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International Covenant on Civil and Political Rights

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**Human Rights Committee**

# Decision adopted by the Committee under the Optional Protocol, concerning communication No. 2669/2015*, **

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| *Communication submitted by:* | A.T. (not represented by counsel) |
| *Alleged victim:* | The author |
| *State party:* | Russian Federation |
| *Date of communication:* | 22 November 2007[1] (initial submission) |
| *Document references:* | Decision taken pursuant to rule 92 of the Committee's rules of procedure, transmitted to the State party on 12 January 2016 (not issued in document form) |
| *Date of adoption of decision:* | 19 July 2023 |
| *Subject matter:* | Newspaper referring to the author as a criminal prior to his conviction; extensions of the author's pretrial detention in his absence and/or in the absence of his counsel; denial of the author's request to cross-examine a witness |
| *Procedural issues:* | Exhaustion of domestic remedies; abuse of the right of submission |
| *Substantive issues:* | Presumption of innocence; fair trial; right to cross-examine witnesses; access to counsel |
| *Article of the Covenant:* | 14 (2) and (3) (a), (b), (d) and (e) |
| *Articles of the Optional Protocol:* | 2, 3 and 5 (2) (b) |

1. The author of the communication is A.T., a national of the Russian Federation born in 1976. He claims that the State party has violated his rights under article 14 (2) and (3) (a), (b), (d) and (e) of the Covenant. The Optional Protocol entered into force for the State party on 1 January 1992. The author is not represented by counsel.

* Adopted by the Committee at its 138th session (26 June–26 July 2023).

** The following members of the Committee participated in the examination of the communication: Tania María Abdo Rocholl, Farid Ahmadov, Wafaa Ashraf Moharram Bassim, Rodrigo A. Carazo, Yvonne Donders, Mahjoub El Haiba, Carlos Gómez Martínez, Laurence R. Helfer, Marcia V.J. Kran, Bacre Waly Ndiaye, Hernán Quezada Cabrera, José Manuel Santos Pais, Soh Changrok, Tijana Šurlan, Kobauyah Tchamdja Kpatcha, Teraya Koji, Hélène Tigroudja and Imeru Tamerat Yigezu.

[1] Received on 7 February 2008.

**Factual background**

2.1 In his initial submission, dated 22 November 2007 and received on 7 February 2008, which was supplemented by additional submissions received on 7 February 2008, 15 April 2008, 6 July 2010, 9 November 2010 and 5 January 2016, the author provides the following information.

2.2 On 21 May 2002, the district-wide newspaper *Kantemirovsky Vestnik* published an arrest warrant issued by the Kantemirovsky district police department. It included the author's photo, mentioned his name and his date and place of birth, and requested those who were "aware of the whereabouts of the criminals" to report to the police (a copy of the newspaper was submitted by the author).[2]

2.3 On 19 June 2002, the author was placed in pretrial detention. On 10 October 2002, Leninsky District Court of Voronezh extended his pretrial detention by one month and 25 days.[3] At the hearing, the author was not assisted by counsel. Due to his lack of legal knowledge and the absence of legal assistance, the author did not complain about the absence of counsel, at the hearing for his pretrial detention to be extended, until his criminal case was heard in Voronezh Regional Court.

2.4 The case file reveals that on 6 October 2003, the author requested the Kantemirovsky district police department to initiate criminal proceedings for calumny against the editor-in-chief of *Kantemirovsky Vestnik*. On 7 October 2003, the district police department refused to initiate criminal proceedings. On 22 October 2003, the author challenged that decision at the Public Prosecutor's Office of Kantemirovsky district. On 14 November 2003, the Public Prosecutor's Office of Kantemirovsky district rejected the author's complaint on the grounds that the contested decision had already been overturned by it on 20 October 2003. On 29 January 2004, Kantemirovsky District Court of the Voronezh Region upheld the decision adopted by the Public Prosecutor's Office of Kantemirovsky district on 14 November 2003. In addition, the judgment mentioned that another decision on refusal to initiate criminal proceedings had been adopted on 10 November 2003. The Court abstained from ruling on the legality of this new decision because it was not the subject of the complaint before it. In a letter dated 14 January 2004, the Public Prosecutor's Office of the Voronezh Region rejected the author's supervisory review appeal against the decision of the Public Prosecutor's Office of Kantemirovsky district.[4]

2.5 On 11 December 2003, Voronezh Regional Court, composed of a chairing judge and 12 jurors, extended the author's pretrial detention.[5] The judgment was adopted in the author's absence and in the absence of his counsel. The author had not been informed about the upcoming hearing. On 23 December 2003, the author sent an appeal against this decision to the Judicial Panel on Criminal Affairs of the Supreme Court of the Russian Federation. The appeal was submitted within the legal deadlines because the judgment was transmitted to the author with a delay.[6] The author did not receive any response to his appeal.

2.6 During the hearing of his criminal case by Voronezh Regional Court, the author submitted a written motion for the summoning and interrogation of a witness for the prosecution, S., who had not been interrogated in the courtroom. The author claims that this witness could have corroborated his alibi in relation to some elements of one of the murders that the author had been convicted of and, as a result, cast doubt over other parts of the indictment. The author submits that the witness S. could have confirmed that he was in the author's car during a part of the events. Yet, testimony by S. was not reflected in the indictment. The author provides an extract from the minutes of the court hearing, in which

[2] The author has been convicted for the murder of three persons at different times and a series of assaults and burglaries.

[3] According to a copy of the judgment provided by the State party in its submission of 7 April 2017, the judgment could be appealed against within 10 days of it being passed, to Voronezh Regional Court.

[4] The Public Prosecutor's Office of the Voronezh Region referred to a letter dated 25 October 2003 in which the author had been informed about the decision taken by the Public Prosecutor's Office of Kantemirovsky district on his complaint against the refusal to initiate criminal proceedings.

[5] According to the text of the ruling, it could be appealed against to the Judicial Panel on Criminal Affairs of the Supreme Court of the Russian Federation within 10 days of it being received.

[6] The author does not specify on which date he received the judgment.

he voiced a request to summon S., stating that S. had not been interrogated in court and that the testimony that S. had given during the preliminary investigation had contradicted statements by P., a co-accused. It appears from this document that upon enquiring about the opinion of other participants in the proceedings and receiving the response that they were relying on his assessment, the chairing judge rejected the motion, justifying his refusal by citing the interests of the author.

2.7 In the courtroom, the author also protested against the fact that he had been labelled a "criminal" in the *Kantemirovsky Vestnik* newspaper during the preliminary investigation. The Court did not respond to this complaint.

2.8 On 23 January 2004, Voronezh Regional Court convicted the author to life imprisonment in a special regime penal colony. On 28 January 2004, the author appealed for cassation to the Supreme Court of the Russian Federation. He pleaded not guilty, and complained (a) that he had been labelled a "criminal" in *Kantemirovsky Vestnik*; (b) about the absence of a counsel at the hearing of 10 October 2002 in Leninsky District Court; (c) about the refusal of Voronezh Regional Court to summon the witness; and (d) about the extension of his pretrial detention in his absence and in the absence of his counsel on 11 December 2003 by Voronezh Regional Court.

2.9 In a cassation ruling of 11 October 2004, the Supreme Court's judicial panel on criminal affairs modified the author's sentence from life imprisonment to 25 years of imprisonment. The author's four aforementioned claims were not addressed in the ruling.

2.10 On 27 October 2004, the author submitted an application to the European Court of Human Rights. On 3 February 2005, the Court considered the application inadmissible for non-exhaustion of domestic remedies.[7]

2.11 In order to exhaust domestic remedies, the author appealed to the Presidium of the Supreme Court of the Russian Federation, referring to the four aforementioned alleged violations. In his appeals, he explained that he was not able to provide copies of the relevant judgments, which had been sent to the European Court of Human Rights. He indicated that Voronezh Regional Court had not honoured his request of 16 February 2005 to provide him with copies of the judgments. In decisions dated 31 May 2005 and 5 July 2005 (copies not provided), the Supreme Court refused to examine the author's appeals on the grounds that he had not enclosed copies of the contested judgments.

2.12 Following new requests submitted on 18 and 30 August 2005 to Voronezh Regional Court and on 17 and 18 August 2005 to the Federal Penitentiary Service, on 28 November 2005 the author obtained copies of his verdict and of the cassation ruling. On 1 December 2005, the penitentiary authorities transmitted the author's four new appeals for supervisory review to the Presidium of the Supreme Court of the Russian Federation.

2.13 In a letter sent on 31 March 2006, the author requested the Chairperson of the Supreme Court of the Russian Federation to order the Presidium of the Court to respond to his four appeals because the deadlines for their examination had expired. On 31 March 2006, the penitentiary authorities transmitted the author's letters, dated 3 March 2006, to the President of the Russian Federation, the State Duma (the lower parliamentary chamber), the Prosecutor General of the Russian Federation and the Ombudsman for Human Rights of the Russian Federation. In these letters, the author requested assistance to oblige the Presidium of the Supreme Court to respond to his supervisory review appeals.

2.14 In a decision dated 23 May 2006, a judge of the Supreme Court rejected the author's request for supervisory review of the verdict adopted on 23 January 2004 by Voronezh Regional Court (the decision to convict the author to life imprisonment) and of the cassation ruling adopted on 11 October 2004 by the Supreme Court (the decision to modify life imprisonment to 25 years of imprisonment). The Supreme Court refuted the author's claim that his right to defence had been violated because of the refusal by Voronezh Regional Court to summon and interrogate the witness S. It was stated in the decision that the author's guilt

[7] The author provides a letter from the Court's secretariat dated 13 April 2005 and a copy of the inadmissibility decision of 3 February 2005.

had been established by a jury, based on a comprehensive and objective examination of the case, and its verdict was binding on the chairing judge.

2.15 In another decision dated 23 May 2006, a judge of the Supreme Court refused to consider the author's appeals for supervisory review of the rulings adopted on 10 October 2002 by Leninsky District Court and on 11 December 2003 by Voronezh Regional Court on extension of the author's pretrial detention. The Supreme Court explained its refusal by the fact that the verdict of Voronezh Regional Court of 23 January 2004 had come into force.

2.16 In a further decision dated 23 May 2006, a senior consultant of the Supreme Court refused to consider the author's complaint in respect of *Kantemirovsky Vestnik*, referring to the fact that the verdict of Voronezh Regional Court of 23 January 2004 had come into force.

2.17 On 20 June 2006, the author submitted four appeals for supervisory review to the Chairperson of the Supreme Court of the Russian Federation. In a decision dated 14 August 2006, an Assistant Chairperson of the Supreme Court refused to examine the appeals.

2.18 On 26 October 2006, the author submitted four new applications to the European Court of Human Rights. In a letter dated 12 December 2006, the secretariat of the Court informed the author that due to the fact that his latest application was identical in substance to his previous applications, which had been considered inadmissible, the President of the Court had ordered that his subsequent letters not be responded to.

2.19 On 11 January 2007, the author sent another appeal for supervisory review to the Chairperson of the Supreme Court of the Russian Federation. In decisions of 31 January 2007, the Supreme Court refused to examine his appeals, stating that they had already been examined and that the decision was final. The author assumed that he had finally exhausted all domestic remedies and, on 26 March 2007, sent that decision to the European Court of Human Rights. The author has not received any response.

2.20 On 16 January 2012, Rossoshansky District Court of the Voronezh Region reduced the author's sentence to 24 years and 11 months of imprisonment in a special regime penal colony.

**Complaint**

3.1 The author claims a violation of article 14 (2) of the Covenant because during the preliminary investigation, the *Kantemirovsky Vestnik* newspaper published an arrest warrant with his photo and passport data, referring to him as a "criminal".

3.2 The author considers that his rights under article 14 (3) (d) of the Covenant have been violated because on 10 October 2002, Leninsky District Court extended his pretrial detention in the absence of his counsel.

3.3 The author alleges a violation of article 14 (3) (a), (b), (d) and (e) of the Covenant due to the fact that on 11 December 2003, Voronezh Regional Court extended his pretrial detention in his absence and in the absence of his counsel, without prior notification of the hearing.

3.4 The author claims a violation of article 14 (3) (e) of the Covenant because the witness S. was not summoned by Voronezh Regional Court.

**Additional submissions by the author**

4.1 Following the transmittal of the communication to the State party on 12 January 2016, the author provided an additional submission, dated 1 August 2016, which was transmitted to the State party on 3 February 2017.

4.2 The author informed the Committee that the Supreme Court of the Russian Federation had rejected several new appeals for supervisory review submitted by him (in decisions rendered on 20 September 2012, 6 February 2013, 27 May 2013, 27 August 2013, 31 October 2013, 13 December 2013, 1 April 2014, 4 June 2014, 13 August 2014 and 25 March 2015). In a decision dated 3 June 2015, the Human Rights Ombudsman of the Russian Federation refused to admit the author's complaint. In decisions dated 22 April 2016 and 11 July 2016, the Prosecutor General's Office of the Russian Federation refused to admit his complaint.

4.3 In addition, the author claimed that the national jurisdictions had not applied domestic criminal legislation correctly in his case. Thus, he believed, he had been wrongly charged under article 105 (2) (a) of the Criminal Code (murder of two or more persons) because of the "significant" period of time that had passed between the three murders he had been convicted for (three and a half months between the first and the second murders and two and a half months between the second and the third murders). He also claimed that he had been wrongly convicted under article 162 of the Criminal Code for robbery.

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

5.1 In a letter dated 7 April 2017, the State party submitted its observations on admissibility and the merits.

5.2 The State party argues that the communication constitutes an abuse of the right of submission under rule 96 (c) of the former rules of procedure of the Committee (the current rule 99 (c)), because the decision in the author's cassation appeal was adopted by the Supreme Court on 11 October 2004. The State party believes that the author did not have any justifiable reasons for a belated submission of the communication, particularly since he continued submitting complaints to the Supreme Court of the Russian Federation and to other public authorities in 2006 and 2017.

5.3 The State party recalls that according to the Committee's well-established practice, it is incumbent on the courts of States parties to review the facts and the evidence in each case, or the application of domestic legislation, unless it can be shown that such evaluation or application was clearly arbitrary or amounted to a manifest error or denial of justice. The State party notes that it appears from the text of the communication that the author disagrees with the way his acts were classified by national jurisdictions. Yet, the case file does not reveal that the interpretation or application of domestic legislation by the national jurisdictions was arbitrary or amounted to a manifest error or denial of justice. Therefore, the State party concludes that the communication is inadmissible under article 3 of the Optional Protocol.

5.4 The State party observes that under article 373 of the Criminal Procedure Code, the author had the possibility of submitting cassation appeals against the decisions on the extension of his pretrial detention adopted by Leninsky District Court and Voronezh Regional Court. The State party contends that, by failing to appeal for cassation, the author has not exhausted all available domestic remedies. Therefore, the State party submits that this part of the communication is inadmissible under article 5 (2) (b) of the Optional Protocol.

5.5 The State party indicates that according to the ruling of 10 October 2002 by Leninsky District Court, the author was present at the hearing and expressed his opinion on the merits of the case. The State party therefore considers that this part of the communication clearly lacks substantiation and should be considered inadmissible under article 2 of the Optional Protocol.

5.6 Regarding the author's claims in relation to the refusal by Voronezh Regional Court to interrogate the witness S., the State party confirms, based on the minutes of the hearing and on information obtained from the Court, that the author requested the Court to summon and interrogate that witness. The State party submits that the Court rejected this motion in accordance with article 271 of the Criminal Procedure Code. It further submits that under article 271 (2) of the Criminal Procedure Code, an individual whose motion has been rejected has the right to resubmit it during the court proceedings. The State party points out that it does not transpire from the communication that the author resubmitted his request for interrogation of that witness. Furthermore, the State party notes that under article 271 (4) of the Criminal Procedure Code, a court cannot refuse to interrogate a witness or an expert who has come to the courtroom on the initiative of one of the parties. The author, who was assisted in the court by an attorney, has not indicated whether he took any action to ensure the presence of the witness S. in the courtroom and whether the Court refused to interrogate that witness. The State party also draws the Committee's attention to the fact that the author was found guilty by a jury, on the basis of evidence examined in a court hearing. Under article 347 (4) of the Criminal Procedure Code, a verdict by a jury is binding on the chairing judge.

5.7 As regards the author's claim that Voronezh Regional Court incorrectly classified two murders committed by him under article 105 (2) (a) of the Criminal Code ("murder of two or more persons") whereas the investigative authorities had classified those acts under article 105 (2) (n) ("murder committed several times"), the State party notes that according to the verdict of 23 January 2004, the author was convicted for three murders committed on 30 October 2001, 17 January and 1 May 2002. It appears in the indictment that at the times when the latter two murders were committed, the author had already committed the first murder, which is why he was charged under article 105 (2) (n) of the Criminal Code. A federal law of 8 December 2003 repealed articles 16 and 105 (2) (n) of the Criminal Code. As a consequence, based on articles 9 and 10 of the Criminal Code, the Court reclassified the author's acts from article 105 (2) (n) to article 105 (2) (a). By proceeding with this reclassification, the Court did not place the accused in a less favourable situation and did not violate his right to defence because it did not modify the facts and the charges in relation to the motives, reasons and means of the last two murders. Neither did the Court include additional charges. Making reference to a resolution of 27 January 1999 of the Plenum of the Supreme Court, the State party also refutes the author's allegations that his acts of stealing property were wrongly classified as "robbery" under article 105 (2) (z) of the Criminal Code.

**Author's further submissions**

6.1 In his submission of 30 May 2017, the author notes that his communication was submitted on 22 November 2007, that is, within three years after the exhaustion of domestic remedies. He states that he underwent treatment for tuberculosis between November 2004 and February 2007. He also points out that he has no legal background and no financial means to hire a lawyer to represent him before the Committee. Moreover, due to the schedule imposed in the penitentiary facility where he is serving his sentence, the time available to him for writing complaints is clearly insufficient. Therefore, he refutes the State party's allegation that he did not have any justifiable reason for the delay with which he submitted his communication to the Committee.

6.2 With regard to the State party's remarks about his presence at the hearing on 10 October 2002 on the extension of the pretrial detention, the author submits that in his communication, he did not claim that he had been absent at the hearing. He claimed that he had not been assisted by counsel, whereas the presence of the counsel was required under article 51 of the Criminal Code. This violation is reflected in the text of the judgment of Leninsky District Court of 10 October 2002.

6.3 In relation to the hearing on the extension of the pretrial detention of 11 December 2003 at Voronezh Regional Court, the author states that 14 years have passed since then and he has not kept any notes from it. He remembers vaguely that the Court extended his pretrial detention without his presence. He suggests that this can be verified by requesting documents on his transferrals from the detention facility, from the State party.

6.4 Regarding the State party's arguments about non-exhaustion of domestic remedies in relation to the judgment adopted on 10 October 2002 by Leninsky District Court, the author submits that the absence of an attorney at the hearing deprived him of the possibility to exhaust domestic remedies. He notes that he was shocked by the charges brought against him and by the threats of life imprisonment voiced by the investigator. He had never previously faced any criminal proceedings, had no legal knowledge and no counsel. In these circumstances, he claims, he could not have been expected to submit an appeal for cassation.

6.5 Concerning the witness S., the author stresses that this was a witness for the prosecution. The author submits that it was his right to have this witness summoned and interrogated in court with regard to the testimonies provided by him during the investigation – all the more so given that the testimony provided by this witness confirmed the author's alibi. The author argues that the court did not ensure equality of arms, because only evidence against him was examined, whereas evidence in his favour was ignored. The author adds that his counsel did not submit a motion requesting the Court to summon this witness who would confirm his alibi, which, according to the author, proves that he was deprived of effective legal assistance during his trial. The author alone was submitting motions to the court and expressing objections, whereas his counsel did not submit a single motion. Therefore, the author states, he had to face alone, without any legal background, a prosecutor with 15 to 20

years' experience, which is incompatible with equality of arms. The author states that since he was detained during the court hearing, and his counsel did not provide him with effective legal assistance, he was not aware of the whereabouts of the witness S. He believes that the judge was adamant about his conviction because the police and the court did not attempt to find the witness S. and ensure his presence in the courtroom.

6.6 The author states that he does not challenge the verdict of the jury because he does not have a right to do so. However, he notes that according to the minutes of the court hearing, the jurors had 90 minutes to respond to 90 questions.

6.7 In an additional submission dated 10 July 2017 and received on 24 July 2017, the author informed the Committee that on 6 April 2017, Rossoshansky District Court of the Voronezh Region had rejected his request for revision of his sentence. On 23 May 2017, Voronezh Regional Court overturned this judgment and reduced the author's sentence by one month to 24 years and 10 months of imprisonment.

**Issues and proceedings before the Committee**

*Consideration of admissibility*

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

7.2 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.

7.3 The Committee notes that the author's initial communication was dated 22 November 2007 and was received by post on 7 February 2008. The Committee notes that the alleged violations of the Covenant took place in 2002 and 2003 and were examined by the Supreme Court of the Russian Federation in its decisions on supervisory review requests adopted on 23 May 2006, that is, one and a half years before the submission of the communication. The Committee also takes into account the explanations provided by the author and not refuted by the State party about his medical treatment for tuberculosis while in detention between November 2004 and February 2007. Therefore, the Committee concludes that the communication does not constitute an abuse of the right of submission within the meaning of article 3 of the Optional Protocol.

7.4 The Committee takes note of the author's claims under article 14 (2) of the Covenant regarding the violation of his right to the presumption of innocence. It notes the arrest warrant published in a district-wide newspaper referring to the author as a "criminal" and recalls the duty of government authorities to refrain from prejudicing the outcome of a trial.[8] The Committee is of the opinion, however, based on the facts as submitted by the author, that the material before the Committee does not allow it to establish whether and to what extent the publication concerned affected the trial against the author and its outcome. It concludes, therefore, that the author has not sufficiently substantiated his claims relating to article 14 (2) of the Covenant, which should be found inadmissible under article 2 of the Optional Protocol.

7.5 Regarding the author's claim that the State party violated article 14 (3) (d) of the Covenant because he was not assisted by counsel at the hearing on the extension of his pretrial detention, at Leninsky District Court on 10 October 2002, the Committee notes that the author does not contest the State party's statements that he did not exhaust the available domestic remedies. The Committee takes note of the author's argument that the very absence of counsel prevented him from exhausting the domestic remedies. However, the Committee notes that it appears, from a copy of the judgment provided by the State party, that the judgment included clear information on available legal remedies. In the absence of any further information in the case file, the Committee concludes that it is precluded from considering this part of communication by articles 2 and 5 (2) (b) of the Optional Protocol.

[8] *Olanguena Awono v. Cameroon* (CCPR/C/123/D/2660/2015), para. 9.7; and see the Committee's general comment No. 32 (2007), para. 30.

7.6 The Committee notes the parties' disagreement as to the question of whether the author has exhausted available domestic remedies, in relation to his claim that the State party violated articles 14 (3) (a), (b), (d) and (e) of the Covenant due to the fact that on 11 December 2003 Voronezh Regional Court held a hearing on extending his pretrial detention, in his absence and in the absence of his counsel. Whereas the State party argues that the domestic remedies have not been exhausted, the author alleges that he appealed to the Supreme Court within the legal deadlines but received no response. However, the Committee notes that the author provides no evidence corroborating his claims about the submission of the appeal. Moreover, in his submission dated 30 May 2017, the author indicated that he did not clearly remember whether he had really been absent at the hearing.[9] Therefore, the Committee considers that this part of communication is inadmissible under articles 2 and 5 (2) (b) of the Optional Protocol.

7.7 The Committee takes note of the decision of 23 May 2006 by which the Supreme Court rejected the author's request for supervisory review of his verdict, stating that his guilt had been established by a jury based on comprehensive and objective examination of the case. The Committee observes that it appears from the minutes of the court hearing enclosed with the communication that the author requested that the witness S. be summoned on the grounds that the testimony of the latter given during the preliminary investigation contradicted the declarations of one of the accused. The Committee observes, however, that nothing in the communication indicates that the testimony given by the witness S. during the preliminary investigation has impacted or could have impacted on the verdict adopted by the jury. To the contrary, the author indicates that the testimony provided by this witness was not reflected in the indictment. Furthermore, the Committee observes that it does not appear from the case file that the author claimed at court that interrogation of this witness was necessary because he could confirm the author's alibi. Finally, the Committee notes that the author has been convicted for several offences, including three murders committed at different times, whereas according to the communication, the declarations of S. related only to some elements of one of the murders. Therefore, while the Committee accepts that the refusal by the chairing judge to summon a witness for the prosecution and to have him or her interrogated in front of the jury could have fallen short of the requirement, under article 14 (3) (e) of the Covenant, to be given a proper opportunity to question and challenge witnesses, a fortiori where their evidence is of direct relevance for the resolution of the case, and where the charges faced are of such a serious nature,[10] in the particular circumstances of the present case and in the light of information available on file, the Committee considers that the author has failed to substantiate his claims under article 14 (3) (e) of the Covenant. Therefore, this claim is inadmissible under article 2 of the Optional Protocol.

8. The Committee therefore decides:

(a) That the communication is inadmissible under articles 2 and 5 (2) (b) of the Optional Protocol;

(b) That the present decision shall be communicated to the State party and to the author.

[9] See para. 6.3 above.

[10] *Jessop v. New Zealand* (CCPR/C/101/D/1758/2008), para. 8.6.