



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. 2500/2014*, **

<i>Communication submitted by:</i>	Aleksei Eliseev (not represented by counsel)
<i>Alleged victim:</i>	The author
<i>State party:</i>	Kyrgyzstan
<i>Date of communication:</i>	14 March 2014 (initial submission)
<i>Document references:</i>	Decision taken pursuant to rule 97 of the Committee's rules of procedure, transmitted to the State party on 11 December 2014 (not issued in document form)
<i>Date of adoption of Views:</i>	21 October 2020
<i>Subject matter:</i>	Author's trial in absentia and other procedural violations
<i>Procedural issue:</i>	Exhaustion of domestic remedies
<i>Substantive issues:</i>	Fair trial, trial in absentia, privacy, non-discrimination
<i>Articles of the Covenant:</i>	14 (1), (2), (3) (a), (b), (d) and (e) and (5), 17 (1) and 26
<i>Articles of the Optional Protocol:</i>	2 and 5 (2) (b)

1. The author of the communication is Aleksei Eliseev, a national of Kyrgyzstan born in 1976. He claims that the State party has violated his rights under articles 14 (1), (2) and (3) (a), 17 (1) and 26¹ of the Covenant. The Optional Protocol entered into force for Kyrgyzstan on 7 January 1995. The author is not represented by counsel.

Facts as presented by the author

2.1 The author submits that he is a practising lawyer, and that he also served in public service until the events of April 2010, his last appointment having been as head of the Central Agency for Development, Investments and Innovations.

* Adopted by the Committee at its 130th session (12 October–6 November 2020).

** The following members of the Committee participated in the examination of the communication: Yadh Ben Achour, Arif Bulkan, Ahmed Amin Fathalla, Furuya Schuichi, Christoph Heyns, David Moore, Duncan Laki Muhumuza, Photini Pazartzis, Hernán Quezada Cabrera, Vasilka Sancin, José Manuel Santos Pais, Yuval Shany, Hélène Tigroudja, Andreas Zimmermann and Gentian Zyberi.

¹ The author will also make a claim under articles 14 (3) (b), (d) and (e) of the Covenant.



2.2 On 7 April 2010, after a series of riots, the Government in Kyrgyzstan was overthrown. A provisional Government was established and on the same day the parliament was dissolved and the Central Agency for Development, Investments and Innovations was abolished. On 12 April 2010, the Constitutional Court was also abolished. On 19 July 2010, judges in many courts were dismissed before the end of their term and new judges were appointed.

2.3 Without notifying the author of the opening of official investigations into him, members of the provisional Government made public accusations against him, including the following: (a) the National Security Office announced via the mass media on 10 April 2010, that it would start investigations into him; (b) on 20 April 2010, the name of the author was included by the Vice-Chair and supervisor of the courts and law enforcement agencies, A.B., on a list of “public enemies and close associates of ousted President Bakiev”; (c) on 3 May 2010, the provisional Government, via its own website and mass media communication vehicles, offered a prize for assistance leading to the capture of the author (\$20,000 to \$100,000); (d) on 14 May 2010, the Vice-Chair and supervisor of the courts and law enforcement agencies, A.B., issued a “communication to the people” reaffirming the connection of the author to crimes allegedly committed during the presidency of President Bakiev; (e) on 25 August 2010, the Office of the Prosecutor General disseminated information through news agencies that the author was allegedly a defendant in five criminal cases; and (f) on 30 September 2010, the Office of the Prosecutor General requested Kazakhstan, the Russian Federation and Ukraine to detain and then extradite the author.

2.4 The author, who was out of the country at the time of the upheaval, did not return to Kyrgyzstan, fearing for his and his family’s safety and has since been living in Latvia. He applied for a residence permit on 28 July 2010 and received official refugee status from the Latvian immigration authorities on 16 February 2011.

2.5 The author submitted requests to the Office of the Prosecutor General in Kyrgyzstan on 22 April, 7 July, 27 July, 24 August, 31 August and 30 November 2010. In those communications he refuted the public allegations against him and requested notification regarding any formal investigations into him or charges laid against him. He also informed the Office of the Prosecutor General of his place of residence and the contact details of his lawyer in Kyrgyzstan for the purpose of formal notifications. The author also requested the Office of the Prosecutor General to open an investigation into and present criminal charges against the legal enforcement agents who had, without notification, illegally seized his property (an apartment, a house and a cottage) and ransacked his family’s real estate.

2.6 On 4 February 2014, the author’s lawyer signed an affidavit stating that the Office of the Prosecutor General had not answered the author’s requests for information. Public service officers continued to make statements in the media referring to the supposed involvement of the author in several crimes committed in collusion with the family of the ousted President, including fraud, money laundering and corruption related to the Kumtor goldmine project. The author submits that the lack of formal charges against him has prevented him from presenting a defence and amounts to defamation of character.

2.7 On 8 June 2010, the author brought a complaint to the Pervomaisk district court of Bishkek against the provisional Government, the Vice-Chair and supervisor of the courts and law enforcement agencies, A.B., and mass media agencies for defamation of character following dissemination of false information that discredited his honour, dignity and business reputation.

2.8 On 23 June 2010, the district court left his complaint without action because, according to the court, the author had not indicated the address of his residence in breach of the requirement of article 132 (2) of the Code of Civil Procedure. The author was given until 30 June 2010 to fulfil this requirement. On 29 June 2010, his lawyer indicated to the court the author’s permanent address in Bishkek, attaching the certified title of ownership of his apartment. On 30 June 2010, the district court returned the complaint to the author on the basis that he had not informed his address in due time.

2.9 On 2 August 2010, the author appealed the decisions of the district court dated 23 and 30 June 2010 to the Bishkek city court. He indicated that article 132 (2) of the Civil Procedure Code required indication of a residential address; he further asserted that he had indicated in the text of the lawsuit his address in Bishkek and his lawyer’s address. He also claimed that

the demand by the district court for a certificate of registration and residence, although unreasonable, had also been delivered by his lawyer. The author added that his temporary absence from the country did not preclude his right to appeal. On 3 December 2010, a hearing on his appeal was held at the Bishkek city court. The hearing was attended by a representative of the Executive Office of the President. The decisions of the district court were confirmed by the Bishkek city court.

2.10 On 6 July 2010, the author submitted an identical parallel complaint to the district court against the provisional Government, the Vice-Chair and supervisor of the courts and law enforcement agencies and the information agencies for defamation. This time, he signed the complaint in front of the notary of the Riga regional court of Latvia, Kitija Garā. The author pointed out the wrongfulness of the previous refusal of the court to admit his suits on the basis of a procedural request of proof of residency (which was not provided for in the law). He stated the address of his lawyer in Kyrgyzstan and his address in Latvia. On 2 August 2010, the Court rejected his complaint based on the fact that the author had not met the requirements requested by a district court decision of 20 July 2010. The author alleges that he was not aware of the decision of 20 July 2010 and that it had not been notified to him. On 13 August 2010, he appealed the decision of the district court to the Bishkek city court. The author has not yet been informed of any actions taken in regard to this appeal.

2.11 On 5 December 2011, the author appealed to the Supreme Court the decisions of the district court of 23 and 30 June 2010 and the decision of the Bishkek city court of 3 December 2010. By the time of this appeal, he had already been granted a residence permit in Latvia and he provided the Supreme Court with his official certificate of residence, which had been translated into Russian and notarized. The author complained about the lack of access to justice and requested the repeal of the decisions of the district and city courts, which were based on unreasonable and illegal procedural requirements, preventing him from exercising his right to equal access to the courts. In his appeal, he mentioned not only domestic law, but also reminded the Supreme Court of the State party's international obligations to provide efficient remedies and protect the right to equality before the courts, presumption of innocence and non-discrimination.

2.12 On 17 January 2012, in a letter, the acting Vice-Chair of the Supreme Court rejected the author's appeal. In the letter, the acting Vice-Chair explained that the author had not complied with the one-year time limit to appeal a court ruling as provided under article 344 of the Code of Civil Procedure. The author believes that the letter sent by the acting Vice-Chair contradicts national legislation, according to which Supreme Court decisions should be taken by a panel of three judges (art. 348 of the Code of Civil Procedure). He further claims that decisions should not be communicated by letter, because only formal court decisions are subject to appeal pursuant to articles 136 (3) and 348 of the Code of Civil Procedure.

2.13 The procedural obstacles imposed prevented the author from having his case reviewed by the domestic courts in all instances.

Complaint

3.1 The author claims that in breach of article 14 (1), (2) and 3 (a) of the Covenant, the State party has violated his presumption of innocence and denied his right to equal treatment and a fair trial by an independent and impartial court, in that some public officials have accused him publicly of committing fraud, money laundering and corruption while in public office. However, the author has not been condemned or informed of any valid legal charges brought against him. His attempts to obtain information by submitting communications to the Office of the Prosecutor General were frustrated, leaving the author with no opportunity to present a defence. The courts did not act impartially, as they are controlled by the "supervisor" of the courts and law enforcement agencies, namely one of the respondents in the author's lawsuits,² and he has not been afforded the same treatment as in similar

² The author refers to the Committee's decision in *Eligio Cedeño v. Bolivarian Republic of Venezuela* (CCPR/C/106/D/1940/2010).

proceedings, as the repetitive requests for proof of address and registration were arbitrary and based on illegal procedural grounds.

3.2 He further claims that in violation of article 17 (1) of the Covenant, the State party has interfered with his privacy and property, and subsequently failed to provide protection and remedies to the author by not sanctioning the legal enforcement agents who, in the course of 2010, had illegally seized his property without prior notification (an apartment, a house and a cottage) and had ransacked his family's real estate.

3.3 In violation of article 26, the author also alleges that the State party has not provided him with equal protection before the courts. As part of a list of "public enemies", he has been discriminated against for social and political reasons, and remedies have proven to be de facto unavailable and inefficient a priori. Furthermore, proceedings have been unduly prolonged.³

3.4 The author seeks declaratory relief and access to effective remedies, including compensation.

State party's observations on admissibility and the merits⁴

4.1 By note verbale of 1 December 2016, the State party provided its observations on the admissibility and merits of the complaint.

4.2 Regarding the initial criminal charges against the author, he was found guilty under articles 170 (3) (3) and 221 (2) of the Criminal Code and on 6 June 2013 he was sentenced to six years and six months of imprisonment, to be served in a strict regime colony, with confiscation of property. The author's request for leave to appeal owing to a missed deadline was eventually rejected by the Supreme Court on 20 February 2014.⁵

4.3 The author was charged with additional crimes under article 221 (2) of the Criminal Code and on 29 April 2016, he was sentenced to two years' imprisonment.⁶ Adding his earlier sentence dated 6 June 2013, the author was sentenced to 8 years' imprisonment in total, with confiscation of property. The appeals procedure was abandoned owing to the fact that the author had withdrawn his appeal. On 29 April 2016, the author was further sentenced for committing various crimes under the Criminal Code, his total sentence now being 25 years' imprisonment. This verdict and sentence were not appealed.

4.4 On 21 September 2016, the author was found guilty of various crimes under the Criminal Code and sentenced to further a term of 20 years' imprisonment. By adding together several previous sentences, the author was sentenced to a total of 25 years' imprisonment, with confiscation of property.⁷ The verdict and sentence were appealed only to challenge the confiscation of real estate property and at the time of the submission of the State party's observations was being considered by the court. The author was further charged with additional crimes and the criminal case related to those was ongoing at the time of submission.

4.5 In all the criminal cases mentioned above, the courts of the State party adhered to all the procedural rules required by the relevant legislation. Some lower court decisions were reviewed on appeal and under the supervisory review procedure and some came into force without being challenged by the author. It has to be noted that the trial and other procedural actions can be conducted without the defendant being present, if it is ascertained that it is impossible to bring him to court.

4.6 According to the jurisprudence of the Committee, it does not consider cases, in which the author has not exhausted the available domestic remedies. In all four criminal cases

³ The author makes reference to the Committee's decision in *Saker v. Algeria* (CCPR/C/86/D/992/2001).

⁴ The State party also provides additional information that is irrelevant to the current communication, e.g., on the author's father. That information has been excluded from the text.

⁵ The leave to appeal was initially granted by the district courts, but overturned by the regional court and the Supreme Court.

⁶ That sentence is based on three criminal cases that were combined into one trial, according to the State party.

⁷ Twenty-five years is the maximum term permissible under the Criminal Code, so even adding new sentences would not increase the length of the sentence.

against the author in which the verdict and sentence have come into force, the author and/or his lawyers failed to file cassation appeals and requests for supervisory review. The ongoing criminal cases against the author are being intentionally delayed by the author's lawyers, who have filed numerous frivolous motions at court. The investigations are also difficult to complete, because some of the procedures require the author's presence, but he is at large and refuses to appear.

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

5.1 On 26 June and 23 October 2017, the author submitted that he was never informed of any criminal charges against him, despite having hired a private defence lawyer. When he heard rumours about criminal charges having been brought against him, he sent letters to the State party authorities requesting information, but never received a response. The Office of the Prosecutor General and the courts of the State party had the author's mail address and telephone number, but never communicated any information related to criminal cases against him.

5.2 The State party in its response also failed to respond to the majority of the author's claims. The author filed several lawsuits to protect his honour, dignity and business reputation, to no avail. On 17 January 2012, the Supreme Court returned his request for a supervisory review without considering it.

5.3 The State party authorities further ignored the author's complaints to the Office of the Prosecutor General between 22 April and 30 November 2010. The State party also failed to comment on a number of statements from government officials that violated the author's right to the presumption of innocence. Such statements included a public announcement by the deputy head of the provisional Government, the so-called supervisor of the courts and law enforcement agencies, A.B.; a formal announcement by the provisional Government declaring a bounty for "detaining" the author as someone who has committed grave crimes; formal announcements by the Office of the Prosecutor General stating that the author is charged with five crimes and has been declared a wanted fugitive, and declaring the author guilty of corruption and money laundering; a public announcement by the Minister of Economy that the author was corrupt and acting in conspiracy with the son of the ousted President, Maksim Bakiev; a public announcement by the Supreme Court that the author was a criminal who had conspired to commit crimes with Maksim Bakiev; and several statements from Members of Parliament.

5.4 The author reiterates that he was never informed of the charges laid against him, that he never absconded and that he was never summoned to appear for any investigative actions. At the same time, he asked in vain to be informed of the criminal charges against him, despite receiving other letters from the State party (unrelated to the criminal charges). Despite this, the State party conducted several trials of the author and eventually sentenced him to 25 years' imprisonment.

5.5 The author claims that his right to a hearing by a competent, impartial court was violated because he was not informed of the proceedings that were brought against him and was not therefore informed of the specific charges. During the hearings, the State party used a fictitious defence lawyer. The courts and the Office of the Prosecutor General were heavily influenced by the President of the country and by the so-called supervisor of the courts from the Presidential Administration.

5.6 The author claims that the State party intentionally did not inform him of the charges against him. He was not therefore able to prepare his defence and communicate with the counsel of his choosing, or to be present at his own trial, defend himself in person and call and question witnesses. The courts did not inquire, as the law requires, whether the author (the defendant) was given a copy of the indictment, which he was not. The findings made by the courts against the author are absolutely arbitrary and amount to a denial of justice. The evidence that was presented in court was falsified by the State party owing to politically motivated persecution of the author. For example, during one of the trials, judge K.B.B. readily and without evidence admitted the fact that the author had acted with members of the families belonging to the previous administration of the country, specifically with the son of former President Bakiev.

5.7 As for the exhaustion of domestic remedies, the author notes that the State party seemingly accepts that the author has exhausted remedies for claims other than those related to the criminal charges against him. The author claims that the remedies in the criminal cases have been either exhausted or are unavailable to him. He further claims that he has not taken any actions to intentionally prolong the procedures against him. He had a lawyer, S.H.B., who represented him before the events of 7 April 2010. That lawyer was, however, not allowed to communicate with him and inform him of the charges against him. The author did not have any other lawyers in Kyrgyzstan.

5.8 In one of the criminal trials of the author, for example, the State party appointed a lawyer to represent him, without informing or notifying him. That lawyer, N.A.M., did not file an appeal on behalf of the author. The author therefore denies having filed any motions or petitions that in any way prolonged the proceedings. While the Criminal Procedure Code of Kyrgyzstan does indeed allow a trial to be conducted without the presence of the defendant, it does so only in cases when the defendant is located outside the country and does not appear in court, and further provides that he or she be duly informed about the forthcoming hearing. That does not apply to the author, however, as he was never informed of the hearings.

5.9 The author submits that the State party's reaction to the complaint that he and some other complainants from Kyrgyzstan submitted was to change the Constitution of Kyrgyzstan concerning the part that foresees the primacy of international laws over national legislation. Several State-owned media outlets have openly discussed a connection between these complaints and the necessity of preserving the "sovereignty" of the country. That shows that the State party practices "systemic discrimination and violations" of the author's rights, by singling him out as an "enemy of the people". The author further submits that President Atambaev personally participated in persecuting the author through the courts, prosecutors and other government officials, and that the Government is keeping this information secret. One of the purposes of President Atambaev's campaign was to prevent the author from returning to Kyrgyzstan, in which case the author would have exposed crimes committed by the President.

5.10 The author submits that his lawyer, S.H.B., contacted him on 12 January 2017, informing him that during the summer of 2013 he had learnt, from "unofficial sources" and by accident that on 6 June 2013, the Osh city court had found the author guilty and had sentenced him to six years and six months of imprisonment. Despite the fact that the author and the lawyer had not been in contact since April 2010, the lawyer "felt obliged" to represent him. On 26 September 2013, S.H.B. filed an appeal on behalf of the author, in which he listed some significant procedural and "substantive" violations. The author submits that the trial was postponed several times, to ensure the presence of the author and his lawyer. However, in the end it was decided to conduct the trial without the presence of the author and counsel N.A.M. was appointed to represent the author. The author further submits that he should have been presented with a copy of the indictment as required by the Criminal Procedure Code, which correlates with article 14 (3) (a) of the Covenant. The court held the trial without the author being present. The author claims that the result of the trial was obvious from the beginning, as the court did not rule independently.

5.11 The author submits that his appointed counsel, N.A.M., failed to submit an appeal on his behalf. His other lawyer, S.H.B., learned about the case by accident and immediately filed an appeal. Since the lawyer missed the 10-day deadline after the trial court verdict and sentence, he also asked the appeal court for leave to appeal, which was initially approved on 30 September 2013. But on 9 October 2013, the prosecutor filed a complaint challenging this decision. As a result, the initial court decision was annulled. In that decision, the court stated that the author was represented by counsel, N.A.M., during his trial and that N.A.M. had not found it necessary to file an appeal. The author submits that N.A.M. was not present during some of the hearings, including the final one on 6 June 2013. In addition, the court did not accept that S.H.B., who had filed for leave to appeal, was actually representing the author. The court decision was arbitrary and amounted to a denial of justice, owing to the fact that the author did indeed have an ongoing agreement with S.H.B. dated 17 February 2009.

5.12 That decision was appealed to the Supreme Court under the supervisory review procedure but the appeal was rejected on 20 February 2014. At the same time, S.H.B. attempted to find out the author's whereabouts. The Office of the Prosecutor General had

complete information about the author's place of residence, but responded that it was not aware of his whereabouts. S.H.B. disputed this reply all the way to the Constitutional Court of Kyrgyzstan, claiming, inter alia, a violation of article 14 (3) (d) of the Covenant, but the initial decision was upheld.

5.13 The author submits that further to the verdict and sentence of imprisonment, the courts also decided to confiscate all of the author's property. The order of forfeiture of the property was issued on 5 July 2013, but again the author was not informed of the decision. The confiscation consisted of a large amount of cash and all company stocks that were owned by the author. The author's house, apartment and summer residence were confiscated as well. His house was later converted to be used by the Supreme Court of Kyrgyzstan.

5.14 The author further submits that the State party "staged" additional court hearings and trials, again without informing him or his official representative in the country. In the second criminal trial of the author, his lawyer, S.H.B., got involved during the pretrial investigation and filed several complaints on behalf of the author, but all the complaints were rejected and the verdict and sentence was issued on 11 July 2013. In another case, dated 24 March 2014, S.H.B. filed several complaints all the way to the Supreme Court, which on 12 May 2014, however, upheld the decision of the lower court.

5.15 The author submits that all his claims should be considered admissible because many of the remedies were not available to him, were not effective, or were unreasonably prolonged. Regarding his claims under article 14 (1) of the Covenant, the courts of the State party rejected his complaints or did not consider them properly. He reiterates his claims regarding presumption of innocence, as he was referred to as a "people's enemy", a "criminal" and a "wanted person" even before the court decisions. He also reiterates his claims under article 14 (3) (a) of the Covenant, as he was not informed of any charges that had been brought against him. The State party also violated his rights to privacy, honour and dignity by disseminating false information about him. His rights under article 17 (1) of the Covenant were also violated when his home was raided and his personal belongings were taken.

5.16 The author requests the Committee to find a violation of the articles of the Covenant and oblige the State party to accept his civil complaints about the protection of his honour, dignity and reputation. The author also asks the Committee to request the State party to quash all verdicts and sentences against him and discontinue ongoing criminal prosecutions. He also asks that his confiscated property be returned, that the authorities announce officially and publicly that he has been cleared of any and all wrongdoing, and that they pay an appropriate amount of compensation.

Issues and proceedings before the Committee

Consideration of admissibility

6.1 Before considering any claims contained in a communication, the Human Rights Committee must, in accordance with rule 97 of its rules of procedure, decide whether or not it is admissible under the Optional Protocol to the Covenant.

6.2 The Committee has ascertained, as required under article 5, paragraph 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 takes note of the State party's argument that the author failed to exhaust domestic remedies by not filing cassation appeals or requests for a supervisory review. The Committee takes note of the author's argument that he was not informed of any criminal charges against him, nor about the trials and subsequent verdicts and sentences, and that owing to this, he was not able to advance his defence properly and file cassation appeals, which have a short deadline. Furthermore, his lawyer's request for leave to appeal was rejected and the lawyer himself was not recognized as the author's representative. In some instances, he was represented by an ex officio lawyer, who failed to file any appeals. In the circumstances as described and in the absence of any information or explanations of pertinence by the State party, the Committee considers that it is not precluded by the requirements of article 5 (2) (b) of the Optional Protocol from proceeding with consideration of this part of the author's claims on the merits.

6.4 The Committee further notes the author's claims under articles 17 (1) and 26 of the Covenant. In the absence of any further pertinent information on file, the Committee considers that the author has failed to sufficiently substantiate his claims for the purposes of admissibility. Accordingly, it declares this part of the communication inadmissible under article 2 of the Optional Protocol.

6.5 The Committee considers that the author has sufficiently substantiated, for the purposes of admissibility, his claims of violations under articles 14 (1), (2) and 3 (a) of the Covenant. The Committee also notes that the author claims additional violations under article 14 (3) (b), (d) and (e) and (5). The Committee considers that the author's claims are sufficiently substantiated for the purposes of admissibility, declares these claims admissible and proceeds with their consideration of the merits.

Consideration of the merits

7.1 The Committee has considered the present communication in the light of all the information submitted by the parties, in accordance with article 5 (1) of the Optional Protocol.

7.2 The Committee notes that the essence of the author's claims is that he was not informed of several criminal proceedings against him. The author claims, inter alia, that this violates his rights to a fair and public hearing by a competent tribunal under article 14 (1) of the Covenant, as well as a host of fair trial procedural rights under article 14 of the Covenant including, but not limited to, the author's right to be informed of the nature and cause of the charges against him in a criminal case (under article 14 (3) (a) of the Covenant), or to be tried in his presence (under article 14 (3) (d) of the Covenant).

7.3 The Committee recalls its jurisprudence that there can be exceptions to the right of a defendant to be present at his or her own trial in the interests of the proper administration of justice – for example, in trials in absentia, in which the accused person, although informed sufficiently in advance of the proceedings, declines to exercise the right of presence during the trial.⁸ Such a trial can be conducted only if the necessary steps are taken to summon the accused persons in a timely manner, inform them beforehand about the date and place of their trial and duly request their attendance.⁹ The Committee further notes that in the case of trials in absentia, article 14 (3) (a) requires that, notwithstanding the absence of the accused, all due steps are taken to inform accused persons of the charges against them and to notify them of the proceedings.¹⁰ Article 14 (1) further guarantees access to the administration of justice, which must effectively be guaranteed in all such cases to ensure that no individual is deprived, in procedural terms, of his or her right to claim justice.¹¹

7.4 The Committee notes that in the present case, the State party has not provided any information about the steps it has taken to inform the author of the charges against him, or to request his presence during the multiple trials that have been conducted.¹² Without specifying, the State party simply contends that “the courts adhered to all procedural rules that are required by the relevant legislation”. In the circumstances as described by the parties, and given the absence of detailed and pertinent information from the State party regarding its efforts in locating and informing the author of the charges and proceedings against him, the Committee concludes that the facts as submitted reveal a violation of the author's rights under article 14 (1) and (3) (a) and (d) of the Covenant.

7.5 In the light of these conclusions, the Committee decides that it will not examine separately the author's remaining claims under article 14 (2), (3) (b) and (e) and (5) of the Covenant.

⁸ General comment No. 32 (2007), para. 36.

⁹ Human Rights Committee, *Mbenge v. Zaire*, communication No. 16/1977, para. 14.1, and *Maleki v. Italy* (CCPR/C/66/D/699/1996), para. 9.3.

¹⁰ General comment No. 32, para. 31, referencing *Mbenge v. Zaire*, para. 14.1.

¹¹ *Ibid.*, para. 9.

¹² The Committee also notes the author's claims that he informed the State party regarding his current address on several occasions, including on 6 July 2010, when he sent registered mail containing his address and contact information for his lawyer in Kyrgyzstan to the State party (see para. 2.10).

8. The Committee, acting under article 5 (4) of the Optional Protocol, is of the view that the facts before it disclose a violation of the author's rights under article 14 (1) and (3) (a) and (d) 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. This requires it to make full reparation to individuals whose Covenant rights have been violated. Accordingly, the State party is obligated, *inter alia*, to provide adequate compensation. The State party is also under an obligation to take all steps necessary 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 there has been a violation of the Covenant or not 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 remedy when it has been determined that a violation has occurred, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to the Committee's Views. The State party is also requested to publish the present Views and disseminate them widely in the official languages of the State party.
