

ARTICLE 14 of the International Covenant on Civil and Political Rights (ICCPR)

1. *All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent, and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.*
2. *Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.*
3. *In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:*
 - (a) *To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;*
 - (b) *To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;*
 - (c) *To be tried without undue delay;*
 - (d) *To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;*
 - (e) *To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;*
 - (f) *To have the free assistance of an interpreter if he cannot understand or speak the language used in court;*
 - (g) *Not to be compelled to testify against himself or to confess guilt.*
4. *In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.*
5. *Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.*
6. *When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.*
7. *No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.*

Article 14 protects the right of everyone in the proceedings of criminal cases.

Article 14 §1 sets out a **general guarantee of equality before courts and tribunals** and entities individuals to a **fair and public hearing** by a competent, independent, and impartial tribunal established by law, if they face criminal charges or if their rights and obligations are determined in a suit at law, also specifying the **cases where media and public may be excluded** from such hearings.¹

Article 14 §§ 2 – 5 lay down **procedural guarantees** to be made available to the persons charged with a criminal offence; §6 secures a substantive **right to compensation** in case of miscarriage of justice in criminal cases; and §7 **prohibits double jeopardy**, i.e., guarantees the right to remain free from being tried or punished again for an offence for which the person concerned has already been finally convicted or acquitted.²

Article 14 requires **independence and effective functioning of the judiciary**, in particular in criminal cases. State Parties are also encouraged to provide **free legal aid** for individuals who do not have sufficient means to pay for it.³ Similar cases should be dealt with in similar proceedings.⁴

As fundamental safeguards for the rule of law, the Human Rights Committee emphasises that the **guarantees** set out in the article 14 must be respected **regardless of legal tradition or domestic law**.⁵ Any derogation from the article 14 must be strictly limited to the extent it is absolutely necessary.⁶

Provisions of the article 14 apply to all courts and tribunals including **military and specialised courts**, whereby trials of civilians by military or special courts should be exceptional and State parties are required to show that trials of civilians by these courts are necessary and justified by objective and serious reasons.⁷

With regard to **customary and religious courts**, State parties must ensure that those courts do NOT hand down binding judgements, unless:

- Proceedings are limited to minor civil and criminal matters,
- Proceedings meet the basic requirements of fair trial and other relevant guarantees of the ICCPR, and
- Judgements are validated by State courts in light of the guarantees set out in the ICCPR and can be challenged by the parties concerned in a procedure meeting the requirements of article 14 of the ICCPR.⁸

In practice – findings of the Human Rights Committee:

- **Trials of civilians by military or special courts: Egypt**⁹

The Committee expressed its concern over the increased prosecution and trial of individuals, especially critics and opponents, by emergency and military courts under overly broad counter-terrorism legislation. While recalling that trials of civilians by military or special courts should be exceptional, the Committee recommended that the State party reviews the respective jurisdiction of the emergency and military courts to ensure that all trials in those courts are indeed exceptional and that these courts are not used to prosecute individuals exercising their rights and fundamental freedoms.

¹ Human Rights Committee, General Comment No.32, (CCPR/C/GC/32), §3

² Human Rights Committee, General Comment No.32 (CCPR/C/GC/32), §3

³ Human Rights Committee, General Comment No.32 (CCPR/C/GC/32), §10

⁴ Human Rights Committee, General Comment No.32 (CCPR/C/GC/32), §14

⁵ Human Rights Committee, General Comment No.32 (CCPR/C/GC/32), §4

⁶ Human Rights Committee, General Comment No.32 (CCPR/C/GC/32), §6

⁷ Human Rights Committee, General Comment No.32 (CCPR/C/GC/32), §22

⁸ Human Rights Committee, General Comment No.32 (CCPR/C/GC/32), §24

⁹ CCPR/C/EGY/CO/5, §39-40 (April 2023)