizers and participants being persecuted.

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

4.1 In its observations of 12 March 2015, the State party submits that the communication should be considered as unsubstantiated and inadmissible under article 5.2 (b) of the Optional Protocol due to non-exhaustion of domestic remedies. The State party maintains that the author's appeal for a supervisory review to the General Prosecutor's Office was rejected by the Deputy Prosecutor General but not by the Prosecutor General himself and that she failed to lodge an appeal for a supervisory review directly to the Prosecutor General with an enclosed copy of the letter signed by his deputy.

4.2 The State party submits that the author expressed disrespect to people around her, infringed public order and disturbed citizens' tranquillity by publicly demonstrating women's lingerie to passers-by and to the media, by attempting to lay it on the monument of independence in a protest against devaluation of the national currency and the rise in prices of women's underwear and by shouting out loudly: "In this State, even prices on panties have gone up, you are even afraid of panties!" and similar phrases. After numerous unsuccessful warnings by police officers, who asked the author to stop her illegal activities, she was taken to the police department of the Bostandiksky district of Almaty, where an administrative offence report was drawn up. Her guilt under article 330.1 of the Code of Administrative Offences was established by the specialized inter-district administrative court of Almaty based on that report, the author's testimony and other materials. The decision was confirmed by the Almaty city court. The Almaty City Prosecutor's Office and the General Prosecutor's Office of Kazakhstan found no reasons for lodging a protest motion against the judicial decisions.

4.3 The State party submits that its Constitution and legislation reflect the provisions of articles 19 and 21 of the Covenant, which provide for possible restrictions to the right to freedom of expression and peaceful assembly. According to article 32 of the Constitution, citizens have the right to assemble peacefully and without arms, hold meetings, rallies and demonstrations, street processions and pickets. The use of this right may be restricted by law in the interests of State security, public order and the protection of the health, rights and freedoms of other persons. Chapter 22 of the Code of Administrative Offences provides for administrative liability for offences that infringe public order and morality. Article 330 of the

<sup>3</sup> The author does not provide any arguments to justify the alleged violation of article 14 (3) (g).

Code provides for administrative liability for lack of respect to other people, infringement of public order and disturbance of the tranquility of individuals. Peaceful assemblies, meetings, street processions, pickets and demonstrations are not therefore forbidden on the territory of the State party but are only subject to certain restrictions provided by law. The State party recognizes that the freedom of peaceful assembly is a democratic institution, which allows for citizens' political activity and has to be continuously developed. The State party's legislation guarantees the realization and protection of that human right.

4.4 The State party further submits that realization by citizens of their rights shall not result in violation of the rights of other citizens and that some restrictions have to be imposed on rights for the sake of the security of the rights holders themselves. The State party notes that the most democratic sources of written law, such as the Warsaw guidelines of the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe, acknowledge the necessity of certain restrictions on the freedom of assembly. The State party submits that in recent years, European States have been incurring large financial losses because parts of their population have been realizing their freedom of assembly in the form of actions including riots, the destruction of public and private property and halting the work of factories and transportation.

4.5 The State party submits that the overwhelming majority of its citizens consider the independence of their State as one of the major achievements in the way of State-building. For many people, that notion is filled with the spirit of patriotism and is sacred because it is associated with the deaths of their compatriots in the days of obtaining independence and with hardships in the country's economic and political development in the following years. The monument of independence and the square where it is located are a place of worship, which symbolize the memory of Kazakhstan obtaining its independence 20 years ago. The square is also a busy recreational area, where the citizens of Almaty spend weekends with their families and children. Infringements of public order in this square in the form of a public demonstration of lingerie, attempts to lay it on the monument of independence, molesting passers-by and imposing on them one's personal opinion may be interpreted as profaning the sacred memory in a public place and may provoke active reprobation and protest. The State party further notes that demonstration of lingerie in a public space insults the feelings of believers and is perceived in a highly negative manner by adherents of all religious movements existing on its territory, some of whom may have been present in the square during the author's performance. Finally, the State party maintains that a public demonstration of women's pants can have a negative impact on children's mental health. On the day of the author's performance, many citizens were in the square with their families and children. The State party concludes that the author's provocative actions could have led to mass disturbances of public order, threatened the health and security of the author herself and of other individuals, and caused serious damage to public security. The State party notes that individuals who exercise their freedom of opinion and assembly have to assume certain responsibilities and that disrespect may result in serious consequences, such as mass disturbances, the disruption of transport infrastructure and other antisocial activities. Those are the reasons behind the administrative liability for infringing public order. By interrupting the author's illegal activities in a timely manner, the police prevented such grave consequences.

4.6 The State party submits that the author's claim that she did not commit an illegal action was examined and rejected by domestic courts, which concluded that she was subjected to law enforcement action for infringement of public order, rather than for free expression of her opinions.

4.7 The State party notes that the author's actions were qualified as petty hooliganism and were unrelated to the Law on the Modalities of Organization and Holding Peaceful Assemblies, Meetings, Street Processions, Pickets and Demonstrations in the Republic of Kazakhstan.

4.8 The State party submits that the author's allegations that her right to a fair trial was violated because she was not provided with a counsel and because the appellate hearing took place in her absence have been verified and found unsubstantiated. The State party notes that the author did not request counsel either at the moment when the administrative offence report was being drawn up or in the courtroom. Not requesting counsel is the author's right

and does not prevent further judicial proceedings. The State party further submits that, according to article 584.2 of the Code of Administrative Offences, proceedings related to administrative offences can take place in the absence of the offender, provided that he or she was duly notified of the place and time of the hearing and did not request that the hearing be adjourned. The author was duly notified about the hearing and did not request its adjournment, which is why the court lawfully decided to examine the complaint in her absence. The administrative fine imposed on the author was calculated according to article 330.1 of the Code of Administrative Offences.

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

5.1 In her comments of 2 April 2015, the author submits that she has exhausted all domestic remedies. She notes that, notwithstanding the fact that requests for prosecutorial control are not an effective remedy, she applied to the Almaty Prosecutor's Office and to the General Prosecutor's Office of Kazakhstan. The author finds unconvincing the State party's argument that she should have submitted another application directly to the General Prosecutor of Kazakhstan.

5.2 The author submits that the State party failed to demonstrate the reasons for restricting her rights to freedom of expression and to peaceful assembly and for holding her administratively liable. She maintains that her actions did not pose any risk to the State or to public order.

5.3 The author submits that her acts were a protest against the devaluation of the national currency and the prohibition of sales of lace pants in the territory of the Eurasian Customs Union. Her actions were an allegory: giving away her last piece of clothing, her undergarments, symbolized giving away one's last possession. She stated in front of journalists that the Government had stolen 20 per cent of the income of the population and was now deciding what pants women should wear. The author does not believe that these words were offensive to other people. What was offensive was the way the authorities treated the citizens and herself.

5.4 The author submits that the State party misinterpreted her actions. She was not attempting to lay the pants on the monument of independence. She wanted to put them into a hand engraved in a bronze book under the monument. The book does not symbolize the independence of Kazakhstan, so she could not offend the feelings of her compatriots by her action. The author further submits that on the day of her performance, the square was encircled by the police because a spontaneous meeting against the currency devaluation had taken place there the previous day. The State party is deliberately misleading the Committee by claiming that the square was filled with people and her actions could have damaged children's mental health or the feelings of believers. There was no one in the square apart from policemen and journalists, whom she had informed about the performance the previous evening.

5.5 The author claims that her actions could not undermine public security, cause material damage or lead to mass disturbances. She was unarmed and did not call for violent demonstrations or meetings. She did not interfere with public transport, did not molest passers-by and did not use obscene language. Her actions could not therefore be qualified as petty hooliganism under article 330 of the Code of Administrative Offences. The author is convinced that she was held administratively liable because she held a spontaneous demonstration which had not been authorized by the authorities.

5.6 The author submits that she was tried in a closed hearing,<sup>4</sup> whereas according to the law court hearings are held in public. She requested that the court examine a video recording of her actions but the court rejected her demand, even though the video recording was the only proof of her innocence. The administrative offence report does not reflect the reality because she did not use obscene language, did not harass passers-by and did not commit any of the other actions of which she was accused.

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<sup>4</sup> However, in her appeal to the Almaty city court of 25 February 2014, the author stated: "Despite the court hearing being open, my representatives, observers, media were not allowed into the courtroom".

5.7 The author reiterates that the State party's judicial instances adopted an accusatory approach and did not take into account her arguments, thereby violating her right to a fair trial guaranteed by article 14 of the Covenant.

#### **State party's additional observations**

6. In its submissions of 30 July 2015 and 4 December 2015, the State party informed the Committee that it had provided all available information and arguments in relation to the communication and reiterated that there had been no violations of the provisions of the Covenant and that the complaint was inadmissible.

#### **Author's comments on the State party's additional observations**

7.1 In her comments of 14 September 2015, the author noted that the fact that the State party had provided no further observations meant that it did not wish to examine the merits of her allegations.

7.2 The author states that the situation of freedom of assembly in Kazakhstan is "very sad" and refers in this respect to the report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association following his visit to the State party in 2015.

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

##### *Consideration of admissibility*

8.1 Before considering any claims 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 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.

8.3 The Committee notes the State party's argument that the author failed to file a supervisory review appeal directly to the General Prosecutor of Kazakhstan. The Committee recalls its jurisprudence, according to which a petition to a prosecutor's office requesting a review of court decisions that have entered into force and depending on the discretionary power of a prosecutor, constitutes an extraordinary remedy and 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.<sup>5</sup> The Committee notes that on 5 May 2014, the author submitted a request to initiate supervisory review proceedings to the General Prosecutor's Office, which was denied on 14 July 2014 by the Deputy Prosecutor General. The Committee considers that the State party has not demonstrated that a further petition for supervisory review to the Prosecutor General would have been an effective remedy in her case. Accordingly, the author's failure to lodge such a petition does not preclude the Committee, under article 5 (2) (b) of the Optional Protocol, from examining the present communication.

8.4 The Committee notes the author's claim that her rights under article 14 (1) of the Covenant were violated because her representatives, the media and observers were not allowed into the courtroom during her trial. The Committee considers however that the author's general claim and the information contained in the case file do not allow the Committee to reach a conclusion on this allegation. Accordingly, the Committee declares this part of the communication insufficiently substantiated and inadmissible under article 2 of the Optional Protocol.

8.5 The Committee notes the author's claims under article 14 because of the bias and accusatory approach of the first tier court, its ignorance of her legal arguments and its refusal to examine available evidence, because of the failure of the appellate court to duly notify her of the time and place of the hearing and because of the failure by both courts to take into

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<sup>5</sup> See *Suleymenova v. Kazakhstan* (CCPR/C/126/D/2416/2014), para. 8.3; *Toregozhina v. Kazakhstan* (CCPR/C/126/D/2311/2013), para. 7.3; *Insenova v. Kazakhstan* (CCPR/C/126/D/2542/2015-2543/2015), para. 8.3.

account the relevant provisions of municipal law and of the Covenant. The Committee observes, however, that none of these claims appear to have been raised before the domestic proceedings. The Committee therefore declares these claims inadmissible pursuant to article 5 (2) (b) of the Optional Protocol.

8.6 The Committee notes that the author has not provided any clarification of her claims under article 14 (3) (g) of the Covenant. It thus finds this claim unsubstantiated and inadmissible under article 3 of the Optional Protocol.

8.7 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 the courtroom. In light of the information before it, the Committee considers that the author has failed to sufficiently substantiate this claim for the purpose of admissibility and declares it inadmissible under article 2 of the Optional Protocol.

8.8 With regard to the author's allegation that national courts wrongly applied national legislation, the Committee recalls that it is generally for national organs to assess facts and evidence, and to apply domestic legislation, unless such assessment or application was clearly arbitrary or amounted to a denial of justice.<sup>6</sup> In the present case, the Committee observes that the author has not provided any evidence that domestic legislation was applied in a way that was clearly arbitrary or amounted to a denial of justice. The Committee therefore considers that the author has failed to sufficiently substantiate this claim for the purposes of admissibility and declares this part of the communication inadmissible under article 2 of the Optional Protocol.

8.9 Nevertheless, the Committee considers that the author has sufficiently substantiated, for the purposes of admissibility, her claims under articles 19 and 21 of the Covenant. Accordingly, it declares this part of the communication admissible and proceeds with its consideration 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 required under article 5 (1) of the Optional Protocol.

9.2 The Committee notes the author's claim that the State party has violated her right to freedom of expression and her right to peaceful assembly under articles 19 (2) and 21 of the Covenant by arresting her while she was participating in a peaceful artistic performance and by imposing on her an administrative fine. The Committee notes that the author does not consider the restrictions imposed on her rights to be necessary and to fall within the permissible restrictions enshrined in articles 19 (3) and 21 of the Covenant. The Committee further notes that the State party acknowledges that the author's rights under articles 19 and 21 Covenant have been restricted but considers that the imposed restrictions are compatible with the Covenant.

9.3 The Committee refers to its general comment No. 34 (2011) on the freedoms of opinion and expression, according to which freedom of opinion and freedom of expression are indispensable conditions for the full development of the person. They are essential for any society and constitute the foundation stone of every free and democratic society (para. 2). The scope of article 19 (2) embraces even expressions that may be regarded as deeply offensive (para. 11). According to article 19 (3), freedom of expression can be subject to certain restrictions but only those which are provided by law and are necessary: (a) for respect for the rights or reputations of others; or (b) for the protection of national security or of public order (*ordre public*), or of public health or morals. The Committee recalls that when a State party invokes a legitimate ground for restriction of freedom of expression, it must demonstrate in a specific and individualized fashion the precise nature of the threat and the

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<sup>6</sup> See, inter alia, *Simms v. Jamaica* (CCPR/C/53/D/541/1993), para. 6.2; *Arutyunyan v. Uzbekistan* (CCPR/C/80/D/917/2000), para. 5.7.

necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat (para. 35).

9.4 The Committee takes note of the State party's claim that the author was convicted for expressing disrespect to people around her, infringing public order and disturbing citizens' tranquillity by publicly demonstrating women's lingerie and attempting to lay it on the monument of independence. The Committee takes note of the State party's explanations about the sacred meaning of the monument of independence for its citizens, about the negative attitude of its religious movements to public demonstration of lingerie and about the possible negative impact of such demonstration on children's mental health. The Committee further takes note of the State party's argument that the author's arrest helped to prevent mass disturbances. The Committee considers, however, that the State party has failed to explain how, in the particular circumstances of the case, the author's actions were endangering the rights or reputations of others, national security, public order (*ordre public*), public health or morals. The State party has also failed to explain how the restriction of the author's rights was proportional to the potential threat, or that it was the least restrictive measure. In the absence of such an explanation, the Committee finds that the State party has failed to justify that the author's arrest and sanction was necessary and proportionate to the legitimate aim pursued, as set out in article 19 (3) of the Covenant. It therefore concludes that the author's rights under article 19 (2) of the Covenant have been violated.

9.5 As for the author's allegations under article 21 of the Covenant, the Committee recalls that the right to peaceful assembly 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.<sup>7</sup> No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are 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. When a State party imposes restrictions with the aim of reconciling an individual's right of peaceful assembly and the aforementioned interests of general concern, it should be guided by the objective of facilitating the right, rather than seeking unnecessary or disproportionate limitations to it.<sup>8</sup> The State party is thus under an obligation to justify the limitation of the right protected by article 21 of the Covenant, and to demonstrate that it does not serve as a disproportionate obstacle to the exercise of that right.<sup>9</sup>

9.6 The Committee notes the State party's observation that the square in which the author organized the artistic performance is a busy recreational area where citizens of Almaty spend weekends with their families and children. According to the State party's explanation, the author's public demonstration of lingerie, attempts to lay it on the monument of independence, molesting passers-by and imposing on them her personal opinion may be interpreted as profaning sacred memory in a public place and may provoke active reprobation and protest, and also can have a negative impact on children's mental health. The Committee, however, notes that while peaceful assemblies can sometimes be used to pursue ideas or goals that are contentious and their scale or nature can cause disruption, for example of vehicular or pedestrian movement or economic activity, this has to be tolerated, unless it imposes a disproportionate burden. It further notes the author's submission that, on the day of her performance, there was no one in the square but policemen and journalists, whom she had informed about the performance on the previous evening. In the light of that submission, the Committee considers that the State party has failed to demonstrate sufficiently that the restriction on her performance and the sanction imposed on her were really necessary for and proportionate to the interests of public order and the protection of the rights and freedom of others. Accordingly, the Committee concludes that the facts before it disclose a violation of the author's rights under article 21 of the Covenant.

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<sup>7</sup> *Korol v. Belarus* (CCPR/C/117/D/2089/2011), para. 7.5; and *Insenova v. Kazakhstan*, para 9.5.

<sup>8</sup> *Korol v. Belarus*, para. 7.5; *Insenova v. Kazakhstan*, para 9.5; and *Toregozhina v. Kazakhstan*, para. 8.4.

<sup>9</sup> *Poplavny v. Belarus* (CCPR/C/115/D/2019/2010), para. 8.4; and *Insenova v. Kazakhstan*, para 9.5.



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 the author's rights under articles 19 (2) 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. That requires it to make full reparation to individuals whose Covenant rights have been violated. Accordingly, the State party is obligated, *inter alia*, to provide the author with adequate compensation, including reimbursement for any legal costs incurred by her. The State party is also under an obligation to take all the steps necessary to prevent similar violations from occurring in the future. In that connection, the Committee reiterates that the State party should review its legislation with a view to ensuring that the rights under articles 19 and 21 of the Covenant, including the right to organize and conduct peaceful, including spontaneous, 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 to have them widely disseminated in the official languages of the State party.

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