



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. 2761/2016*, **

<i>Communication submitted by:</i>	O.K. and N.S. (represented by counsel, Shane H. Brady, Nurlan Kachiev and Kostiantyn Chernychenko)
<i>Alleged victims:</i>	The authors
<i>State party:</i>	Kyrgyzstan
<i>Date of communication:</i>	15 March 2016 (initial submission)
<i>Document references:</i>	Decision taken pursuant to rules 92 and 97 of the Committee's rules of procedure, transmitted to the State party on 8 April 2016
<i>Date of adoption of decision:</i>	28 March 2024
<i>Subject matter:</i>	Arrest, detention and criminal prosecution against members of Jehovah's Witnesses religious minority
<i>Procedural issues:</i>	Exhaustion of domestic remedies; substantiation of claims
<i>Substantive issues:</i>	Prohibition of torture and cruel or inhuman treatment or punishment; right to liberty and security of person; fairness of proceedings; freedom of religion; and discrimination on the ground of religious beliefs
<i>Articles of the Covenant:</i>	7, 9 (1), 14 (1) and (3) (b) and (c), 18 (1), (2) and (3), 26 and 27
<i>Articles of the Optional Protocol:</i>	2 and 5 (2) (b)

1.1 The authors of the communication are O.K. and N.S., nationals of Kyrgyzstan born in 1980 and 1959 respectively. They claim that the State party has violated their rights under articles 7, 9 (1), 14 (1) and (3) (b) and (c), 18 (1), (2) and (3), 26 and 27 of the Covenant. The Optional Protocol entered into force for the State party on 7 January 1995. The authors are represented by counsel.

* Adopted by the Committee at its 140th session (4–28 March 2024).

** The following members of the Committee participated in the examination of the communication: Tania María Abdo Rocholl, 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.



1.2 At the time of submission of the present communication, a criminal case against the authors was pending a fresh examination by Osh City Court, following the decision taken by the Supreme Court of Kyrgyzstan on 24 February 2016 to quash the previous decisions by the lower courts in the authors' case and to order a new trial. The authors claimed that they and their legal counsel were at risk of severe and violent retaliation by the authorities of the State party, should they attend the new trial in their criminal case. Consequently, they requested the Committee to issue interim measures of protection by requesting the State party to suspend the Supreme Court decision ordering the retrial until the Committee had reached its decision on their communication. On 8 April 2016, the Committee, acting through its Special Rapporteur on new communications and interim measures, requested the State party to ensure that no reprisals were taken against the authors and their families, witnesses and representatives as a result of the submission of the communication, and that they were protected during the period of consideration of the communication by the Committee.

1.3 On 1 November 2023, the authors and the State party were informed of the decision of the Special Rapporteur on new communications and interim measures, acting on behalf of the Committee, to examine the admissibility of the communication first, separately from the merits.

Facts as submitted by the authors

2.1 The authors are Jehovah's Witnesses. They submit that they are victims of an orchestrated criminal prosecution on fabricated charges instituted against them within a general framework of repression and intimidation against the Jehovah's Witnesses community as a religious minority in the State party.

2.2 In particular, on 20 March 2013, an investigator from the Sulaiman-Toosky Department of the Ministry of Internal Affairs in Osh arrested the authors on suspicion of involvement in a crime, under article 166 (2) (3) of the Criminal Code of Kyrgyzstan (large-scale fraud). The authors were brought before an identification parade and placed in police custody for 48 hours, after one of the alleged victims identified N.S. as the perpetrator. On 22 March 2013, Osh City Court ordered the authors to be placed under house arrest for an initial period of two months, pending the criminal investigation. On 23 March 2013, an arrest warrant was issued in respect of O.K. on suspicion of her involvement in another episode of fraud. She was placed in police custody for the following 48 hours. On 25 March 2013, the investigative authorities initiated proceedings before Osh City Court seeking for her to be detained on remand. On the same date, the Court rejected the motion in part and ordered that O.K. be placed under house arrest for two months. According to the authors, the overall period of their house arrest, including at the investigation stage, the trial at first instance and the proceedings before the court of appeal, lasted from 22 March 2013 to 29 October 2015.¹

2.3 Meanwhile, on 19 May 2013, the police raided a peaceful religious service of Jehovah's Witnesses being held in a private house in Osh. Police officers apprehended several members of the religious community attending the service, including young women, and took them to the police station, where they threatened them with torture and rape. Later, on 9 August 2015, the police violently attacked the authors' co-believers, when they had gathered for a religious service in Osh. Officers brutally beat one of the male members of the religious community and took six male members of the community to the police station where

¹ As it transpires from the documents submitted by the authors to the Committee, on 20 May 2013, Osh City Court rejected the motion of the investigative authorities to extend N.S.'s house arrest and decided to apply to her a preventive measure in the form of a written undertaking not to leave. On the same date, the Court extended O.K.'s house arrest by a month, until 23 June 2013. No further documents relating to the measures of restraint applied to the authors, including on the subsequent extension of O.K.'s house arrest, were provided. It does not transpire from the documents available to the Committee that the authors challenged any of the decisions on their arrest, their house arrest or the extension of the term of the house arrest before the competent domestic courts.

they brutally beat them.² A criminal complaint was lodged into the incident, however no criminal case was opened.³

2.4 On 21 May 2013, the authors were charged under article 166, paragraph 2 (2) and (3) of the Criminal Code with several episodes of fraud, allegedly committed in a group on a significant scale on 10 December 2012 and 11 March 2013 (in respect of O.K.) and on 11 March 2013 and 15 March 2013 (in respect of N.S.).

2.5 As submitted by the authors, the trial in their case before Osh City Court began in late 2013 and was postponed several times, either due to the recusal of the trial judge and the prosecutor at the request of the alleged victims or due to the replacement of the trial judge. On 7 October 2014, the Court acquitted the authors of the charges owing to lack of evidence of their involvement in the crimes. It further ordered that the authors' house arrest be lifted upon the entry into force of the judgment.

2.6 On 14 and 17 October 2014, the Osh City Prosecutor and the alleged victims appealed against the acquittal to Osh Regional Court. On 29 October 2015, the Court's appeal panel adopted a judgment upholding the authors' acquittal.

2.7 The authors state that the appeal proceedings in their case were repeatedly adjourned due to multiple groundless motions and interlocutory appeals being filed by the alleged victims and the prosecutor. Furthermore, their legal counsels were subjected to intimidation by the police and by officers of the State Committee for National Security in Osh, who on several occasions on 28 and 29 October 2015 tried to arrest the counsels, in the absence of any legal grounds, on the premises of their hotel in Osh and subsequently inside and outside the court premises. Moreover, after the appeal hearing on 29 October 2015, at the moment when the judicial panel retired to the deliberation room, the police and officers from the State Committee for National Security broke into the deliberation room and attempted to exert pressure on the judges to force them to take a decision against the authors. On 29 October 2015, 3 November 2015 and 11 January 2016, three separate complaints were lodged against the police and the State Committee for National Security in view of their interference with the judicial deliberation process and attempts to intimidate the authors' legal counsels. No decision had been made in regard to the complaints at the time of submission of the present communication to the Committee.

2.8 The alleged victims and the Osh City Prosecutor challenged the authors' acquittal before the Supreme Court of Kyrgyzstan, complaining that the lower courts had been biased, had erred in procedure, had distorted the victims' testimonies, and had failed to consider relevant evidence, thereby violating the principle of equality of arms. On 24 February 2016, the Supreme Court conducted a hearing in the authors' case and found that the conclusion reached by the lower courts about lack of evidence of the authors' involvement in the criminal acts had been premature. With a view to restoring the rights of the alleged victims, the Supreme Court quashed the decisions of the lower courts and remitted the case to the trial court for a fresh examination.

2.9 According to the authors, at the hearing, the Supreme Court unlawfully, in violation of the principle of equality of arms, accepted certain documents from the counsel of the alleged victims. The authors contend that the documents were fabricated by the police, the State Committee for National Security and the Prosecutor's Office and were accepted by the

² There is no information available on file as to whether the authors were present during the events of 19 May 2013 and 9 August 2015 and whether (and to what extent) they were involved in any way in the alleged incidents.

³ With respect to the events of 19 May 2013 and 9 August 2015 in Osh, reference is made to the letter of 21 September 2015 (KGZ 3/2015), addressed to the State party by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on minority issues and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, with a view to bringing to the attention of the State party the information received concerning, among other things, alleged violations of the human rights of members of the Jehovah's Witnesses community in Osh. The letter is available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=20315>.

Supreme Court in evidence, without giving the authors and their counsels a prior opportunity to familiarize themselves with them. The authors and their legal counsels discovered the documents in the case file after the end of the hearing. On 29 February 2016, the authors requested the Supreme Court to reopen the proceedings, quash its decision of 24 February 2016 and adopt a new decision upholding the judgments of the lower courts. They claimed that the falsified documents prepared by the police and the State Committee for National Security had been accepted unlawfully.⁴ On 2 March 2016, the Supreme Court informed the authors that its decision of 24 February 2016 was final and was not subject to appeal.

2.10 The authors claim that they have exhausted all available domestic remedies, as the Supreme Court's decision of 24 February 2016 ordering a fresh examination of their criminal case is not subject to appeal.

Complaint

3.1 The authors claim that the State party has violated their rights under articles 7, 9 (1), 14 (1) and (3) (b) and (c), 18 (1), (2) and (3), 26 and 27 of the Covenant on account of the alleged inhuman or degrading treatment of them, their arbitrary deprivation of liberty, and their unlawful criminal prosecution, which was opened against them due to their belonging to the Jehovah's Witnesses community and as part of a general practice of persecution of Jehovah's Witnesses in the State party.

3.2 Specifically, the authors argue, under article 7 of the Covenant, that they were subjected to inhuman or degrading treatment in the form of severe mental suffering, owing to the fundamentally flawed criminal proceedings against them, the prolonged arbitrary house arrest for over two and a half years, the acts of intimidation by the police in relation to the appeal court judges and to their legal counsels on 28 and 29 October 2015, and the ill-treatment by the police of their co-believers.

3.3 Under article 9 (1) of the Covenant, the authors claim that their arrest on 20 March 2013, their subsequent detention in police custody and their house arrest were arbitrary, as the criminal proceedings against them were based on fabricated criminal charges, were conducted with serious procedural flaws, and were aimed at targeting them because of their religious belief. The authors submit that there were no grounds for their arrest on suspicion of involvement in the crimes at issue, as the identification parades were conducted with serious procedural errors; O.K. was not identified as a perpetrator by the alleged victims during the identification parade; and one of the alleged victims subsequently changed position with respect to identification of N.S. as the perpetrator and stated later during the face-to-face confrontation that N.S. was not the person who had committed the fraud. The authors further submit that the investigative authorities exerted pressure on the alleged victims, forcing them to identify the authors as the perpetrators during the identification parades. Moreover, the investigative authorities repeatedly called Jehovah's Witnesses a "sect", demonstrating lack of impartiality; and searched the authors' apartment with the aim of finding "prohibited" religious literature, which demonstrated that the real purpose of the criminal prosecution was targeting the authors due to their religious belief.

3.4 The authors further argue, with reference to article 9 (1) of the Covenant, that they were subjected to arbitrary interference with their right to security of person in view of the ill-treatment by the police of their co-believers on 19 May 2013 and 9 August 2015; and the intimidation by the police of their legal counsels and the appeal court judges on 28 and 29 October 2015 respectively.

3.5 Under article 14 (1) and (3) (b) of the Covenant, the authors complain that the trial in their case was unfair, due to serious procedural errors at the investigation stage, due to the failure by the investigating authorities to gather essential evidence, which would have confirmed their innocence, and due to deliberate actions by the investigators directing the

⁴ The submission form does not provide further details as to the documents that were allegedly accepted in evidence by the Supreme Court. According to the authors' request of 29 February 2016 to reopen the proceedings before the Supreme Court, those documents were "irrelevant materials" prepared in November and December 2015 and February 2016 by the staff of the State Committee for National Security, the Osh City Department of Internal Affairs and the Osh City Prosecutor's Office.

alleged victims to identify the authors as the perpetrators at the identification parades. The authors further argue that their prosecution was based on falsified evidence; the police, acting in a climate of impunity,⁵ attempted to intimidate their legal counsels and tried to exert pressure on the court of appeal by breaking into the deliberation room. The Supreme Court, by quashing the decisions on the authors' acquittal and ordering a retrial, rewarded the actions of the police.

3.6 The authors further claim under article 14 (3) (c) of the Covenant that their right to be tried without undue delay was not respected, on account of the excessive length of the proceedings in their criminal case.

3.7 They also argue, under article 18 (1), (2) and (3) of the Covenant, that the acts by the police and the State Committee for National Security amount to a severe form of State coercion, designed to intimidate them and their co-believers and to silence their religious practice. They further complain that their rights under articles 26 and 27 of the Covenant were violated, in that they were subjected to a criminal prosecution on fabricated charges solely because of their religious belief. Their criminal prosecution is part of the ongoing campaign of repression by State authorities in respect of Jehovah's Witnesses, constituting discrimination on religious grounds.

3.8 The authors request the Committee to order the State party: (a) to acquit them of the criminal charges; (b) to provide them with compensation for moral damage suffered in view of the unlawful criminal prosecution; (c) to conduct an impartial, effective and thorough investigation into the police acts concerning the intimidation of their legal counsels and appeal court judges on 28 and 29 October 2015, and into the incident of 9 August 2015 concerning the ill-treatment of their co-believers; and (d) to provide them with compensation for their legal expenses and fees incurred in the domestic proceedings and in the proceedings before the Committee.

State party's observations on admissibility

4.1 In a note verbale dated 8 June 2016, the State party provided its observations on the admissibility of the communication. The State party recalls the circumstances of the authors' criminal case and argues that the communication is inadmissible for failure to exhaust domestic remedies. The State party informs the Committee that, on 25 April 2016, during the new hearing before Osh City Court, the authors' legal counsel, K., filed a motion requesting that the criminal proceedings be terminated and the defendants be released from criminal liability due to the expiration of the statute of limitation for their criminal prosecution, as specified under article 67 of the Criminal Code and article 28 (1) (11) of the Criminal Procedure Code. On the basis of that request, the Court issued a ruling, dated 25 April 2016, by which the criminal proceedings were terminated, and the authors were released from criminal liability on the grounds specified. The ruling was not appealed against and entered into legal force.

4.2 The State party submits, with respect to the events of 9 August 2015, that the Prosecutor's Office in Osh carried out an investigation into the incident. On 18 September 2015, a decision was taken under article 28 (1) (2) of the Criminal Procedure Code⁶ not to open criminal proceedings against the police officers involved.

4.3 The State party further informs the Committee that, on 29 December 2015, the Osh City department of the Ministry of Internal Affairs received a request from the Chair of the Judicial Panel for Criminal Cases and Cases on Administrative Offences of Osh Regional Court to take measures in respect of the State Committee for National Security officers who had entered the deliberation room of Osh Regional Court on 29 October 2015 and tried to exert pressure on the judges making their decision in respect of the authors. Following an

⁵ Reference is made to CAT/C/KGZ/CO/2, paras. 5, 6 and 16; European Court of Human Rights, *R. v. Russia*, application No. 11916/15, judgment of 6 June 2016, paras. 55–63; European Court of Human Rights, *Tadzhibayev v. Russia*, application No. 17724/14, judgment of 2 May 2016, paras. 21–26 and 41–49; and European Court of Human Rights, *Khamrakulov v. Russia*, application no. 68894/13, judgment of 14 September 2015, paras. 38–45 and 64–72.

⁶ Owing to the lack of corpus delicti in the acts.

investigative enquiry, a decision was taken on 8 February 2016 under article 28 (1) (2) of the Criminal Procedure Code not to open a criminal case against the officers.

Authors' comments on the State party's observations on admissibility

5.1 On 15 August 2016, the authors provided comments, contesting the State party's argument as to the inadmissibility of the communication for failure to exhaust domestic remedies. They submit that the present communication challenges the decision of the Supreme Court of 24 February 2016, which had unlawfully overturned their acquittal and ordered a new trial in their criminal case. The impugned decision is final and is not subject to further appeal under domestic law.

5.2 The authors further argue that fresh examination of their case could not be considered an effective remedy and amounts to a further violation of their rights. They note that the State party did not dispute the circumstances of the incidents of 9 August 2015 and 29 October 2015, relating to the brutal attack by the police on their co-believers in Osh and the attempts by the police to influence the appeal judges in their case by forcing their way into the deliberation room during the deliberation process. Instead, the State party confirms that not any of the officers who participated in those events were prosecuted for their criminal acts, which reaffirms that the police in Osh act with impunity and consider themselves above and beyond the law. The authors reiterate that as Jehovah's Witnesses they were directly targeted by the Osh police and that they could no longer obtain a fair hearing in Osh.⁷ They further contend that the Supreme Court, by its decision of 24 February 2016, wrongly quashed their acquittal and ordered a new trial, thereby violating their rights under articles 7, 9, 14 (1) and (3) (b) and (c), 18 (1), (2) and (3), 26 and 27 of the Covenant.

5.3 The authors submit that, despite the decision by the Committee of 8 April 2016 to grant the request for interim measures, and notwithstanding their motions before the domestic authorities to suspend the proceedings in the criminal case until the Committee had rendered its decision on the present communication, the authorities did not suspend the proceedings and commenced the new trial. Before the beginning of the new trial, they learned that the three-year limitation period for their criminal prosecution had expired, and that, under the relevant provisions of the domestic legislation, the criminal proceedings should be terminated. They contend that they gave their consent to the termination of their criminal case, having no choice in order to avoid a further violation of their rights, as it would be impossible to receive a fair new trial.⁸ The grounds on which the criminal case was terminated do not entitle them to receive compensation and rehabilitation for their unlawful prosecution and house arrest. There is no other domestic remedy available to them to obtain such compensation and rehabilitation.

5.4 The authors contend that they have exhausted all available domestic remedies to challenge the decision of the Supreme Court of 24 February 2016. The new trial ordered by the Supreme Court could not be considered an effective remedy, as the authors could not receive a fair new trial in view of the attempts by the police to threaten and intimidate the judiciary to rule against them, the threats and intimidation by the police against their legal counsels, and the attacks against their co-believers.

⁷ Reference is reiterated to CAT/C/KGZ/CO/2, paras. 5, 6 and 16; *R. v. Russia*, paras. 55–63; *Tadzhibayev v. Russia*, paras. 21–26 and 41–49; and *Khamrakulov v. Russia*, paras. 38–45 and 64–72.

⁸ As it transpires from a copy of the ruling of Osh City Court of 25 April 2016 provided to the Committee, during the preparatory part of the hearing in the criminal case, the authors' counsel, K., filed a motion requesting the Court to discontinue the criminal proceedings against the defendants on the grounds that the statute of limitation had expired, in view of the fact that the defendants were accused of offences that had been committed on 10 December 2012, 11 March 2013 and 15 March 2013. The defendants supported the motion and requested the Court to discontinue the criminal case. The prosecutor, the victims and their representative did not object to the granting of the motion, so long as the defendants provided compensation for the damage caused. The operative part of the ruling of 25 April 2016 contains information on the possibility for it to be appealed to a higher court.

Issues and proceedings before the Committee

Consideration of admissibility

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

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

6.3 The Committee notes that the State party challenges the admissibility of the present communication for failure to exhaust domestic remedies and provides information in that regard about further developments during the new examination of the authors' criminal case by the first instance court, which led to the discontinuance of the criminal proceedings and to release of the authors from criminal liability due to the expiration of the statute of limitation for their criminal prosecution. The Committee further notes the authors' position that the present communication challenges the decision of the Supreme Court of 24 February 2016, by which their acquittal was quashed and the criminal case was remitted to the first instance court for a retrial, and that, since the impugned decision is final and is not subject to further appeal under domestic law, all available domestic remedies have been exhausted, whereas a fresh examination of their criminal case could not be considered an effective remedy (see paras. 2.10, 5.1 and 5.2 above).

6.4 The Committee recalls that the function of the exhaustion requirement under article 5 (2) (b) of the Optional Protocol is to provide the State party itself with the opportunity to remedy the violation suffered by an individual.⁹ It also refers to its jurisprudence to the effect that authors must avail themselves of all domestic remedies in order to fulfil the requirement of article 5 (2) (b) of the Optional Protocol, insofar as such remedies appear to be effective in the given case and are de facto available to the authors.¹⁰ Authors must exercise due diligence in the pursuit of available remedies, and mere doubts or assumptions about their effectiveness do not absolve the authors from exhausting them.¹¹

6.5 The Committee observes that, while the authors disagree with the outcome of their proceedings before the Supreme Court, which ordered a retrial on 24 February 2016, they ask the Committee to assess the fairness of the proceedings in their criminal case, claiming the absence of any grounds for their criminal prosecution, allegedly instituted with the sole purpose of targeting them due to their religious beliefs, and complaining about serious procedural flaws at the investigation stage, and the interference by State agents in the judicial proceedings at the appellate stage. In this respect, the Committee notes that no final domestic decision was adopted concerning the authors' conviction or acquittal of the criminal charges against them. The domestic proceedings were still ongoing at the time when the present communication was lodged before the Committee, with the first instance hearing scheduled at the trial court for a fresh examination of the case as ordered by the Supreme Court. The further developments in the authors' criminal case resulted in the discontinuance of the proceedings by the ruling of Osh City Court dated 25 April 2016, and the authors' release from criminal liability at their own request due to the expiration of the statute of limitation for their criminal prosecution. By requesting the first instance court to discontinue the proceedings and to release them from criminal liability on the grounds specified, without reaching a final determination on their criminal charge, the authors deprived themselves of the opportunity to prove their respective allegations as well as to demonstrate whether and in

⁹ *Celal v. Greece* (CCPR/C/82/D/1235/2003), para. 6.3.

¹⁰ See, for example, *Warsame v. Canada* (CCPR/C/102/D/1959/2010), para. 7.4; and *P.L. v. Germany* (CCPR/C/79/D/1003/2001), para. 6.5.

¹¹ See, for example, *V.S. v. New Zealand* (CCPR/C/115/D/2072/2011), para. 6.3; *García Perea and García Perea v. Spain* (CCPR/C/95/D/1511/2006), para. 6.2; *Vargay v. Canada* (CCPR/C/96/D/1639/2007), para. 7.3; *S.C. v. Australia* (CCPR/C/124/D/2296/2013), para. 7.8; and *Leghaei et al. v. Australia* (CCPR/C/113/D/1937/2010), para. 9.3.

what particular way the alleged deficiencies in the conduct of their criminal case affected the overall fairness of the proceedings.

6.6 The Committee takes note of the authors' argument that they gave their consent to discontinue the proceedings in their criminal case, having no choice in order to avoid a further violation of their rights, as it would be impossible to receive a fair new trial, and that the new round of the proceedings could not be considered an effective remedy (see paras. 5.2 and 5.3 above). However, in the light of the two consecutive decisions of the domestic judicial authorities rendered in favour of the authors, acquitting them of the criminal charges (see paras. 2.5 and 2.6 above), the Committee does not find this argument valid.

6.7 The Committee further takes note of the authors' allegations that the State party has violated their rights under articles 9 (1) and 18 (1), (2) and (3) of the Covenant on account of their arbitrary deprivation of liberty and the alleged interference with their right to freedom of religion. It notes that the material before it does not contain information to the effect that the respective claims were raised by the authors before the competent domestic courts.

6.8 Recalling its position to the effect that authors must avail themselves of all domestic remedies, insofar as such remedies appear to be effective in the given case and are de facto available to them, and in the light of its findings in paragraphs 6.5 to 6.7 above, the Committee considers that it is precluded by article 5 (2) (b) of the Optional Protocol from considering the authors' allegations under articles 9 (1), 14 (1) and (3) (b), 18 (1), (2) and (3), 26 and 27 of the Covenant.

6.9 The Committee further notes the authors' claim under article 14 (3) (c) that their right to be tried without undue delay was not respected on account of the excessive length of the proceedings in their criminal case. It recalls its position that expeditiousness is an important aspect of the fairness of a hearing, and that the question as to whether the delay was reasonable should be assessed in the circumstances of each case, taking into account mainly the complexity of the case, the conduct of the accused and the manner in which the matter was dealt with by the administrative and judicial authorities.¹²

6.10 Turning to the circumstances of the present case, the Committee observes that the authors were arrested on 20 March 2013 in view of their alleged involvement in criminal activity. They were officially charged on 21 May 2013. According to the authors, the trial in their case began in late 2013, resulting in the decision on their acquittal adopted on 7 October 2014 and upheld on appeal on 29 October 2015. On 24 February 2016, the Supreme Court quashed the above decisions and ordered a retrial. The Committee notes the information from the authors that the trial in their case was postponed several times either due to the recusal of the trial judge and the prosecutor at the request of the alleged victims or due to the replacement of the trial judge. Furthermore, the appeal proceedings before Osh Regional Court were repeatedly adjourned in view of multiple groundless motions and interlocutory appeals filed by the alleged victims and the prosecutor (see paras. 2.5 and 2.7 above). The Committee observes, however, that the information and explanations provided by the authors concerning the relevant part of their communication is insufficient to establish whether there were considerable and unjustified delays in the conduct of the criminal proceedings attributable either to the investigative authorities or to the respective judicial instances. It considers, therefore, that the authors have not sufficiently substantiated their allegations in this regard, and furthermore notes that the authors do not appear to have taken any action before the national authorities and courts in connection with the alleged excessive length of the proceedings in their case. This part of the communication is therefore inadmissible under articles 2 and 5 (2) (b) of the Optional Protocol.

6.11 Lastly, the Committee notes the author's claims under articles 7 and 9 (1) of the Covenant, concerning their alleged inhuman or degrading treatment and a violation of their right to security of person. In the absence of any additional pertinent information on file, the Committee considers that the authors have failed to substantiate these allegations for the purposes of admissibility. Accordingly, it declares this part of the communication inadmissible under article 2 of the Optional Protocol.

¹² See the Committee's general comment No. 32 (2007), paras. 27 and 35.

7. 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 transmitted to the State party and to the authors.
