



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. 2825/2016* **

<i>Communication submitted by:</i>	Jean Emmanuel Kandem Foubi (represented by counsel, William Woll)
<i>Alleged victim:</i>	The author
<i>State party:</i>	Cameroon
<i>Date of communication:</i>	5 February 2016 (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 10 November 2016 (not issued in document form)
<i>Date of adoption of Views:</i>	13 July 2022
<i>Subject matter:</i>	Criminal proceedings for fraud; arbitrary arrest and detention
<i>Procedural issues:</i>	Abuse of rights; exhaustion of domestic remedies; non-substantiation of claims
<i>Substantive issues:</i>	Right to an effective remedy; cruel, inhuman or degrading treatment or punishment; arbitrary detention; imprisonment for non-fulfilment of a contractual obligation; arbitrary interference with family life
<i>Articles of the Covenant:</i>	2 (3) (a), 7, 9, 10, 11, 12, 14 (1), (3) and (5) and 17
<i>Articles of the Optional Protocol:</i>	2, 3 and 5 (2)

1.1 The author of the communication is Jean Emmanuel Kandem Foubi, a national of France born on 17 January 1970 in Mbo-Bandjoun, Cameroon. He claims that the State party has violated his rights under articles 7, 9, 10, 11, 12, 14 and 17 of the Covenant, read

* Adopted by the Committee at its 135th session (27 June–27 July 2022).

** The following members of the Committee participated in the examination of the communication: Tania María Abdo Rocholl, Wafaa Ashraf Moharram Bassim, Yadh Ben Achour, Arif Bulkan, Mahjoub El Haiba, Furuya Shuichi, Carlos Gómez Martínez, Marcia V.J. Kran, Duncan Laki Muhumuza, Photini Pazartzis, Hernán Quezada Cabrera, Vasilka Sancin, José Manuel Santos Pais, Soh Changrok, Kobauyah Tchamdja Kpatcha, Imeru Tamerat Yigezu and Gentian Zyberi. Pursuant to rule 108 of the Committee's rules of procedure, Hélène Tigroudja did not participate in the examination of the communication.



separately and in conjunction with article 2 (3) (a). The Optional Protocol entered into force for the State party on 27 September 1984. The author is represented by counsel.

1.2 On 28 October 2014, at its 112th session, the Committee considered the admissibility of a communication from the author dated 18 November 2013, which related to the same facts, and found it inadmissible. Insofar as that communication raised issues relating to articles 1, 2, 4, 5, 6, 7, 9, 10, 11, 12, 14 and 15 of the Covenant, the Committee concluded that: (a) domestic remedies had not been exhausted in respect of the alleged violations of article 9 (1) and (4) of the Covenant, which concerned the allegedly unlawful and arbitrary arrest, police custody and detention that the author claims to have been subjected to, article 14 (3) (c), which concerned the excessive length of habeas corpus proceedings before the national courts, and articles 7 and 10, which concerned the inhuman conditions he endured while in police custody; (b) the author had failed to sufficiently substantiate his claim that, because the authorities had refused to allow him access to adequate medical care, causing his health to deteriorate, he had been subjected to inhuman treatment, in violation of articles 7 and 10 of the Covenant; (c) his allegations of violations under articles 11 and 12 of the Covenant, in the author's belief that he was imprisoned for breach of contract, and his claim regarding the protection of his intellectual property rights, were incompatible *ratione materiae* with the rights enshrined in the Covenant; and (d) his allegations of violations of articles 1, 2, 4 (2), 5 (2), 6, 14 (1) and (2) and 15 (1) were not sufficiently substantiated. For more information on the facts, the complaint, the parties' observations on the admissibility of that communication, and the issues and proceedings before the Committee in that instance, see the Committee's decision to find it inadmissible.¹

Facts as submitted by the author²

2.1 Between March 2006 and December 2007, the author worked on an idea for a new kind of money transfer service, called Transfert Services, which was a different kind of tool for transferring money based on an integrated information technology platform that linked local businesses. Transfert Services allowed persons from developing countries residing in Western countries to respond directly to the needs of their loved ones by giving them access to goods and services through the platform. Between 2008 and 2009, the author created the start-up Hope Finance in order to develop the platform, which, until 2010, had been aimed at diaspora communities.

2.2 Like other African States, the State party showed an interest in this invention and, on 22 July 2011, signed a contract with the author's company to provide for the establishment of a public service concession once the platform had been launched in Cameroon. This contract would have provided the author with revenue amounting to several hundred million euros.

2.3 In late April 2013, at the official invitation of the Minister of Economic Affairs of Cameroon, the author travelled to Cameroon to negotiate the terms of the contract. After several days of negotiations, the parties failed to reach agreement and on 8 May 2013 decided to meet again at a later date. On 9 May 2013, the author went to the airport to return home to France. At the airport, the Cameroonian police confiscated his passport just before boarding and instructed him to report to the police station in Douala the next day.

2.4 On 10 May 2013, the author was taken into custody at the police station. He was informed that some businessmen, including the deputy executive director of his own company, were coming from Europe to file a complaint of fraud against him. Five complaints were filed against him by his business associates. After spending 12 days in police custody, the author was placed in detention for fraud on the basis of four remand warrants issued in connection with the complaints. In two judgments, handed down on 26 March and 2 May

¹ *Foumbi v. Cameroon* (CCPR/C/112/D/2325/2013).

² The facts have not been fully reproduced in these Views. To the extent necessary, however, reference is made to them to establish a link with the events that occurred subsequent to the inadmissibility decision made by the Committee in 2014.

2014 by the same single judge³ of the Douala-Bonanjio Court of First Instance, the author was sentenced to 18 and 24 months' imprisonment, respectively, for fraud. The complainant in the first trial appeared as a witness for the prosecution in the second trial. The author filed appeals against both judgments, which are still pending. The other three complaints against the author were not dealt with by the courts, although two remand warrants were issued in connection with them.

2.5 On 18 July 2013, the author filed a habeas corpus petition in which he challenged his arrest, remand in police custody and detention, all of which he considered unlawful. In a decision dated 18 September 2013, the Wouri *Tribunal de Grande Instance* (court of major jurisdiction) rejected the petition, stating that the author had been arrested and remanded in police custody in accordance with the relevant regulations, that he had been in custody for 72 hours, including the extension signed by the public prosecutor, and that pretrial detention was justified because he was being prosecuted and did not have an address in Cameroon. On 8 November 2013, the Court of Appeal rejected the author's appeal on the grounds that his immediate release could have been ordered if his detention had been based solely on the remand warrant of 27 June 2013, issued by the investigating judge of the Wouri *Tribunal de Grande Instance*, as this warrant did not specify the duration of its validity and was not followed by an order justifying the decision to place him in pretrial detention. The Court pointed out, however, that the author was also the subject of a remand warrant lawfully issued by the public prosecutor attached to the Douala-Bonanjio Court of First Instance. On 16 July 2015, the Supreme Court rejected the appeal on points of law lodged by the author.

2.6 At 10 p.m. on Friday, 13 February 2015, after the author had spent 23 months in prison, the director of Douala Central Prison visited him and informed him that he was being released there and then. The release bulletin of 16 February 2015 states that he was released because he had served his sentence, but the author claims that he was allowed to return to France because the highest French authorities – both diplomatic and political – had intervened on his behalf.⁴

Complaint

3.1 The author alleges violations of articles 7, 9, 10, 11, 12, 14 and 17 of the Covenant, read separately and in conjunction with article 2 (3) (a).

3.2 The author states that the harsh conditions of his detention and their impact on his health constitute a violation of articles 7 and 10 of the Covenant. He adds that today, in France, he continues to suffer from reduced mobility and an almost total loss of sight in his right eye.

3.3 The author notes that he was in police custody for 12 days (from 10 to 22 May 2013), in violation of article 9 (1) of the Covenant, as national law provides that such custody may last no longer than 6 days. Moreover, he was arrested and detained solely to appropriate his invention, making the arrest and detention arbitrary.

3.4 The author claims that his habeas corpus petition was not considered until 18 September 2013 – that is, four months after his arrest on 10 May 2013. As the lawfulness of his detention was not reviewed “without delay” by a judge, article 9 (4) of the Covenant was violated.

3.5 The author invokes article 11 of the Covenant to explain that, even if third parties were actually owed money, this situation should never have resulted in imprisonment. In fact, the author was convicted on the orders of the executive authorities of Cameroon to allow the State party to “steal his invention”.

3.6 With regard to article 12 (2) of the Covenant, the author argues that he could not leave Cameroon to return to his home in France because he was in detention.

³ On 6 May 2014, the author submitted a complaint to the Ministry of Justice about the judge's lack of impartiality. However, he claims that his request for judges to be required to act impartially was ignored.

⁴ The author believes that the State party's failure to ask the French authorities to have him complete his sentence in a French prison is evidence of his innocence.

3.7 The author considers that article 14 (1) of the Covenant was violated twice, as the court that heard the two complaints against him lacked impartiality and the two judgments were arbitrary. Firstly, the author recalls that the same judge sentenced him in both cases and would therefore have been prejudiced against him when ruling on the second case. Secondly, he recalls that, according to the jurisprudence of the Committee, the Committee considers itself competent to consider cases in which domestic law has clearly been arbitrarily or erroneously applied.⁵ According to the author, the complaint filed against him that was adjudicated on 26 March 2014 involved a misapplication of national law, while the second complaint, adjudicated on 2 May 2014, concerned an accusation of non-payment brought against a company that has nothing to do with the author. The author objects to the appearance of the complainant in the first trial as a witness in the second trial. In addition, he notes that the single judge who considered the two complaints against him was promoted on 18 December 2014 and is now the public prosecutor of Douala. He concludes that both convictions were arbitrary and constituted a violation of article 14 (1) of the Covenant.

3.8 Citing article 14 (3) and (5) of the Covenant and noting that his appeals against his two convictions have not yet been resolved, the author claims that his right to be tried by a higher tribunal without undue delay has been violated.

3.9 The author contends that when the Cameroonian authorities arrested and convicted him for fraud without any evidence, they destroyed his reputation and image in the business world, the media and online,⁶ in violation of article 17 of the Covenant.

3.10 With regard to article 2 (3) (a) of the Covenant, the author alleges that the Cameroonian judges ignored his references to the relevant articles of the Covenant and that Cameroonian law does not provide for any effective means of obtaining appropriate compensation⁷ for violations of Covenant rights. Therefore, the author is of the view that there was a violation of article 2 (3) (a) of the Covenant, read in conjunction with articles 7, 9, 10, 11, 12, 14 and 17.

State party's observations

4.1 On 4 July 2017, the State party first clarified some of the facts. The legal proceedings against the author were initiated by individuals who knew him and complained about what they called his fraudulent practices in their business relationships. According to the State party, he used a well-planned modus operandi to obtain equity in a fictitiously constituted and fraudulently dissolved company that never did business and then employed a bond lending strategy to swindle his victims out of more than €1.37 million.

4.2 Next, the State party claims that the communication is inadmissible because the author has abused the right of submission and failed to exhaust domestic remedies. The facts of the present communication are the same as those considered by the Committee in communication No. 2325/2013, which was found inadmissible on 28 October 2014. The State party notes that some claims have been removed, while others have been added, but that the author does not explain why he did not make the additional claims in the previous communication. Moreover, it is apparent from the new communication that the author is attempting to manipulate and mislead the Committee, as he is trying to distort the facts and has deliberately omitted information on the developments in the various proceedings brought against him before the Cameroonian courts.

4.3 The author is distorting the facts in a bid to present them in a political light and create the impression that he is being subjected to political persecution. He is also omitting essential information. The author claims to have been surprised when his passport was confiscated at the airport on 9 May 2013. However, the first complaint against him had actually been filed on 9 December 2012 at the Judicial Police Department of the Littoral Region in Douala and

⁵ *Manzano et al. v. Colombia* (CCPR/C/98/D/1616/2007), para. 6.4, and *L.D.L.P. v. Spain* (CCPR/C/102/D/1622/2007), para. 6.3.

⁶ The author provides two press articles about the charges against him.

⁷ The author estimates that he should receive financial compensation in the amount of €339 million taking into account the profits expected from the public service concession contract and the State party's own estimates.

several summonses were sent to him, some of which were served by a bailiff. The author did not comply with the police summons. When the public prosecutor was informed of this failure to comply, he issued a warrant for the author on 12 March 2013. On 9 May 2013, at the airport, the author was prevented from boarding his flight on the basis of this warrant.

4.4 The author insists that he was released because he is a French national but fails to mention that, after he had filed an appeal against the judgment of 2 May 2014, he submitted a request for release on the grounds that his health was so poor that he had to be urgently evacuated to Paris for treatment. On 13 February 2015, the Littoral Region Court of Appeal granted his request for release. Other courts with proceedings pending against him also granted his requests for release in order to safeguard his health.⁸ As a result, the author was evacuated to France so that he could receive the appropriate treatment. He has therefore exercised available and effective remedies.

4.5 The State party contends that the author's insistence that the Cameroonian courts will never consider his appeals against the decisions to convict him. In his initial communication of 5 February 2016, however, he failed to inform the Committee that, on 2 February 2016, in the appeal proceedings against the judgment of 26 March 2014, the Littoral Region Court of Appeal had upheld his conviction and sentenced him to 6 years' imprisonment. While the author claims that no decision has been taken in respect of the three other complaints against him, the State party notes that, in two of these proceedings, the investigation was closed and the author was referred to the Wouri *Tribunal de Grande Instance* in accordance with an order issued on 21 October 2013. On 1 September 2016, the Wouri *Tribunal de Grande Instance* found the author guilty of aggravated fraud and falsification of private business documents and sentenced him to 20 years in prison.⁹ The third complaint is pending before the Wouri court.

4.6 In connection with the failure to exhaust domestic remedies, the State party claims that the author did not exercise any remedy against the judgment of 2 February 2016 of the Littoral Region Court of Appeal. The State party also considers that the author has not provided any new evidence that he did not cite in his previous communication to support his allegations of violations of articles 7, 10, 11 and 12 of the Covenant.

4.7 The State party, referring to the admissibility of the author's allegations of a violation of article 14 of the Covenant, draws attention to the information on the progress made in the proceedings, which contradicts the claims of a lack of progress that form the basis of the author's request to be exempted from the requirement to exhaust domestic remedies. Even when a case has stagnated, the administrative courts may be called on to examine alleged failures of the judicial services as part of an action for damages.

4.8 The author does not state what domestic remedy he has pursued that would render admissible his claim of a violation of article 17 on the grounds that information denigrating his honour and dignity has been published in the media. Nevertheless, at least two effective legal remedies are available: criminal proceedings in the form of a libel action brought under article 305 of the Criminal Code and civil proceedings in the form of a civil liability action brought under articles 1382 et seq. of the Civil Code. Furthermore, a right of reply may be exercised under article 57 of the Freedom of Social Communication Act (No. 90/52 of 19 December 1990).

4.9 With regard to the merits, the State party begins by evoking the author's allegation that more than four months passed between what he refers to as his arrest on 10 May 2013 and the consideration of his petition for immediate release on 18 September 2013. In fact, it was not until 17 July 2013 that the first petition for immediate release was sent to the President of the Wouri *Tribunal de Grande Instance*. When the petition was received, it was registered immediately, on 31 July 2013. After two justifiable postponements, a decision was issued on 18 September 2013. On that date, the author appealed against the decision. The Court of Appeal upheld the decision on 8 November 2013. As the domestic courts exercised

⁸ See the judgments of the Wouri *Tribunal de Grande Instance* of 13 and 16 February 2015.

⁹ The author produced a copy of the judgment with his comments of 14 August 2020. The State party claims that the case was considered and that a judgment was issued on 18 August 2016. However, it has not submitted a copy.

due diligence in examining his petition, the allegation of a violation of article 9 (4) of the Covenant is unfounded.

4.10 With regard to the allegation that article 14 (1) of the Covenant was violated because of the partiality of the judge of the Douala-Bonanjio Court of First Instance, who handed down the author's two convictions on 26 March and 2 May 2014, the State party notes that the second case was registered on 21 April 2014 and that the author's lawyers were present at the hearing. At the committal hearing on 25 April 2014, the case was adjourned until 2 May 2014 for the issuance of a decision. The author refers to a request for the judge to recuse himself submitted to the Court of Appeal on 30 April 2014,¹⁰ after the case had been adjourned. The State party points out that, in order for such a request to be honoured, the judge concerned must be informed of it. The author does not state what steps were taken in this regard. In addition, judges are required to put their decisions in writing before they are handed down. The judge who issued the decision on 2 May 2014 cannot be accused of violating the obligation to act impartially, as he was unaware that a request for him to recuse himself had been filed.

4.11 With regard to the author's claim of a violation of his right, enshrined in article 14 (5) of the Covenant, to have his case reviewed by a higher tribunal, the State party recalls that the appeals against the judgments of 26 March and 2 May 2014 were adjudicated on 2 February and 2 August 2016,¹¹ respectively.

4.12 In connection with the author's allegation of a violation of article 9 (1) of the Covenant on the grounds that he was in police custody for 12 days instead of the maximum of 6 days provided for by law, the State party notes that, on 10 May 2013, the author was placed in police custody for an initial period after the first complaint had been filed against him. This period was duly extended until 16 May. Brought before the public prosecutor on 17 May, the author was held in police custody for further periods in connection with new complaints brought against him by two other individuals on 10 and 14 May 2013 and was taken back to the police unit responsible so that further investigations could be conducted. He was subsequently referred to the public prosecutor on 22 May 2013. Therefore, his placement in police custody did not violate the rules set out in article 19 of the Code of Criminal Procedure.

4.13 Finally, the State party rejects the author's other allegations as unfounded. With regard to the claim of a violation of article 2 (3) (a) of the Covenant, the State party notes that the author successfully pursued a number of remedies, including those that led to his release.

Author's comments on the State party's observations

5.1 On 14 August 2020, the author submitted comments on the State party's observations. He stresses that the new evidence produced by the State party, either directly or indirectly, is false and that the allegations that it makes, which are not supported by any evidence and do not correspond to the facts described in the communication, are untrue.

5.2 The author states that the supposed judgment of 13 February 2015 ordering his provisional release is invalid for the following reasons: his two lawyers are not mentioned in it; it is inconsistent, as the court ordered the author's release in connection with the claim filed by the individual who submitted the original complaint; and the judgment specifies that his release was to be ordered on health grounds, whereas the release bulletin states that he had served his sentence. The author is of the view, for the following reasons, that the judgment of 1 September 2016 is also fraudulent: the State party refers to a judgment of 18 August 2016, whereas the judgment of the *Wouri Tribunal de Grande Instance* is dated 1 September 2016; the State party did not produce a copy of the judgment with its observations; the author did not receive a summons for this trial; and the judgment contains a series of inconsistencies. On 15 June 2020, the author's lawyer sent a letter to the Minister of Justice requesting that, in the interests of justice, he refer the matter to the Prosecutor General of the Supreme Court so that the judgment of 1 September 2016 could be annulled.

¹⁰ The State party recalls that 1 May is not a working day in Cameroon.

¹¹ On 2 August 2016, the Littoral Region Court of Appeal admitted the appeal against the decision of 2 May 2014 and, in another ruling, declared the prosecution to be time-barred.

5.3 The author submits that the documents produced by the State party¹² in connection with a complaint allegedly filed against him on 9 December 2012 are material or intellectual forgeries since, if he had been duly summonsed, he would have immediately engaged a lawyer to represent him, as he lived in France and would not have travelled to Cameroon, having no illusions about the independence of the country's legal system.

5.4 The author then provides the following corrections to a number of inaccurate statements made by the State party, asserting that: (a) no judgment was issued on 2 February 2016;¹³ (b) the Wouri *Tribunal de Grande Instance* did not issue a judgment ordering that he be released on health grounds on 13 and 16 February 2015, as the release bulletin clearly states that he was released because he had served his sentence; and (c) the same court did not issue a judgment on 18 August 2016 sentencing him to 20 years' imprisonment since, if it had, the author would have been duly summonsed beforehand so that he could be represented.

5.5 With regard to admissibility, the author contests the claim that he is abusing the right of submission and explains why his previous communication was found inadmissible. He then explains that no judgment was issued on 2 February 2016 and that his appeal against the decision of 26 March 2014 is still pending, even though these criminal proceedings against him were initiated on 9 May 2013 (i.e., more than seven years earlier). The author does not challenge the judgment issued by the Littoral Region Court of Appeal on 2 August 2016 in connection with a second criminal complaint against him but argues that no progress has been made in the other three complaints. He therefore reiterates that the procedural delays are unreasonable and refers to the arguments on the merits of the case that he had set out in his initial communication.

Issues and proceedings before the Committee

Consideration of admissibility

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

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

6.3 The Committee notes the State party's claim that the present communication constitutes an abuse of the right of submission and should be found inadmissible, as it concerns the same facts as those considered by the Committee in communication No. 2325/2013, which was found inadmissible on 28 October 2014. The Committee also notes the State party's claim that domestic remedies have not been exhausted since the author has not appealed against the judgment of 2 February 2016 of the Littoral Region Court of Appeal.

6.4 With regard to the alleged abuse of the right of submission of a communication, within the meaning of article 3 of the Optional Protocol, the Committee notes that the present communication is largely based on the same facts as communication No. 2325/2013. For example, the author again invokes articles 7 and 10 to complain about the difficult conditions of his detention and their impact on his health, even though in his previous communication, the Committee had found his claims under articles 7 and 10 inadmissible for failure to exhaust domestic remedies – in this case, in relation to the conditions he was subjected to while in police custody. The Committee had declared inadmissible his claims concerning the

¹² Record of the statement made on 9 December 2012 by a person who filed a complaint against the author at the Judicial Police Department of the Littoral Region; acknowledgement of receipt by an associate of the authors of a summons addressed to the author and notification of summonses issued on 14 and 25 January 2013; and police report of 28 February 2013 noting the author's failure to respond to summonses.

¹³ Between 6 and 11 July 2020, the author obtained an extract of the record of the hearings held between 13 February 2015 and 2 June 2020 from the registry of the Littoral Region Court of Appeal. According to this extract, no hearing took place on 2 February 2016, which indicates that the appeal against the judgment of 26 March 2014 was still pending.

deterioration of his health in prison,¹⁴ as they had not been sufficiently substantiated. Furthermore, in the present communication, as in the previous one, the author complained that he had been imprisoned for breach of contract and that he had not been allowed to return freely to France, in violation of his rights under articles 11 and 12 of the Covenant, although in his previous communication¹⁵ these claims had already been found inadmissible for their incompatibility *ratione materiae* with the Covenant. In the present communication, the author again alleges a violation of articles 7, 10, 11 and 12 of the Covenant but does not specify how his new claims differ from those submitted previously. The Committee is therefore of the view that the author, by bringing claims before the Committee that have already been declared inadmissible without explaining how they differ from the previous claims or providing a reason for having thus proceeded, is abusing the right of submission and declares the author's claims under articles 7, 10, 11 and 12 of the Covenant inadmissible under article 3 of the Optional Protocol.¹⁶

6.5 With regard to the claim that the author has failed to exhaust domestic remedies, as he has not appealed against the judgment of 2 February 2016 of the Littoral Region Court of Appeal, the Committee notes that the author contests the existence of this judgment and has evidence that supports the claim that no hearing took place before the Court of Appeal on 2 February 2016 and that the appeal against the judgment of 26 March 2014 is still pending. The State party, for its part, refers to the judgment but has not submitted a copy of it. The Committee recalls its jurisprudence according to which the burden of proof should not rest solely on the author of a communication, especially given that the author and the State party do not always have the same degree of access to evidence and that often only the State party is in possession of the necessary information.¹⁷ In the absence of any explanations from the State party in this respect, due weight must be given to the author's allegations, provided that they have been sufficiently substantiated. Accordingly, the Committee finds that article 5 (2) (b) of the Optional Protocol does not constitute an obstacle to the admissibility of the communication.

6.6 The Committee notes the author's claim that he was in police custody for 12 days (from 10 to 22 May 2013) instead of the maximum of 6 days provided for by national law, in violation of article 9 (1) of the Covenant. Moreover, he was arrested and detained solely to appropriate his invention, making the arrest and detention arbitrary. The author also claims that his habeas corpus petition was not considered until 18 September 2013 – that is, four months after his arrest on 10 May 2013 – in violation of his right under article 9 (4) of the Covenant to have the lawfulness of his detention determined by a court without delay. In this regard, the Committee notes that in its decision dated 18 November 2013, in which it had found the author's communication inadmissible, it had considered that the author had not fulfilled his obligation to exhaust domestic remedies and found the alleged violations of articles 9 (1) and (4) of the Covenant inadmissible, as the Supreme Court had not yet ruled on the appeal on points of law lodged by the author against the decision of 8 November 2013 of the Court of Appeal.¹⁸ In the meantime, on 16 July 2015, the Supreme Court rejected the appeal on points of law lodged by the author.

6.7 The Committee notes the State party's explanation that the author's initial period in police custody, which had begun on 10 May 2013, was extended until 16 May 2013 and that, when the author was referred to the public prosecutor on 17 May 2013, he was subjected to further measures of police custody in connection with new complaints brought against him by two other individuals. He was returned to the police so that further investigations could be conducted and was subsequently referred to the public prosecutor on 22 May 2013. The State party then explains that, although the author was arrested on 10 May 2013, he did not file a petition for immediate release until 17 July 2013. This petition was registered on 31 July 2013 and, after two justifiable postponements, was adjudicated on 18 September 2013.

¹⁴ *Foumbi v. Cameroon* (CCPR/C/112/D/2325/2013), paras. 8.5 and 8.6.

¹⁵ *Ibid.*, para. 8.7.

¹⁶ *K.L. v. Denmark* (CCPR/C/10/D/72/1980), para. 7.

¹⁷ See, inter alia, *Ammari v. Algeria* (CCPR/C/112/D/2098/2011), para. 8.3, and *El Abani v. Libyan Arab Jamahiriya* (CCPR/C/99/D/1640/2007), para. 7.4.

¹⁸ *Foumbi v. Cameroon* (CCPR/C/112/D/2325/2013), para. 8.4.

6.8 The Committee therefore finds that the author has failed to sufficiently substantiate his claims under article 9 (1) and (4) of the Covenant for the purposes of admissibility and declares these claims inadmissible under article 2 of the Optional Protocol.

6.9 The Committee notes that the author has also alleged violations of article 14 (1) of the Covenant, on the grounds that the judge who handed down two decisions against him failed to act impartially, and of article 17 of the Covenant, on the grounds that his reputation and image have been harmed. It notes, however, that the author does not appear to have taken any steps before the national courts regarding these alleged violations of his rights. Consequently, this part of the communication is inadmissible under article 5 (2) (b) of the Optional Protocol.

6.10 The Committee notes that the author claims that he is a victim of a violation of his right to be tried by a higher tribunal under article 14 (5) of the Covenant, since no decisions have been issued on his appeals against his two convictions. It also notes his claims that Cameroonian judges have ignored his references to the relevant articles of the Covenant and that Cameroonian law does not provide for any effective means of obtaining appropriate compensation for violations of Covenant rights, in violation of article 2 (3) (a) of the Covenant, read in conjunction with articles 7, 9, 10, 11, 12, 14 and 17. In the absence of any other information to support these claims, the Committee considers that they are not sufficiently substantiated for the purposes of admissibility and therefore finds them inadmissible under article 2 of the Optional Protocol. Moreover, the Committee notes that, on 2 August 2016, the Littoral Region Court of Appeal allowed the author's appeal against the decision issued on 2 May 2014.

6.11 Lastly, the Committee notes that the author invokes article 14 (3) of the Covenant to complain about the undue delay in the consideration of his appeal against the decision of 26 March 2014 and also complains about unreasonable procedural delays in the consideration of three complaints against him. In the Committee's view, the author is effectively claiming a violation of 14 (3) (c) of the Covenant. In addition, it is of the view that the author has sufficiently substantiated his claim under article 14 (3) (c) of the Covenant for the purposes of admissibility and therefore proceeds to its consideration of the merits.

Consideration of the merits

7.1 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.

7.2 The Committee notes the claims made by the author in his initial letter, according to which: (a) no judgment was issued on 2 February 2016, and his appeal against the decision of 26 March 2014 is still pending, even though these criminal proceedings against him were initiated on 9 May 2013 (i.e., more than seven years previously); and (b) no progress has been made in three other complaints against him since May 2013. The Committee notes first that, according to the document issued by the registry of the Littoral Region Court of Appeal, no hearing was held on 2 February 2016 and therefore the appeal against the judgment issued on 26 March 2014 is still pending. The Committee notes, too, that the State party has not produced a copy of the judgment of 2 February 2016, despite the transmission to the State party of the author's claims in relation to the existence of this judgment during the proceedings before the Committee, giving the State party the opportunity to reply to those claims. In addition, the Committee notes that, according to a copy of a decision submitted by the author, the *Wouri Tribunal de Grande Instance* convicted him on 1 September 2016 in connection with two of the three complaints that he mentions. The State party acknowledges that the proceedings related to the third complaint against the author are still pending.

7.3 The Committee recalls that, under article 14 (3) (c) of the Covenant, everyone has the right to be tried without undue delay.¹⁹ However, the appeal against the decision of 26 March 2014 has already been pending for more than eight years, and it has been more than nine years since the submission of the complaint of May 2013, on which no decision has been issued by a lower court. The State party has not put forward any justification for these

¹⁹ See *Taright et al. v. Algeria* (CCPR/C/86/D/1085/2002), para. 8.5.

procedural delays. In the light of the information submitted to it and in the absence of an explanation by the State party, the Committee concludes that there has been a violation of article 14 (3) (c) of the Covenant.

8. The Committee, acting under article 5 (4) of the Optional Protocol, is of the view that the facts of which it has been apprised constitute a violation by the State party of article 14 (3) (c) 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. Being under this obligation requires it to make individuals whose Covenant rights have been violated whole. Accordingly, the State party is obligated, inter alia, to: (a) try the author as soon as possible; and (b) compensate the author appropriately. The State party is also under an obligation 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 or not there has been a violation of the Covenant and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory or subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy when a violation has been established, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to the Committee's Views. The State party is also requested to publish the present Views and to disseminate them widely in the official languages of the State party.
