



# International Covenant on Civil and Political Rights

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## Human Rights Committee

Ninety-eighth session  
8 to 26 March 2010

### Decision

#### Communication No. 1522/2006

<u>Submitted by:</u>	N. T. (not represented by counsel)
<u>Alleged victim:</u>	The author
<u>State party:</u>	Kyrgyzstan
<u>Date of the communication:</u>	26 June 2006 (initial submission)
<u>Documentation references:</u>	Special Rapporteur's rule 92/ 97 decision, transmitted to the State party on 27 November 2006 (not issued in document form)
<u>Date of adoption of present decision:</u>	19 March 2010

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\* Made public by decision of the Human Rights Committee.

<i>Subject matter:</i>	Complaints handling system in public administration.
<i>Procedural issues:</i>	Non-substantiation,
<i>Substantive issues:</i>	Right to a fair hearing
<i>Articles of the Covenant:</i>	2, and 14, paragraph 1.
<i>Articles of the Optional Protocol:</i>	2

[Annex]

## ANNEX

### **Decision of the Human Rights Committee under the Optional Protocol to the International Covenant on Civil and Political rights (Ninety- eighth session)**

concerning

#### **Communication No. 1522/2006\*\***

Submitted by: N. T. (not represented by counsel)

Alleged victim: The author

State party: Kyrgyzstan

Date of the communication: 26 June 2006 (initial submission)

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

Meeting on 19 March 2010,

Aadopts the following:

#### **Decision on admissibility**

1. The author of the communication is N. T., a citizen of Kyrgyzstan, who claims to be the victim of violations by the State party of his rights under articles 2 and 14, paragraph 1, of the Covenant. The author is not represented.

#### **The facts as presented by the author**

2.1 On 15 February 2006, the author approached the Ministry of Finance to hand in a complaint against the activities of the Ministry. He was not allowed to enter the building of the Ministry, and was told to place his complaint in a box installed for such purposes at the entrance hall. The author refused. He phoned the department of the Ministry responsible for handling complaints and demanded that his complaint is received in person and that he is provided with a receipt and a registration number. The officer of the department refused to accept the complaint in person, explaining that the Minister's special regulation set an order for submission of individual complaints, whereby complaints should be placed in the box at the building's entry hall.

2.2 Finally, the author placed his complaint in the box and the following day, he contacted the officer of the Department dealing with complaints, again asking him for a

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\*\* The following members of the Committee participated in the examination of the present communication: Mr. Abdelfattah Amor, Mr. Lazhari Bouzid, Ms. Christine Chanet, Mr. Mahjoub El Haiba, Mr. Ahmad Amin Fathalla, Mr. Yuji Iwasawa, Ms. Helen Keller, Mr. Rajsoomer Lallah, Ms. Zonke Zanele Majodina Mme. Iulia Antoanella Motoc, Mr. Michael O'Flaherty, Mr. José Luis Pérez Sanchez-Cerro, Mr. Rafael Rivas Posada, Sir Nigel Rodley, Mr. Fabian Omar Salvioli and Mr. Krister Thelin.

registration number for his complaint. The officer replied that the author's complaint was not received.

2.3 On 16 February 2006, the author sent a letter to the Ministry by post claiming that the complaints handling system of the Ministry is at the discretion of its officers and allows them to disregard complaints. The Ministry responded that the system did not violate any laws and referred to high professional ethics of civil servants.

2.4 On 22 March 2006, the author filed a complaint with the Bishkek Inter-District Court challenging the legality of the procedure. On 5 April 2006, the Bishkek Inter-District Court dismissed his complaint, as unsubstantiated.

2.5 On 12 April 2006, the author filed an appeal with the Bishkek City Court. On 25 May 2006, the Bishkek City Court upheld the decision of the court of the first instance. This decision of the Bishkek City Court, according to the author, is final and cannot be appealed any further.

### **The complaint**

3. The author claims that his rights under articles 2, paragraph 3, and 14, paragraph 1, of the Covenant were violated, as his complaints were ignored by the courts.

### **State party's failure to cooperate**

4. The State party was invited to present its observations on the admissibility or/and the merits of the communication in November 2006, and reminders were sent in this respect in February 2009 and October 2009. The Committee notes that this information has not been received. The Committee regrets the State party's failure to provide any information with regard to admissibility or the substance of the authors' claims. It recalls that under the Optional Protocol, the State party concerned is required to submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that it may have taken. In the absence of a reply from the State party, due weight must be given to the authors' allegations, to the extent that these have been properly substantiated.

### **Issues and proceedings before the Committee**

#### **Consideration of admissibility**

5.1 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 it is admissible under the Optional Protocol to the Covenant. The Committee has ascertained, as required under article 5, paragraph 2 (a), of the Optional Protocol, that the matter is not being examined under another procedure of international investigation or settlement.

5.2 The Committee notes the author's allegations of a violation of article 2, paragraph 3, of the Covenant in relation to his right to an effective remedy and observes that the provisions of article 2 of the Covenant, which lay down general obligations for State parties, cannot, in isolation, give rise to a claim in a communication under the Optional Protocol.<sup>1</sup> The Committee considers that the author's contentions in this regard are inadmissible under article 2 of the Optional Protocol.

5.3 The author claims that his rights under article 14, paragraph 1, of the Covenant were violated because his complaint against the complaints handling procedure of the Ministry of

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<sup>1</sup> *C.E.A. v. Finland*, Case No. 316/1988, decision of 10 July 1991, para. 6.2.

Finance was ignored by the domestic courts. In the absence of any further information or explanations in this respect, the Committee considers that the author has failed to sufficiently substantiate his claim, for purposes of admissibility, and declares this part of the communication inadmissible under article 2 of the Optional Protocol.

6. The Committee therefore decides:

- a) That the communication is inadmissible under article 2 of the Optional Protocol;
- b) That this decision shall be communicated to the State party and to the author.

[Adopted in English, French and Spanish, the English 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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