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HUMAN RIGHTS COMMITTEE
Ninety-sixth session
13-31 July 2009

VIEWS

Communication No. 1397/2005

Submitted by:	Pierre Désiré Engo (represented by counsel, Charles Taku)
Alleged victim:	The author
State party:	Cameroon
Date of communication:	30 March 2005 (initial submission)
Document references:	Special Rapporteur's rule 91 decision, transmitted to the State party on 17 May 2005 (not issued in document form)
Date of adoption of Views:	22 July 2009
Subject matter:	Prolonged detention of applicant without trial
Procedural issues:	Exhaustion of domestic remedies
Substantive issues:	Arbitrary detention, failure to respect the right to be tried within a reasonable time: conditions of detention

* Made public by decision of the Human Rights Committee.

Articles of the Covenant: 9; 10, paragraph 1; 14, paragraphs 2 and 3 (a), (b), (c) and (d)

Articles of the Optional Protocol: 2 and 5, paragraph 2 (b)

On 22 July 2009, the Human Rights Committee adopted the annexed draft as its Views under article 5, paragraph 4, of the Optional Protocol in respect of communication No. 1397/2005.

[ANNEX]

Annex

VIEWS OF THE HUMAN RIGHTS COMMITTEE UNDER ARTICLE 5, PARAGRAPH 4, OF THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

Ninety-sixth session

concerning

Communication No. 1397/2005*

Submitted by: Pierre Désiré Engo (represented by counsel, Charles Taku)

Alleged victim: The author

State party: Cameroon

Date of communication: 30 March 2005 (initial submission)

The Human Rights Committee, established under article 28 of the International Covenant on Civil and Political Rights,

Meeting on 22 July 2009,

Having concluded its consideration of communication No. 1397/2005, submitted by Pierre Désiré Engo under the Optional Protocol to the International Covenant on Civil and Political Rights,

Having taken into account all written information made available to it by the author of the communication and the State party,

Adopts the following:

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* The following members of the Committee participated in the consideration of the present communication: Mr. Abdelfattah Amor, Mr. Prafullachandra Natwarlal Bhagwati, Mr. Lazhari Bouzid, Ms. Christine Chanet, Mr. Ahmad Amin Fathalla, Mr. Yuji Iwasawa, Ms. Hellen Keller, Mr. Rajsoomer Lallah, Ms. Zonke Zanele Majodina, Ms. Iulia Antoanella Motoc, Mr. Michael O'Flaherty, Mr. José Luis Pérez Sánchez-Cerro, Mr. Rafael Rivas Posada, Sir Nigel Rodley, Mr. Fabián Omar Salvioli, Mr. Krister Thelin and Ms. Ruth Wedgwood.

Views under article 5, paragraph 4, of the Optional Protocol

1. The author of the communication, dated 30 March 2005, is Pierre Désiré Engo, a Cameroonian national who is currently being held in the Centre Province Prison in Yaoundé. He claims to be a victim of violations by Cameroon of article 9, article 10 and article 14, paragraphs 2 and 3 (a), (b), (c) and (d), of the International Covenant on Civil and Political Rights. He is represented by counsel, Charles Taku. The Optional Protocol entered into force for Cameroon on 27 September 1984.

Account of events

2.1 The author was managing director of Cameroon's national social security fund, the Caisse Nationale de Prévoyance Sociale (CNPS), until 3 September 1999, when he was arrested. Since that date, he has been held in the Centre Province Prison in Yaoundé.

2.2 CNPS and the company Six International founded Prévoyance Immobilière de Gestion de Travaux (PIGT) to manage property owned by the Fonds National d'Assurance (National Insurance Fund). On 1 July 1998, Mr. Atangana Bengono, who at the time was manager of PIGT, resigned following allegations of embezzlement. CNPS then decided to suspend all banking operations by PIGT in order to forestall any other act of corruption, such as those alleged to have occurred at PIGT. The author claims to have been the target in a number of trials relating to these matters.

2.3 On 11 December 1998, in the first proceedings, Mr. Atangana Bengono lodged a complaint against the author for attempted misappropriation of public funds, misappropriation of public funds, withholding evidence, forgery and falsification of records and brought criminal indemnification proceedings in respect of those charges (*Public Prosecutor and Mr. Atangana Bengono and CNPS v. Mr. Engo et al.*). On 23 December 1998, the author himself lodged a complaint and a claim for criminal indemnification against Mr. Atangana Bengono and others for attempted misappropriation of public funds, withholding and fabricating evidence and forgery and falsification of private business and banking documents. The examining magistrate opened a judicial inquiry on 19 February 1999, at which CNPS lodged a complaint against the author for misappropriation of public funds and registered a claim for criminal indemnification. The examining magistrate decided to try the cases separately. In the first trial, on 26 August 1999, following a preliminary examination, the author was charged and released without bail. On 3 September 1999, during the examination of the merits, the examining magistrate, according to the author, found that the same complaint entailed two further offences (trading in influence and abuse of functions). The author was charged and placed under a detention warrant. After examination of the expert reports, the results of an international request for judicial assistance, documents requisitioned from banks and witness statements, the judicial inquiry established that there was sufficient evidence to try the author for misappropriation of public funds, favouritism, trading in influence and corruption. The judicial inquiry was closed and the author committed for trial to Mfoundi Regional Court. The trial was adjourned several times: the approach adopted by the President of the Court was to suspend the session at intervals until the conclusion of the case in order to avoid the normal practice of adjournments, which were considered too time consuming. On 23 June 2006, the Mfoundi Regional Court found the

author guilty of complicity in the misappropriation of public funds, favouritism and corruption and sentenced him to 15 years in prison. The court also denied Mr. Atangana Bengono's application for criminal indemnification as unfounded.

2.4 The second trial (*Public Prosecutor and Ayissi Ngono v. Messrs. Engo and Atangana Bengono*) was based on a petition by Mr. Ayissi Ngono concerning the issue of an uncovered cheque on 29 December 1998. At the author's request, Mr. Ayissi Ngono and Mr. Atangana Bengono were summoned to appear before the same court to answer charges of extorting a signature, attempted fraud and blackmail. The two proceedings were combined on 18 May 1999. On 18 January 2000, the Yaoundé Court of First Instance sentenced the author to six months' imprisonment for issuing an uncovered cheque, and to payment of 10 million CFA francs in damages to Mr. Ayissi Ngono. It also issued a detention warrant against the author during the course of the hearing. All the parties appealed against this decision, the author on 23 February 2000. According to the author, no appeal hearing was ever held, for reasons unknown. On 24 August 2000, the author requested to be released from prison, since he had served his term, but no action was taken. According to the State party, the record of the trial is currently being passed to the Centre Province Court of Appeal.

2.5 The third trial (*Public Prosecutor and CNPS v. Engo, Dippah et al.*) arose out of a complaint lodged on 27 December 1999 by CNPS against a Mr. Dippah and others for forgery, falsification of records and misappropriation of public funds. On 23 May 2000, the government procurator opened a judicial inquiry into forgery, falsification of records and misappropriation of public funds with reference to the author and Mr. Dippah, among others. They were held in custody, while the other accused were left at liberty. The author received a committal order on 11 April 2002. On 22 November 2002, the Mfoundi Regional Court handed down a ruling finding the author guilty of involvement in misappropriation and sentencing him to 10 years' imprisonment and payment of damages. The author lodged an appeal on 22 November 2002. On 27 April 2004, the Centre Province Court of Appeal upheld the judgement against the author. The author lodged an appeal in cassation the same day, and the file was passed to the Supreme Court on 19 January 2005. On 22 June 2006, the Supreme Court dismissed the appeal in cassation. The author indicates that his counsel were not called to attend the Supreme Court hearing.

2.6 The fourth trial arose from a writ of summons issued by Mr. Atangana Bengono against the author on 15 and 18 October 2001 to answer charges of making tendentious comments, disseminating false information and defamation. In support of his case, Mr. Atangana Bengono stated that, on 11 December 1998, he had lodged a complaint and a claim for criminal indemnification against the author for attempted misappropriation of public funds. The newspaper *La Nouvelle Presse* was reporting on the trial while the case was still under investigation. On 10 April 2003, the court ruled that the prosecution had lapsed as the plaintiff had withdrawn his charges on 29 April 2002, and ordered him to pay costs. The government procurator's office appealed against that ruling on 17 April 2003. The file of the trial is being passed to the Centre Province Court of Appeal.

2.7 The fifth trial arose from the international request for judicial assistance issued by the examining magistrate in the case *Public Prosecutor and Mr. Atangana Bengono and CNPS v. Mr. Engo et al.* (see paragraph 2.3), with a view to determining the source and the amount of the

money held in the author's accounts in Paris. It related to a transfer of 250 million French francs and, in view of the size of the sum involved, the prosecutor's office took over the case and opened a new judicial inquiry. On 15 February 2005, the prosecutor issued a new detention warrant against the author, and charged him with misappropriation of public funds. An international request for judicial assistance was issued on 7 March 2005.

The complaint

3.1 The author claims that his right to liberty and security of person (article 9 of the Covenant) has been violated. He contends that he was arrested without a warrant and was arbitrarily detained in poor conditions, in violation of article 10, paragraph 1, of the Covenant, and without being informed of the charges against him in the various cases. In that regard, following his imprisonment in 1999, the author's state of health deteriorated. He developed glaucoma. Despite his need for medical treatment and his repeated requests to the prosecutor and other authorities to that effect, he was prevented from contacting his doctors during the first two years of his detention. It was not until the Red Cross intervened that he was examined by his doctors. Because he was denied medical treatment, his eyesight has deteriorated. The author wrote a number of letters to the authorities in order to draw attention to his medical problems and detention conditions.

3.2 The author also maintains that his right to a fair hearing (article 14, paragraphs 2 and 3 (a), (b), (c) and (d)) has been violated by the State party. He also contends that the rights of the defence and other requirements of the right to a fair trial were violated in his case, chiefly as a result of his excessively long detention, the harassment to which his lawyers were subjected, the refusal to let him see the forensic reports, the seizure and confiscation of documents intended to be used in his defence and the fact that the State did nothing to put a stop to the media campaign portraying him as guilty before he had been tried.

3.3 The author indicates that, in January 2000, his lawyer and the lawyer's assistant were followed and stopped by four armed men, who threatened them and stole all the documents pertaining to Mr. Engo's case. The day after this incident, the offices of the author's second Cameroonian lawyer were searched and ransacked.

3.4 On 24 March 2001, the author consulted two lawyers from the Paris Bar. He informed them that, among other things, he had discovered that the government procurator was investigating his Paris and Brussels bank accounts with the help of the French judicial authorities, even though he had never been formally notified that such action was being taken. On 4 May 2001, the complainant, Mr. Atangana Bengono, wrote to the Embassy of Cameroon in Paris to ensure that the lawyers' visa requests were denied. The lawyers were thus prevented from defending the author. In June 2001, the author requested the government procurator and the court to allow his lawyers to visit him. No action was taken on this request. In May 2002, the Embassy of Cameroon in Paris denied a visa to another lawyer who had been contacted by the author. Also in May 2002, after the Cameroonian authorities had refused to grant a visa to one of the author's Paris-based lawyers so that he could represent him in Yaoundé, all the author's Cameroonian lawyers refused to represent him in court as long as their Parisian colleagues were not authorized to travel to Cameroon.

3.5 On 3 March 2003, the deputy government procurator wrote a letter blocking a bank account held by the author. This undermined the author's ability to pay lawyers' expenses and fees and impaired his right to a defence. On 22 October 2003 and 12 April 2004, without a warrant, the government procurator searched the author's cell and his home, and confiscated documents that were to be used for his defence.

3.6 The author has also been the target of other public accusations in the press. On 29 August 2003, the newspaper *La Nouvelle Expression* published an article accusing the author of arms dealing. According to the author, the investigation into this charge is apparently still under way, although the State party indicates that no judicial proceedings are under way against the author for arms dealing. Moreover, the State media are continuing their propaganda campaign against the author, despite numerous requests to the prosecutor, the Minister of Justice and the managing director of Cameroon Radio Television to put a stop to it. The author, who has long remained faithful to the Government of Cameroon, attributes his imprisonment to the fact that he was held in increasing esteem by the population. He states that, in 1994, he had founded a non-governmental organization to help the poorest people in Cameroon and that, in 1999, he had announced that his foundation would shortly be opening offices throughout the country. During the same period, Transparency International criticized the Government for its failure to combat corruption. The author considers that he is being used as a scapegoat in the Government's campaign against corruption.

3.7 With regard to the exhaustion of domestic remedies, he made an application for release pending trial on 27 October 1999 to the Minister of Justice, who did not reply. On 10 January 2000, the author lodged a complaint with the Minister of Justice concerning the violation of his rights by the Yaoundé government prosecutor. No action was taken by the Minister. On 7 June 2000, the author's lawyers issued an application addressed to the government prosecutor to set aside the detention warrant, which they considered violated the principles of the law with regard to jurisdiction, inasmuch as the examining magistrate cannot include new facts in his inquiry himself or act on his own motion.

3.8 On 3 September 2001, the author lodged another complaint before the government prosecutor concerning the unreasonable delay in the proceedings and the length of his time in custody, basing his argument on article 9, paragraph 3, of the Covenant. He requested a speedy trial or release pending trial. A further application for his release was made to the government prosecutor attached to the Yaoundé courts, indicating that the author had been in pretrial detention since 3 September 1999, i.e., for over two years at the time the application was made.[1] The author claims that all domestic remedies have been exhausted.

State party's observations on admissibility and the merits

4.1 On 17 November 2005, the State party challenged the admissibility of the communication, primarily on the grounds that all the proceedings initiated against the author are still under way

[1] There is a copy of the application in the file, but it gives no date and no details of the outcome.

in the domestic courts. The delays noted were rather the fault of his lawyers, who, with their numerous pleas and release applications, had acted as a brake on the proceedings and caused considerable delays. In the alternative, the State party contends that the communication is unfounded and contains no evidence of a violation of the Covenant.

4.2 With regard to the author's arrest and detention, the State party claims that, since the author was placed under a detention warrant and taken to the Centre Province Prison in Yaoundé following his indictment on the basis of a judicial inquiry properly opened against him, his imprisonment cannot be termed "arbitrary".

4.3 The State party maintains that, as the acts of misappropriation of public funds with which the author is charged constitute an offence under the Cameroon Criminal Code, he cannot claim release as a matter of right under the Code of Criminal Investigation, in view of the nature and gravity of the offences in question. His applications for release were rejected in accordance with the procedures and timescales laid down by law. Moreover, the State party maintains that the author failed to refer the matter to the Regional Court, as prescribed by Ordinance No. 72/4 of 26 August 1972 in cases where the examining magistrate denies an application for release on bail.

4.4 The State party rejects the author's argument that legal proceedings were brought against him for offences for which the decision on whether to prosecute lay with the government prosecutor, noting that article 63 of the Code of Criminal Investigation provides that "any person who considers him or herself harmed by a crime or offence may lodge a complaint in that regard and register a claim for criminal indemnification with an examining magistrate". The complaint lodged by Mr. Atangana Bengono thus constitutes a legal remedy in exercise of the public right of action. Moreover, the case before the examining magistrate was an action in rem and was not concerned with the characterization of the offences listed in the complaint. Furthermore, whereas the absence of a legitimate interest makes a civil action before a trial court inadmissible, the same does not apply to criminal proceedings, which are automatically set in motion once a deposit is paid by the complainant.

4.5 As for the "invalidity of the procedure whereby the examining magistrate allegedly acted on his own motion in taking up the case", the State party states that, pursuant to the provisions of articles 128 and 133 of the Criminal Investigation Code, the examining magistrate is not bound by the classification at law by which the complainant believes he can characterize the alleged acts as criminal. Moreover, under article 134 of the Code, the examining magistrate conducts the judicial inquiry against the persons named in the complaint and any others identified at a later stage. The author was thus properly indicted. As for the author's allegations that the *non bis in idem* principle was violated, he cannot claim that the actions brought against him related to the same acts. He was originally tried on the charge of issuing an uncovered cheque and subsequently prosecuted on various counts of misappropriation of public funds, attempted forgery and falsification of records. These acts, which are offences under articles 253, 184 and other articles of the Criminal Code, are completely different from one another. The judicial inquiry opened in relation to specific acts uncovered new facts, such as the transfer of 25 billion CFA francs, and the government prosecutor therefore acted correctly in opening a separate judicial inquiry.

4.6 With regard to the question of the violation of the rights of the defence, the State party contends that the forensic reports and all the other documents on which the examining magistrate relied were sent to the author, and that his comments were recorded before the termination of the proceedings. Regarding the alleged seizure of materials in the case file, the State party claims that the materials in question were contentious accounting records. The seizures had been carried out with full respect for the law, both at the author's home and in his prison cell. With regard to the obstacles, threats and attacks to which the author's lawyers were subjected, the State party argues that the matter was not referred to any court of law and that, furthermore, one of the author's lawyers was granted an entry visa for Cameroon on two occasions (22 July and 6 September 2002) in order to assist his client at the hearings of 2 August and 10 September 2002.

4.7 With regard to the conditions in which the author is detained, the State party maintains that the author is an ordinary prisoner and has been treated in a humane manner, like all Cameroonian prisoners. The State party is striving, so far as it can and taking into account its level of development, to uphold minimum standards for prisoners. It adds that the author's allegations that he needed regular medical treatment are unfounded, given that he has always chosen to disregard the advice of the prison doctor. Concerning the alleged obstacles to his medical care, the State party adds that he has received, and continues to receive, treatment from the doctors of his choice.

Author's comments on admissibility and the merits

5.1 In his comments of 22 January, 17 March and 30 June 2006 on the question of the exhaustion of domestic remedies, the author contends that the State party did not clearly indicate what domestic remedies were available to him. The State party does not challenge the authenticity of the documents provided by the author to substantiate his claims. Nor does the State party provide any documentary evidence in support of its statements or details of the cases and trials it claims to have initiated, in the form of case numbers or copies of judgements. This will prevent the Committee from ruling on the effectiveness and reasonableness of these remedies.

5.2 The author claims that, at his second trial, he did not have access to effective remedies within a reasonable time[2] (see paragraph 2.4). The State party did not reply to the author's allegations that he had had no access to remedies as a result of a denial of justice. Moreover, the State party does not explain the delays in the proceedings. To support his claims, the author indicates, inter alia, that the appeal against his six-month prison sentence for issuing uncovered

[2] Counsel draws attention to communication No. 113/1981, *C.F. et al. v. Canada*, declared inadmissible on 12 April 1985, and communication No. 164/1984, *G.F. Croes v. Netherlands*, declared inadmissible on 7 November 1988 ["*In the absence of any clear indication from the State party concerning other effective domestic remedies which the author should have pursued, the Committee concluded that it was not precluded by article 5, paragraph 2 (b), of the Optional Protocol from considering this case*" (para. 6.3)]. He also draws attention to the case law of the European Court of Human Rights.

cheques, filed in May 2000, is still pending before the Court of Appeal, even though he completed his sentence on 16 November 2000. He also considers that he has exhausted domestic remedies with regard to release on bail, and that the remedies mentioned by the State party had no prospect of success and were not available.[3] Moreover, the sheer number of arrest and detention warrants issued during the proceedings described in paragraphs 2.3 and 2.7 made access to remedies difficult. He was held in detention in connection with another pending case, in violation of the presumption of innocence and the rights of the defence, and thus of articles 9, 10 and 14 of the Covenant.

5.3 The author reiterates that his arrest and detention were arbitrary and that he was arrested without a warrant. He points out that the State party does not contest these facts; nor does it contest the material included in the case file as proof of his deteriorating health, which requires specialist medical care not available in prison. He again invokes articles 9 and 14 of the Covenant and contends that his detention on various grounds prevents him from preparing his defence. In that connection, he points out that his bank accounts have been blocked, which prevents him from choosing his lawyers, that his lawyers are not informed of adjournment dates of cases in progress and that his French lawyers withdrew in protest on 29 March 2006.

Issues and proceedings before the Committee

Consideration of admissibility

6.1 Before considering any claim contained in a communication, the Human Rights Committee must, in accordance with rule 93 of its rules of procedure, decide whether or not the communication is admissible under the Optional Protocol to the Covenant.

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

6.3 The State party argues that the author has not exhausted domestic remedies. In his turn, the author asserts that he has no effective domestic remedies available to him and that in any case the remedies and appeals still under way have been unreasonably prolonged. In the Committee's view the issue of delays in the exhaustion of domestic remedies is closely bound up with the claim of unreasonable delays in consideration of the merits of the case and ought consequently to be taken up in the context of the merits.

6.4 The Committee finds that the author has substantiated his claims under articles 9, 10 and 14 sufficiently for the purposes of admissibility and therefore declares them admissible.

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[3] He draws attention also to communication No. 210/1986, *Pratt v. Jamaica*, and communication No. 225/1987, *Morgan v. Jamaica*, Views adopted on 6 April 1989; communication No. 220/1987, *Kalvez v. France*, declared inadmissible on 8 November 1989; and communication No. 229/1987, *Reynolds v. Jamaica*, Views adopted on 8 April 1991, with reference to the fact that it is not necessary to exhaust domestic resources if they have no objective prospect of success.

Consideration of the merits

7.1 The Committee has considered the present communication in the light of all the written information made available to it by the parties, as provided for in article 5, paragraph 1, of the Optional Protocol.

7.2 With regard to the complaints of violations of article 9, the Committee notes that the author was placed under a detention warrant on 3 September 1999, following a complaint accompanied by the lodging of an application for criminal indemnification, the initiation of a judicial inquiry and questioning. The Committee considers that he was therefore deprived of his liberty on grounds and in accordance with the procedure set out in the law, and that no violation of article 9 occurred in respect of the allegations of arbitrary detention. In respect of the allegations of arbitrary detention during the first trial, the author has been in detention since 3 September 1999, and an initial judgement was handed down on him by the Mfoundi Regional Court on 23 June 2006 (in the case *Public Prosecutor and CNPS, Atangana Bengono v. Engo et al.*), that is, almost seven years after he was imprisoned. The Committee considers that this in itself constitutes a violation of article 9, paragraph 3, of the Covenant.

7.3 Concerning the author's allegations that he was not promptly informed of the charges against him in each of the trials, the Committee notes that the State party has not replied specifically on this point, but that it merely states that the author was placed under a detention warrant and taken to prison after being indicted, on the basis of a judicial inquiry properly opened against him, and that his imprisonment cannot therefore be termed arbitrary. In the absence of detailed information from the State party establishing that the author was informed promptly of the grounds for his arrest in each of the cases, the Committee must give full weight to the author's claim that he was not promptly informed of all the charges against him. In this respect, the Committee finds a violation of article 9, paragraph 2, of the Covenant.

7.4 In respect of the author's allegations that existing remedies for challenging his detention are neither effective nor available, the Committee points out that the author and his counsel requested his release from prison, and subsequently his release pending trial, on several occasions. According to the State party, his requests for release were rejected in accordance with the procedures and timescales laid down by law, and the author has not exhausted all available remedies, as he did not apply to the Regional Court for his release pending trial. Yet the Committee notes that, for example, the application of 3 September 2001 for release pending trial was addressed to the government prosecutor attached to the Yaoundé courts. The Committee also notes that the author indicates that the prosecutor refused on four occasions to release him pending trial. In this case, the Committee considers that the author had the right to seek remedies in order that the State party should rule on the lawfulness of his detention, as provided in article 9, paragraph 4, of the Covenant, and that the material in the files does not reveal a violation of article 9, paragraph 4, of the Covenant.

7.5 The author also maintains that the conditions of his detention have been inhumane, particularly owing to the fact that the authorities have denied him access to appropriate medical care, leading to the severe deterioration of his eyesight. The State party argues that the author receives appropriate medical care, which is provided by the prison doctor. However, the State party fails to address the author's claims relating to his need to have access to more specialized

medical care, nor does it deny that the CNPS ophthalmologist, who is the author's attending physician, reports a severe deterioration of the author's eyesight. In the present case, the State party has not demonstrated that it has provided the medical care appropriate to the author's condition, despite the author's requests. In the Committee's view, this constitutes a violation of the provisions of article 10, paragraph 1, of the Covenant.

7.6 With regard to the allegations of violations of article 14, notably article 14, paragraph 2, the Committee notes first that the author claims that his right to the presumption of innocence has been violated. To support his claim, he cites the information about him published in the State media. The author wrote letters to the competent authorities requesting them to put a stop to the publication of such information; however, these letters met with no response. The State party does not contest these facts. The Committee recalls that the accused's right to be presumed innocent until proved guilty by a competent court is guaranteed by the Covenant. The fact that, in the context of this case, the State media repeatedly portrayed the author as guilty before trial and published articles to that effect, is in itself a violation of article 14, paragraph 2, of the Covenant.

7.7 The Committee notes that the author claims to have waited several months to be informed of the charges against him and to be given access to the case file. The State party failed to reply specifically to this point and merely states that the author had access to all the material in the case, without adducing any evidence. In this respect, the Committee finds a violation of article 14, paragraph 3 (a).

7.8 With regard to the obstruction of the author's preparation of his defence, the Committee notes that the State party replies that a lawyer from Paris received two visas in order to assist his client at two hearings in 2002. The State party does not, however, respond to the allegations that two of the lawyers from the Paris Bar appointed by the author were prevented from travelling to Cameroon to assist their client in May 2001 and May 2002, which prompted the Cameroonian lawyers to refuse to represent him in court. Neither does the State party challenge the authenticity of the letter dated 4 May 2001 in which one of the author's accusers requests the Ambassador of Cameroon in Paris to stop the lawyers coming. Persons charged with a criminal offence have the right to communicate with counsel of their own choosing; this is one guarantee of a fair hearing provided for in article 14, paragraphs 3 (b) and (d), of the Covenant. The State party does not contest the author's right to be represented by French lawyers or that those lawyers were authorized to represent him in the State party's courts. The fact that the author encountered considerable obstacles in his efforts to communicate with these lawyers therefore constitutes a violation of the procedural guarantees provided for in article 14, paragraphs 3 (b) and (d).

7.9 The Committee also notes that only one final judgement has been handed down in respect of the author, who has been in custody since 1999, in one of the cases against him (see paragraph 2.5), namely the ruling by the Supreme Court on 22 June 2006, and that one judgement was passed by the Regional Court on 23 June 2006, against which he seems not to have appealed (see paragraph 2.3). Article 14, paragraph 3 (c), of the Covenant guarantees individuals the right to be tried without undue delay. The State party justifies the delay in the various proceedings against the author by citing the complexity of the cases and, in particular, the numerous appeals filed by the author. The Committee points out that article 14, paragraph 5,

of the Covenant guarantees the right to appeal, and that the exercise of this right cannot be used as justification for unreasonable delays in the conduct of the proceedings, since the rule set out in article 14, paragraph 3 (c), also applies to these appeal proceedings.[4] Consequently, the Committee considers that, in the circumstances of this case, the fact that a period of eight years elapsed between the author's arrest and the delivery of a final judgement by either the court of appeal or the court of cassation, and that a number of appeal proceedings have been in progress since 2000, constitutes a violation of article 14, paragraph 3 (c), of the Covenant.[5]

8. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the facts before it reveal a violation of article 9, paragraphs 2 and 3, article 10, paragraph 1, and article 14, paragraphs 2 and 3 (a), (b), (c) and (d), of the Covenant.

9. Pursuant to article 2, paragraph 3 (a), of the Covenant, the State party has an obligation to provide the author with an effective remedy leading to his immediate release and the provision of adequate ophthalmological treatment. The State party is also under an obligation to prevent similar violations in the future.

10. Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether or not there has been a violation of the Covenant, and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy in the event that a violation has been established, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to the Committee's Views. The State party is also requested to publish the Committee's Views.

[Adopted in English, French and Spanish, the French text being the original version. Subsequently to be issued also in Arabic, Chinese and Russian as part of the Committee's annual report to the General Assembly.]

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[4] Communication No. 27/1978, *Pinkney v. Canada*, Views adopted on 29 October 1981, para. 22.

[5] Communication No. 1421/2005, *Francisco Juan Larrañaga v. the Philippines*, Views adopted on 24 July 2006, para. 7.2.