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International Covenant on Civil and Political Rights

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Views

Communication No. 1577/2007

Submitted by:	Adrakhim Usaev (not represented by counsel)
Alleged victim:	The author
State party:	The Russian Federation
Date of communication:	25 April 2007 (initial submission)
Document references:	Special Rapporteur's rule 97 decision, transmitted to the State party on 19 July 2007 (not issued in document form)
Date of adoption of Views:	19 July 2010

* Made public by decision of the Human Rights Committee.

Subject matter:	Pretrial detention resorting to torture; forced confession, in the absence of a lawyer; unfair trial; discrimination of an ethnic Chechen
Procedural issue:	Level of substantiation of claim
Substantive issues:	Allegations of ill-treatment and torture, forced confessions, right to fair trial, right to a legal defence, non-discrimination
Articles of the Covenant:	2; 5; 7; 9; 14, paragraph 3 (a), (g), and (f); 20; and 26
Article of the Optional Protocol:	2

On 19 July 2010, the Human Rights Committee adopted the annexed text as the Committee's Views under article 5, paragraph 4, of the Optional Protocol in respect of communication No. 1577/2007.

[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-ninth session)

concerning

Communication No. 1577/2007**

Submitted by:	Adrakhim Usaev (not represented by counsel)
Alleged victims:	The author
State party:	The Russian Federation
Date of the communication:	25 April 2007 (initial submission)

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

Meeting on 19 July 2010,

Having concluded its consideration of communication No. 1577/2007, submitted to the Human Rights Committee on behalf of Mr. Adrakhin Usaev 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:

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

1. The author of the communication is Mr. Adrakhim Usaev, a Russian national of Chechen origin, born in 1976, who at present is imprisoned in Norislsk (Russia). He claims to be a victim of violation, by the Russian Federation, of his rights under article 2; article 5; article 7; article 9; article 14, paragraph 3 (a), (f), and (g); article 20; and article 26, of the International Covenant on Civil and Political Rights. He is unrepresented.

The facts as submitted by the author

2.1 The author claims that he was arrested on 14 July 2001 allegedly for having taken part in an armed attack against a police station in Gudermes (Chechen Republic), on 14 March 2001. On 29 March 2002, the Krasnodar Regional Court sentenced him to 13 years of imprisonment. Mr. Usaev was found guilty of illegal acquisition of fire arms, participation in an illegal armed organization, terrorism, and attempt on the life of law-

** The following members of the Committee participated in the examination of the present communication: Mr. Abdelfattah Amor, Mr. Prafullachandra Natwarlal Bhagwati, Mr. Lazhari Bouzid, Mr. Mahjoub El Haiba, Mr. Ahmad Amin Fathalla, Mr. Yuji Iwasawa, Ms. Helen Keller, Ms. Zonke Zanele Majodina, Mr. Michael O'Flaherty, Mr. José Luis Pérez Sanchez-Cerro, Mr. Rafael Rivas Posada and Mr. Fabian Omar Salvioli.

enforcement officials in the exercise of their duties. On 11 September 2002, the Supreme Court of the Russian Federation examined the author's appeal and confirmed the sentence. The author's subsequent requests to the Supreme Court to have his case examined under the supervisory proceedings were rejected in 2005 and 2006.

2.2 The author claims that he is innocent and that his guilt was not duly established. He affirms that on 14 March 2001, at 4.30 a.m., several armed individuals wearing masks broke into his house in Gudermes, and without identifying themselves or presenting any warrant, started beating him, his father and his brother. Then the police "discovered" a pistol which they had allegedly brought with them. Based on this the author was taken to the police station. According to the author, the pistol was a mere pretext for his arrest, and no mention of it appeared later in his criminal case.

2.3 While in detention, the author was beaten and threatened with his family being persecuted. He was tortured over three days: a nylon bag and a gas mask were placed on his head to prevent him from breathing, to the point that he lost consciousness on two occasions and had to be revived with cold water. He also received electroshocks. He was also prevented from sleeping. During the interrogations, it was explained to him that he was resisting in vain, and that it would be better if he signed a document according to which he voluntarily presented himself to the police in order to repent as a "Chechen fighter", and thus an amnesty act would apply to his case. The investigators allegedly explained to him that he would be released and not prosecuted, while at the same time the investigators would improve their statistical data on the number of crimes solved.[1]

2.4 The author claims that at the time of his arrest, he had difficulties understanding Russian. On 17 July 2001, unable to continue to withstand the torture anymore, he agreed to sign all the needed documents. The investigators called an interpreter, who explained to him in the Chechen language that it would better for him if he signed and accepted everything he was asked, otherwise he would be killed before the beginning of the court trial. The interpreter allegedly assured him that the court would sort out everything and would release him. The author thus signed the various documents.

2.5 The investigators then presented the author to his "co-accused" Abdurakhmanov. It was explained to the author that they had both taken part in the attack on the "Bagira" police station. Allegedly, he was informed that given the fact that he had confessed his guilt, he was prosecuted only for an event in which no human losses occurred.

2.6 While in detention, the author started studying the Russian language. On 11 February 2002, at the beginning of the trial, the presiding judge asked him whether he understood Russian. He replied that he badly mastered the language, to which he was told that this did not matter as the court could understand him. According to him, the trial transcript, however, included a mention to the effect that he masters the Russian language and refuses to be assisted by an interpreter.

2.7 Mr. Usaev claims that during the preliminary investigation, he requested to be represented by a lawyer. Allegedly, he was told that he had probably seen too many movies. In court, however, the author discovered that several documents prepared during the preliminary investigation were co-signed by lawyers, who allegedly represented his interests throughout the preliminary investigation. He requested to have these lawyers questioned in court, but his request was rejected, and no record to this effect was entered in the trial transcript, according to the author.

[1] According to the author, in 2001 all fighters that repented for having taken part in the illegal armed groups had been granted an amnesty.

2.8 The author further claims that no lawful evidence of his guilt existed in his criminal case file. In addition, no witnesses recognized him or Mr. Abdurakhmanov in the courtroom as one of the participants in the alleged events. No firearms were seized in the author's house, and his fingerprints were not found on the guns seized in Mr. Abdurakhmanov's home. The author claims that the court ignored various pieces of circumstantial evidence in his favour, and was biased because of his Chechen origins.

2.9 The author explains that he had submitted his case to the European Court of Human Rights, but his application was declared inadmissible *ratione temporis* as it was submitted over the six-month time-limit requirement.[2]

2.10 Finally, he complains that in 2003 and 2006, two Amnesty Acts were promulgated which covered the Chechen Republic and the Northern Caucasus, but their provisions were never applied to his particular case.

The claim

3. The author claims that the facts as presented above amount to a violation, by the Russian Federation, of his rights under article 2; article 5; article 7; article 9; article 14, paragraph 3 (a), (f), and (g); article 20; and article 26, of the Covenant.

State party's observations on admissibility and merits

4.1 The State party presented its observations on admissibility and merits by note verbale of 21 December 2007. It notes, in the first place, that Mr. Usaev's allegations that he had been subjected to torture and discriminated against on the basis of his ethnic origins by the Ministry of Internal Affairs and the Federal Security Service are groundless. The investigation proceedings in connection with Mr. Usaev and his co-accused, Mr. Abdurakhmanov, were carried out in the presence of their lawyers, official witnesses, specialists, and others. A number of investigation sessions were video-taped.

4.2 Throughout the conduct of the preliminary investigation, on several occasions, Mr. Usaev had his defence rights explained to him, and neither he nor his lawyers have ever complained to the effect that he was subjected to unlawful methods of investigation, including through threats or violence. Allegations on unlawful methods of investigation and cruel treatment were formulated by the author and his lawyers for the first time before the court of first instance. These allegations were duly examined by the court, who was unable to confirm them and declared them unfounded, as reflected in the sentence.

4.3 The State party further notes that the content of Mr. Usaev's criminal case file does not confirm the author's allegations that he did not sufficiently master the Russian language at the trial stage and should have been offered the services of an interpreter. The State party notes that throughout his criminal case, the author never complained that he had been discriminated against on the basis of his ethnic origins.

4.4 The State party further contends that the author's allegation that the trial transcript did not correctly reflect his answer to the question as to his level of Russian language proficiency and the need for an interpreter to be appointed, and that it did not include his request to have questioned in court some of the lawyers who defended him at the early stages of the investigation were groundless. The trial transcript makes it clear that the presiding judge had informed the parties of their right to acquaint themselves with the trial transcripts' content and to make annotated comments thereon. Both Mr. Usaev and his co-

[2] European Court of Human Rights, application No. 14995/05, inadmissibility decision of 28 June 2006.

sentenced Mr. Abdurakhmanov received a copy of the trial transcript, on 4 June 2002, but they raised no objections regarding its completeness or accuracy.

4.5 The State party explains that the author's allegations on cruel treatment and the use of unlawful methods of investigation have been investigated on a number of occasions, including by the Supreme Court of the Russian Federation (when examining the criminal case on appeal, Ruling of 11 September 2002), and, in the context of the examination of the case under the supervisory review proceedings, by judges of the Supreme Court of the Russian Federation (decision of 25 January 2005), including by the First Deputy Chairman of the Supreme Court (answer sent to the author on 16 March 2006), and were found not to be confirmed. In addition, on 6 July 2006, the General Prosecutor's Office conducted a new verification as to the author's allegations in respect of his innocence and in relation to the unlawful methods of investigation used against him which were found to be unfounded.

4.6 The State party points out that pursuant to information from the Federal Service on the Execution of Penalties, when, on 3 August 2001, the author was placed at the pretrial detention Centre SIZO No. 2 in the village of Chernokozovo (Chechen Republic), his body showed no injuries, and his medical history card contained a specific reference to that effect. The results of a verification carried out in the SIZO No. 2 Centre showed that Mr. Usaev mastered the Russian language.

4.7 The State party explains that Mr. Usaev never submitted a request for Presidential pardon. It adds that no violation of the author's rights and lawful interests was committed during the time he was deprived of his liberty. Therefore, according to the State party, the author's allegations against the law-enforcement authorities on the use of torture, discrimination, and his reference to articles 2, 5, 7, 9, 14, paragraph 3 (a), (f), and (g), article 20, and article 26, of the Covenant, are not confirmed by the material of his criminal case file.[3]

Author's comments on the State party's observations

5.1 On 26 December 2008, the author commented on the State party's observations. According to him, given the fact that there was a war in the Chechen Republic in 2001, it was impossible to have a proper and lawful investigation on criminal cases there during that period. He repeats that he was not represented by a lawyer during the preliminary investigation and no lawyer was present when he had been interrogated. The fact that the investigation documents and records were countersigned by lawyers constitutes, according to the author, a falsification. The lawyers in question were, according to the author, "on duty" and acted in the interest of the prosecution; they were not hired by him or his relatives. Thus, according to him, these lawyers had no right to sign official records during the preliminary investigation.

5.2 The author explains that two privately retained lawyers, Mr. Kh. and Mr. K., represented him during the court trial. The author and these lawyers requested the court to call the "lawyers" who had been assigned to follow the preliminary investigation in order to question them about the presence of their signatures on procedural documents, but this request was rejected and no record in this regard is to be found in the trial transcript. The author claims that this was due to the fact that he was an ethnic Chechen, which was sufficient reason for the court to declare him guilty. All this amounts, according to the author, to a discrimination and it shows that the court did not want to clarify the objective truth in his case.

[3] The State party supplied copies of several criminal procedure documents regarding the author's investigation and trial.

5.3 The author further points out errors in dates of trial transcripts, which, according to him, shows that his trial was not conducted properly.

5.4 In addition, all medical certificates in relation to the author were issued by military medical personnel in Chernokozovo and in Gudermes. According to the author, all certificates issued by the medical personnel there normally stated that the detainees had no medical problems. The author contends that the only way a medical certificate would show injuries or results of beatings would be if one had a lawyer. Given that he had no lawyer during the preliminary investigation, however, no such records could be established in his case.

5.5 The author submits that when he requested to see a medical doctor, the Chief of the Temporary Detention Centre in Gudermes rejected his request without explanations.

5.6 The author explains that as a result of the treatment he was subjected to (after his arrest), his body, except on the face, showed marks of beatings. He explains that he was kicked and punched, he was beaten with batons, and was tortured with electricity. During the beatings and torture, he had a plastic bag placed over his head so as not be able to see who was beating him. He also had cartridges placed between his fingers and had them squashed together, and he had a door slammed on his fingers, which caused him severe pain. He was thus forced to sign all the papers the investigators asked him to sign, without even reading their content.

5.7 The author further explains that a record of 2 October 2001, on the fact that the author was given the opportunity to examine the content of his criminal case file, indicated that the record was established in Chernokozovo, in the presence of the lawyer, Mr. Vagapov. According to the author, however, no lawyer ever visited him in the Pretrial Detention Centre No. 2 in Chernokozovo. According to him, this could be confirmed by the visitors' registry of the detention centre in question.

5.8 The author further contends that he did not master the Russian language sufficiently at the stage of preliminary investigation and during the court trial, and that he therefore should have been offered an interpreter. All statements in official documents were written by him, but dictated to him, without him understanding their content. As to the statements produced by co-prisoners on his Russian language skills, the author points out that he does not know two of the three individuals in question. The last one, S.P., had, according to the author, arrived at the detention centre only in 2003, i.e. when the author's Russian skills had already improved since he had been in detention, for two years, with Russian speakers.

Additional information by the State party

6.1 On 17 June 2009, the State party submitted additional information. It reiterates its previous observations, and refutes the author's allegations that the prisoners L.M. and S.M. could not testify about his proficiency in the Russian language as he had never met them. The State party points out that the individuals in question were held in the same detention facility as the author, and he had been in contact with them.

6.2 The State party rejects as groundless the author's allegations that he had been subjected to unlawful methods of questioning during the preliminary investigation. The State party contends that throughout the preliminary investigation, neither the author nor his co-accused ever complained about unlawful methods of questioning, including during their stay in pretrial detention facilities located outside the Chechen Republic.

6.3 The State party recalls that a number of investigation activities during the preliminary investigation were carried out in the presence of a defence lawyer, and other acts were conducted in the presence of official witnesses, experts, etc. Investigation acts were recorded on video tape which was duly studied by the court. In a number of

investigation acts, the co-accused provided corroborating depositions which included details and information that could be known only by them and not by the investigation officials at that point in time.

6.4 On this basis, the trial court concluded that the author's allegations on the use of physical violence against him during the investigation were found to be groundless. These allegations were further examined by the Supreme Court and the General Prosecutor's Office, and were found to be unfounded.

6.5 The State party further addresses the complainant's allegations on the violation of his rights to defence, in particular his claim that due to the absence of a lawyer during the preliminary investigation, the marks of the beatings he sustained could not be recorded, and that the author had acquainted himself with the content of the criminal case file in the absence of a lawyer, allegedly on 2 October 2001. It notes that no record dated 2 October 2001 exists in the criminal case file. From the record at the end of the preliminary investigation and on the transmittal of the content of the criminal case file to the accused and his defender, dated 3 October 2001, it becomes clear that this investigation action was carried out in the presence of the lawyer M. Vagapov. The author, by his signature on this record, has expressed his agreement to have Mr. Vagapov participating in the investigation proceedings in question. There is also a hand-written text by the author himself, to the effect that he had no demands whatsoever.[4]

6.6 On the same day, 3 October 2001, again in the presence of the lawyer Mr. Vagapov, the right under the Criminal Procedure Code to request that his case be examined either by a court together with a jury, or by a court made up of three professional judges was explained to the author. An official record of this was established, which was signed by both the author and his lawyer.[5]

6.7 The author's allegations that the court should have questioned the lawyers who had represented him during the preliminary investigation in order to establish the exact circumstances of the crime are, according to the State party, not based on the provisions of the Criminal Procedure Code. Given that the lawyers in question were not witnesses of a crime, their depositions could have no evidentiary value for the criminal case.

6.8 As to the indications of incorrect dates contained in procedural documents, such as those of 26 January 2002 and 11 February 2002,[6] the State party affirms that these constitute obvious technical errors which, however, did not prevented the court from adopting a lawful and sound decision.

6.9 With reference to the author's allegations on the impossibility of obtaining a medical certificate of his beatings and torture marks, especially in the absence of a lawyer, the State party explains that the medical personnel in the Investigation Detention Centre in Chernokozovo are part of the system for the execution of criminal punishments, in accordance with Federal Law No. 103 of 15 July 1995 on the detention of suspects or accused of having committed a crime. Pursuant to article 24 of that law, when a suspect or an accused person suffers bodily harm, he or she is to be examined without delay by the medical workers of the facility where he or she is detained. The results of such examinations are duly recorded and are transmitted to the victim. The chief of the detention facility, the individual or the organ competent for the criminal case, or the victim may request to have a new medical examination to be conducted in a specialized medical

[4] The State party submits a copy of the record in question.
[5] See note 4 above.
[6] Ibid.

institution. A refusal to order such an examination may be appealed to the prosecutor who supervises the case.

6.10 Thus, according to the State party, in his comments, the author does not supply additional information to substantiate his argument as to his innocence or provide any evidence on the use of unlawful methods of investigation in relation to him.

6.11 The State party finally notes that, in substance, the author does not comment on the information submitted (by the State party), but he repeats his initial allegations to the effect that he had been subjected to violence and torture and had not been assigned a lawyer or an interpreter. According to the State party, the author's allegations tend in fact to challenge the evidence of his guilt; this issue, however, falls outside of the jurisdiction of the Committee.

Additional information by the author

7.1 On 31 August 2009, the author reiterated that he does not know two of the prisoners who had testified that his level of knowledge of the Russian language had been satisfactory.

7.2 He further claims, in connection with the investigation actions carried out in his criminal case, that in 2001, the Constitution of the Russian Federation was de facto not operating in the Chechen Republic, as it was a theatre of military operations. According to the author, the investigation proceedings were unlawful, as in 2001, the federal troops were and are still committing crimes against humanity and genocide in the Chechen Republic, and this policy had indirect repercussions on his criminal case.

7.3 On the alleged torture, the author contends that the reply of the Russian Federation is unconvincing.

7.4 The author further submits a copy of two documents dated 2 October 2001 and claims that they were indeed part of his criminal case file. He affirms that he had signed these documents under instructions from the investigators, in the absence of a lawyer, contrary to what is said by the State party. The author repeats that in any event, the mere fact that he was a Chechen was sufficient for the courts to declare him guilty.

7.5 The author reiterates that he had no lawyer during the preliminary investigation. He admits that one lawyer, Mr. Bakhonoev, had visited him in the detention centre of Gudermes, and this lawyer had explained to him his rights in Chechen. The author reiterates that he did not meet with other lawyers during the preliminary investigation.

7.6 The author further claims that the first instance court had refused to assign him an interpreter, in spite of his request. The trial transcript, however, contained a record that he refused the services of an interpreter. The author adds that at that time, he could only write in Russian, following dictation, or copying existing text; he was unable to elaborate a text himself, and could not understand the language.

Issues and proceedings before the Committee

Consideration of admissibility

8.1 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.

8.2 The Committee notes, as required by article 5, paragraph 2 (a) and (b), of the Optional Protocol, that the same matter is not being examined under any other international procedure of investigation or settlement and that it was uncontested that domestic remedies have been exhausted.

8.3 The Committee has noted, first, that the author has claimed a violation of his rights under article 2 of the Covenant. The Committee recalls[7] that the provisions of this article, which lay down general obligations for State parties, cannot by themselves and standing alone give rise to a claim in a communication under the Optional Protocol. It considers that the author's claim to this effect cannot be accepted, and that accordingly it is inadmissible under article 2 of the Optional Protocol.

8.4 The Committee has noted the author's allegations under article 5; article 9; article 20; and article 26, of the Covenant. It notes that the author has not presented sufficient and concrete information or explanations on the alleged violation of his rights under the above provisions of the Covenant. Therefore, and in the absence of any other relevant information on file, the Committee considers that the author has failed to sufficiently substantiate his claims, for purposes of admissibility, and that, accordingly, this part of the communication is inadmissible under article 2 of the Optional Protocol.

8.5 The Committee considers that the remaining claims of the author, under article 7; and article 14, paragraph 3 (a), (f), and (g), of the Covenant, have been sufficiently substantiated and declares them admissible.

Consideration on the merits

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

9.2 The Committee notes the author's claim that he was beaten and subjected to ill-treatment by the police during the interrogation, in the absence of a lawyer, thus forcing him to confess guilt. It takes note of the detailed description by the author of the methods of ill-treatment used, and of his contention that these allegations were raised in court but were rejected. The Committee also notes the State party's observations that these allegations have been duly considered by its authorities, including by the Supreme Court, and were found to be unfounded.

9.3 The Committee recalls its jurisprudence that it is essential that complaints about ill-treatment must be investigated promptly and impartially by competent authorities.[8] In the present case, the Committee notes that the State party has adduced no specific explanation or substantive refutation of these allegations, such as, in particular, explanations on how and when, in practice, the author's allegations of torture and ill-treatment were investigated, including by which specific authority. Therefore, it considers that due weight must be given to the author's allegations. Accordingly, the Committee concludes that in the present case, the treatment to which the author was subjected as described above, amounts to a violation of article 7 and article 14, paragraph 3 (g), of the Covenant.[9]

9.4 The Committee has further noted the author's claim that he was not represented by a lawyer during the preliminary investigation and that procedural documents were signed only pro forma by lawyers on duty who never met him. It notes the State party's contention that the author and his co-accused were represented by lawyers throughout the

[7] See, inter alia, communication No. 1551/2007, *Moses Solo Tarlue v. Canada*, Views adopted on 27 March 2009, para. 7.3.

[8] General comment No. 20 (1992) on the prohibition of torture or cruel, inhuman or degrading treatment or punishment, *Official Records of the General Assembly, Forty-seventh Session, Supplement No. 40* (A/47/40), annex VI, sect. A, para. 14.

[9] See, inter alia, communication No. 1057/2002, *Tarasova v. Uzbekistan*, Views adopted on 20 October 2006, para. 7.1.

investigation, and that even if particular investigation proceedings were carried out in the absence of counsel, they were conducted in the presence of witnesses or other individuals, and that, and this was not refuted by the author, a number of investigation activities were videotaped and the trial court studied the tape. The Committee has also noted the author's claim that he had requested in vain to have his so-called lawyers questioned in court, but his request was rejected without having this reflected in the trial transcript. On this particular point, the Committee takes note of the State party's explanation that even though the author and his privately retained lawyer were given the opportunity to study and make comments or objections on the trial transcript, they did not made any comment.

9.5 The Committee further observes that the author's appeal to the Supreme Court, dated 2 April 2002, contains no claim on non-representation by a lawyer throughout the preliminary investigation; the author complains that he was not represented by a lawyer only during his additional interrogations on 18 and 21 July 2001. It finally notes that in his comments dated 31 August 2008, the author admits that he had met with a lawyer in the Gudermes detention centre, during the preliminary investigation. In the circumstances and in absence of any other pertinent information on file in this regard, the Committee considers that the facts as submitted do not permit it to conclude that there has been a violation of Mr. Usaev's rights under article 14, paragraph 3 (a), of the Covenant.

9.6 The Committee has finally noted the author's claim that despite his requests in court, he was never offered the services of an interpreter, and no record on this was made on the trial transcript. It notes that the State party has objected that neither the author nor his lawyers have ever formulated requests in this connection, and that the author, personally, made handwritten annotations in Russian on a number of official procedural documents. In addition, according to the State party, at the beginning of the court trial, Mr. Usaev explained that he masters the Russian language and that he does not need the services of an interpreter. The State party has also pointed out that, and this remains unrefuted by the author, that neither he nor his defence lawyer objected about the content of the trial transcript. The Committee further notes that the appeal of the author to the Supreme Court, dated 2 April 2002, does not include any reference to the author's problems in relation to his comprehension of Russian during the preliminary investigation or in court. In the circumstances, and in the absence of any other pertinent information on file, the Committee considers that the facts before it do not permit it to conclude that the author's rights under article 14, paragraph 3 (f), of the Covenant, have been violated.

10. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol, is of the view that the facts before it disclose a violation of article 7 and article 14, paragraph 3 (g), of the International Covenant on Civil and Political Rights.

11. In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide the author with an effective remedy including the payment of appropriate compensation, initiation and pursuit of criminal proceedings to establish responsibility for Mr. Usaev's ill-treatment, and to consider the author's immediate release. The State party is also under an obligation to prevent similar violations occurring in the future.

12. 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 and enforceable remedy in case 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.

[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.]