



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. 2311/2013*, **

<i>Communication submitted by:</i>	Bakhytzhana Toregozhina (represented by counsel, Anna Smirnova)
<i>Alleged victim:</i>	The author
<i>State party:</i>	Kazakhstan
<i>Date of communication:</i>	30 May 2013 (initial submission)
<i>Document references:</i>	Decision taken pursuant to rule 97 of the Committee's rules of procedure (now rule 92), transmitted to the State party on 9 December 2013 (not issued in document form)
<i>Date of adoption of Views:</i>	25 July 2019
<i>Subject matter:</i>	Refusal of authorization to hold a peaceful assembly
<i>Procedural issues:</i>	Exhaustion of domestic remedies; insufficient substantiation of claims
<i>Substantive issues:</i>	Freedom of assembly; non-discrimination
<i>Articles of the Covenant:</i>	21 and 26
<i>Article of the Optional Protocol:</i>	2 and 5 (2) (b)

1. The author of the communication is Bakhytzhana Toregozhina, a national of Kazakhstan born in 1962. She claims that the State party has violated her rights under articles 21 and 26 of the Covenant. The Optional Protocol entered into force for the State party on 30 September 2009. The author is represented by counsel.

The facts as submitted by the author

2.1 The author is head of the non-governmental organization "Ar. Rukh. Khak". On 1 March 2012, she submitted an application to the Akimat¹ of Almaty, requesting

* Adopted by the Committee at its 126th session (1–26 July 2019).

** The following members of the Committee participated in the examination of the communication: Tania María Abdo Rocholl, Yadh Ben Achour, Ilze Brands Kehris, Arif Bulkan, Ahmed Amin Fathalla, Shuichi Furuya, Christof Heyns, Bamariam Koita, 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 equivalent of a mayor's office (municipal, district or provincial government).



authorization to hold a peaceful assembly (meeting)² on the theme of “100 days after the shooting of people in Zhanaozen”, on 24 March 2012, from 12 a.m. to 2 p.m., on the square in front of the Palace of the Republic, alongside the monument to Abai Qunanbaiuli. Approximately a thousand participants were expected. On 6 March 2012, the author received a written reply from the local authorities, informing her that the Akimat had decided not to authorize the meeting in question, because the author’s application of 1 March 2012 “did not contain information about the place of work (study) of the authorized representative (organizer) [of the meeting] and of the person responsible for the maintenance of public order [during the meeting]”.

2.2 On 7 March 2012, the author submitted a second application to the Akimat of Almaty with the requested information, that is the place of work of the meeting’s organizer and that of the person responsible for the maintenance of public order during the meeting. In addition, the author provided a list of 29 alternative locations in Almaty should the Akimat decide that it would not be possible to organize the meeting on the square in front of the Palace of the Republic, alongside the monument to Abai Qunanbaiuli, which had been indicated in the author’s initial application.

2.3 On 19 March 2012, the author received a refusal from the Akimat of Almaty to authorize the meeting in any of the 30 locations indicated in her two applications.³ The decision, signed by the Deputy Akim of Almaty, referred to the previous decision adopted by the Maslikhat of Almaty,⁴ dated 29 July 2005, to authorize the organization of all non-governmental public events of a “social and political nature” on the square behind the Sary Arka cinema.⁵ Pursuant to the same decision of the Maslikhat of Almaty, official events at local and national levels organized by the relevant State bodies, as well as other events with the participation of high-level State and city officials, are to be held on Republic Square. Other squares and gardens are to be used for holding official, cultural and entertainment activities, in accordance with their architectural and functional purposes.

2.4 On 16 May 2012, the author submitted a petition to the Second Almalinsky District Court of Almaty under chapter 27 of the Code of Civil Procedure, requesting it to declare the Akimat’s decision of 19 March 2012 unlawful as it was inconsistent with article 21 of the Covenant and international standards concerning the right of peaceful assembly. The author specifically argued in her petition that the Akimat did not provide any justification concerning the reasons and purpose of its decision to restrict her right of peaceful assembly. Furthermore, since its refusal to authorize the meeting was based on a by-law, namely the decision of the Maslikhat of Almaty, the restriction on the right of peaceful assembly also did not comply with the requirements of article 21 of the Covenant for it to be provided by law.

2.5 On 19 June 2012, the Second Almalinsky District Court of Almaty determined that the Akimat’s decision of 19 March 2012 was lawful and justified, and consequently dismissed the author’s petition. The Court stated that the authorization for the meeting was denied in the interests of public order, and the protection of public health and the rights and freedoms of others and, therefore, the Akimat’s decision was not inconsistent with the requirements of article 21 of the Covenant. According to the Court, most of the locations indicated in the author’s applications were in the immediate proximity of roads with heavy

² Pursuant to the Law on the Procedure for the Organization and Conduct of Peaceful Assemblies, Meetings, Processions, Pickets and Demonstrations, anyone organizing a peaceful assembly should submit an application to the local executive body requesting authorization to hold such an assembly at least 10 days prior to the intended event. Once the written authorization is received by the organizers, the event is considered “authorized”. All peaceful assemblies held without written authorization are considered “unauthorized”, and their organizers and participants are administratively responsible.

³ As transpires from the decision of the Second Almalinsky District Court of Almaty of 19 June 2012, the author organized the unauthorized meeting on 24 March 2012 to commemorate the shooting of people in Zhanaozen. She was subsequently found to have violated the legislation on organizing and holding peaceful assemblies.

⁴ The equivalent of a city council, namely an elected, local representative body (a local government) in the regions and districts of Kazakhstan.

⁵ This specific location was not indicated in the author’s initial and second applications as a potential venue for the meeting.

traffic. The roads were also regularly used by public transport. Furthermore, the locations chosen by the author were situated close to the city's key infrastructure, railway connection hubs and places for leisure and recreational activities attracting large crowds. The Court concluded that, since the number of meeting participants was expected to be approximately a thousand, the meeting would have created obstacles, leading to the interruption of regular public transport services and the disruption of public order and security of citizens "during the period of festivities".⁶

2.6 On 27 June 2012, the author appealed the decision of the Second Almalinsky District Court of Almaty to the Appellate Judicial Board of the Almaty City Court. She requested that the court of appeal revoke the decision of the court of first instance and declare the Akimat's decision unlawful, since it was contrary to article 32 of the Constitution⁷ and article 21 of the Covenant. On 14 August 2012, the author's appeal was dismissed. The Appellate Judicial Board concluded that the Akimat's decision was lawful and that the author's right of peaceful assembly had not been infringed, since she had not availed herself of the possibility of organizing the meeting in the location specified in the decision of the Maslikhat of Almaty.

2.7 On 7 September 2012, the author submitted a cassation appeal to the Cassation Judicial Board of the Almaty City Court, challenging the decisions of the court of first instance and the court of appeal. She argued, *inter alia*, that these courts had not correctly applied the Law on the Procedure for the Organization and Conduct of Peaceful Assemblies, Meetings, Processions, Pickets and Demonstrations, and that their decisions contradicted international standards on the right of peaceful assembly. The author also argued that the possibility of organizing the meeting in the location specified in the decision of the Maslikhat of Almaty had never been offered to her by the Akimat of Almaty. On 18 October 2012, the Cassation Judicial Board upheld the decisions of the Second Almalinsky District Court and the Appellate Judicial Board and dismissed the author's cassation appeal.

2.8 On 16 January 2013, the author submitted a request to the Supreme Court for a supervisory review of the earlier court decisions. On 14 March 2013, the Board on Civil and Administrative Cases of the Supreme Court rejected the author's request as unfounded. On an unspecified date, the author submitted a request for supervisory review to the General Prosecutor's Office. Her request was rejected by the Deputy Prosecutor General on 4 May 2013. The author submits, therefore, that she has exhausted all available and effective domestic remedies.

The complaint

3.1 The author claims that the prohibition on organizing the meeting amounts to a violation of her rights under article 21 of the Covenant. She argues, in particular, that a requirement to obtain prior authorization from the local authorities in order to hold a peaceful assembly constitutes an unlawful restriction on the right of peaceful assembly within the meaning of article 21 of the Covenant. She recalls in this context that, under the Law on the Procedure for the Organization and Conduct of Peaceful Assemblies, Meetings, Processions, Pickets and Demonstrations, in order to hold any open-air peaceful assembly, an application must be submitted to the local executive body (Akimat) at least 10 days prior to the intended event and written authorization obtained. The author further submits that neither the refusal of the Akimat of Almaty to authorize the meeting nor the decisions of the State party's courts provided any justification as to the reasons and purpose of imposing a restriction on her right of peaceful assembly, as protected by article 21 of the Covenant.

3.2 With reference to the Committee's jurisprudence, the author submits that the requirement to notify the authorities of an intended peaceful assembly may be compatible with the permitted limitations laid down in article 21 of the Covenant, insofar as it "would normally be for the reasons of national security or public safety, public order, the protection

⁶ No further information is available on file.

⁷ Article 32 of the Constitution reads as follows: "Citizens of the Republic of Kazakhstan shall have the right to, peacefully and without weapons, assemble and hold meetings, rallies and demonstrations, street processions and pickets. The enjoyment of this right may be restricted by law in the interests of State security, public order and the protection of the health, rights and freedoms of others".

of public health or morals or the protection of the rights and freedoms of others”.⁸ The author claims that, since the meeting in question did not represent a threat to any of the above, its prohibition, along with the general requirement to hold it only in one designated location, was contrary to article 21 of the Covenant.

3.3 The author also claims that the remoteness of the proposed location from busy streets would render the meeting meaningless. She argues, therefore, that by designating only one location on the outskirts of Almaty, namely the square behind the Sary Arka cinema, for peaceful assemblies, the State party violated her right under article 21 of the Covenant. She maintains that the purpose of peaceful assemblies is not only to gather like-minded people, but to transmit ideas and objections to government authorities, society and mass media. This is the reason why assemblies usually take place on the main squares and demonstrations are held on the main streets.

3.4 The author submits that the decision of the Maslikhat of Almaty effectively divided all public events held in Almaty into State-run and non-governmental events and, according to their content, further into events of a “social and political” or other nature. Consequently, pursuant to the decision of the Maslikhat of Almaty, all events organized and run by the State, as well as events of a non-political nature (for example, sport events, competitions, concerts, business events and fairs), could be held on any suitable square, garden, park or street. All events of a “social and political” nature, however, are to be held solely on the square behind the Sary Arka cinema. Since such events are mainly organized and held by representatives of the political opposition, non-governmental organizations and civil activists, raising issues of a social and political nature, their right to freedom of peaceful assembly is being restricted exclusively on political grounds. Therefore, the authorization by the State party’s authorities to organize public events of a “social and political nature” only in one specially designated place, while authorizing State-run and non-political public events in other locations, is politically motivated and discriminatory, and amounts to a violation by the State party of the author’s rights under article 26 of the Covenant.

State party’s observations on admissibility and the merits

4.1 In a note verbale dated 29 January 2014, the State party recalls the facts on which the present communication is based and submits that it should be declared inadmissible by the Committee as being manifestly unfounded.

4.2 The State party submits that article 32 of the Constitution guarantees the right of citizens to gather peacefully and to hold meetings, rallies, demonstrations, street processions and pickets. The realization of this right, however, may be restricted by law in the interests of State security, public order, and the protection of the health, rights and freedoms of others. The format and the manner of the expression of societal, group or personal interests in public places, as well as certain limitations on the above, are established by Law on the Procedure for the Organization and Conduct of Peaceful Assemblies, Meetings, Processions, Pickets and Demonstrations. Article 7 of this Law gives the local executive bodies authority to prohibit the holding of public events if, inter alia, these events threaten “public order and the security of citizens”.

4.3 With reference to the decisions of its domestic courts, the State party submits that the decision adopted by the Maslikhat of Almaty on 29 July 2005 to authorize the organization of all non-governmental public events of a “social and political nature” on the square behind the Sary Arka cinema is not inconsistent with article 21 of the Covenant, which allows for restrictions on the exercise of the right of peaceful assembly that are in conformity with its domestic law and are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.

4.4 The State party submits that the refusal to authorize the meeting was also justified by the fact that the locations indicated in the author’s applications were in the immediate proximity of roads with a heavy flow of traffic. The roads were also regularly used by public transport. Furthermore, the locations chosen by the author were designated for the

⁸ *Kivenmaa v. Finland* (CCPR/C/50/D/412/1990), para. 9.2.

leisure and recreational activities of citizens. Since the number of meeting participants was expected to be approximately a thousand, the meeting would have created obstacles, leading to the interruption of regular public transport services and the disruption of public order and the security of citizens.

4.5 The State party argues that the holding of peaceful assemblies, meetings, processions and demonstrations is not prohibited on its territory. However, pursuant to the Law on the Procedure for the Organization and Conduct of Peaceful Assemblies, Meetings, Processions, Pickets and Demonstrations, organizers should obtain authorization from the local executive body prior to holding such a public event.

4.6 The State party submits that the author did not avail herself of the possibility of organizing the meeting in the location designated in the decision of the Maslikhat of Almaty. Therefore, having examined the evidence presented in the author's case, the domestic courts decided not to grant her appeals.

4.7 The State party further submits that it studied the practice of several other countries and found that the restrictions on public events in some countries were more stringent than in Kazakhstan. In New York City, for example, it is necessary to request permission 45 days before the event itself and to indicate the route of the event. The city authorities have the right to move the event if its location is not acceptable. Other countries, such as Sweden, have a blacklist of organizers of previously prohibited or dispersed demonstrations. In France, local authorities have the right to prohibit any demonstrations. In the United Kingdom of Great Britain and Northern Ireland, the authorities have the right to introduce temporary bans. Also, in the United Kingdom, street events are only allowed after receiving permission from the police. In Germany, any mass event, meeting or demonstration inside or outside must be permitted by the authorities. In general, during recent years, European countries have been losing billions in damages to public and private property during "multiple pogroms" so that the rights of certain groups to hold mass events can be implemented. Moreover, the work of private, State and transportation networks had to suffer disruption as a result.

4.8 In order to protect the rights and freedoms of others, public order and the transportation system and other infrastructure, the State party's authorities have designated special locations for non-governmental public events. Currently, almost all regional capitals, together with some districts, have such designated areas, based on the decisions of local executive bodies.

4.9 The State party therefore considers that its domestic laws and regulations are in accordance with the requirements of applicable international law and the practices of other countries, and that its domestic authorities and courts complied with the requirements of articles 21 and 26 of the Covenant in refusing to authorize the author's meeting.

4.10 The State party further submits that the author also failed to exhaust domestic remedies. It recalls that, on 4 May 2013, the Deputy Prosecutor General rejected the author's request for a supervisory review. According to articles 384 and 385 of the Code of Civil Procedure, however, she had the right to request that the Prosecutor General file a supervisory review before the Supreme Court. Since the author has failed to file such a request, her communication before the Committee should be declared inadmissible under article 5 (2) (b) of the Optional Protocol.

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

5.1 On 14 April 2014, the author provided comments on the State party's observations. She argues that, although, according to the State party, the right of peaceful assembly under article 21 of the Covenant is guaranteed in Kazakhstan and can only be restricted in certain limited circumstances,⁹ no such circumstance was applicable in her case, since the meeting

⁹ Reference is made to article 7 of the Law on the Procedure for the Organization and Conduct of Peaceful Assemblies, Meetings, Processions, Pickets and Demonstrations, which reads as follows: "The local executive body ... shall prohibit a meeting, rally, march, picket or demonstration aimed at incitement to racial, national, social or religious intolerance, class exclusiveness, the violent overthrow of the constitutional order, encroachment on the territorial integrity of the Republic, as well

planned for 24 March 2012 was of an exclusively peaceful nature. The author notes in this context that the State party did not provide any convincing evidence to demonstrate that the intended meeting was aimed at pursuing one of the purposes prohibited under its domestic law. She argues that the refusal to authorize the meeting on the ground of a mere, unfounded, suspicion that it could result in incitement to violence cannot be considered as a proportionate measure.

5.2 With reference to the State party's additional argument justifying the refusal to authorize the meeting (see para. 4.4 above), the author submits that the Akimat of Almaty did not explain the legitimate purpose in pursuance of which it decided not to authorize the holding of the meeting in all 30 locations indicated in her applications. She also submits that the Akimat of Almaty did not explain why the restriction on her right of peaceful assembly, that is the refusal to authorize the meeting, was "necessary" for the protection of one of those legitimate purposes. In her view, the State party's reference to the need to ensure the uninterrupted functioning of public transport or to protect green places, as the ground for restricting the right of peaceful assembly, cannot be considered as relevant and proportionate, since it threatens the nature of the very right itself. Therefore, this restriction does not meet the requirement of being "necessary" for the protection of a legitimate purpose.

5.3 The author submits that the State party's interpretation of the practice of other countries in regulating the exercise of the right of peaceful assembly (see para. 4.7 above) is erroneous, since none of the countries mentioned in the State party's observations has a system of designating special locations for all non-governmental public events or meetings of a social or political nature, which are situated far away from the general public.

5.4 The author argues that any public event, as part of the right of peaceful assembly, should be seen as a legitimate use of public places, such as squares, streets, parks, etc., for a reasonable period of time, along with their use for "ordinary" purposes, such as allowing transport and pedestrians to circulate freely.

Additional submissions from the State party and the author

6. On 17 June 2014, the State party reiterated its initial observations. On 19 September 2014, the author provided comments on the State party's further observations, reiterating her initial claims.

Issues and proceedings before the Committee

Consideration of admissibility

7.1 Before considering any claim contained in a communication, the Committee must decide, in accordance with rule 97 of its rules of procedure, whether the communication is admissible under the Optional Protocol.

7.2 The Committee has ascertained, as required under article 5 (2) (a) of the Optional Protocol, that the same matter is not being examined under another procedure of international investigation or settlement.

7.3 The Committee notes the State party's argument that the author has failed to exhaust all domestic remedies available to her by not submitting a request to the Prosecutor General to initiate a supervisory review before the Supreme Court. The Committee recalls its jurisprudence, according to which a petition to a prosecutor's office, requesting a review of court decisions that have entered into force and depending on the discretionary power of a prosecutor, constitutes an extraordinary remedy and the State party must show that there is a reasonable prospect that such requests would provide an effective remedy in the

as violation of other provisions of the Constitution, laws and other regulatory acts of the Republic or when their conduct threatens public order and the security of citizens. It is not permitted to hold public events at railway, water and air transport facilities, as well as in the proximity of State facilities that provide for defence, security and vital functions (urban public transport, water supply, electricity, heat and other energy sources), and health and educational institutions".

circumstances of the case.¹⁰ The State party has not shown, however, whether and in how many cases requests to the Prosecutor General to file a supervisory review before the Supreme Court were successful in cases concerning the right of peaceful assembly.¹¹ The Committee also notes that, on 16 January 2013, the author submitted a request for a supervisory review of the earlier court decisions to the Supreme Court. On 14 March 2013, her request was rejected as unfounded by the Supreme Court. On an unspecified date, the author submitted a request for a supervisory review to the General Prosecutor's Office. Her request was rejected by the Deputy Prosecutor General on 4 May 2013. The Committee considers that the State party has not demonstrated that a further request to the Prosecutor General to file a supervisory review before the Supreme Court would have been an effective remedy in this case. Accordingly, the Committee finds that it is not precluded by article 5 (2) (b) of the Optional Protocol from examining the present communication.

7.4 The Committee considers that the author has sufficiently substantiated the claims under articles 21 and 26 of the Covenant, for the purposes of admissibility. It therefore declares the communication admissible and proceeds with its consideration of the merits.

Consideration of the merits

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

8.2 From the material before the Committee, it transpires that the author's request to authorize a peaceful assembly (meeting), in one of the 30 locations identified by her, was refused by the Akimat of Almaty on the basis of the earlier decision adopted by the Maslikhat of Almaty on 29 July 2015, pursuant to which all non-governmental public events of a "social and political nature" should be held in a specific location designated for these purposes, namely on the square behind the Sary Arka cinema. The Committee further notes that the decision of the Akimat of Almaty was upheld by the State party's domestic courts all the way up to the Supreme Court. The courts also concluded that, since the expected number of meeting participants was approximately a thousand, the meeting would have created obstacles leading to the interruption of regular public transport services and the disruption of public order and the security of citizens.

8.3 The Committee also notes the author's claim that her right of peaceful assembly under article 21 of the Covenant was violated by the refusal of the local executive authorities to authorize the meeting in any of the 30 locations identified by her, along with the general requirement to hold it in a remote designated location. Since the intended meeting was of an exclusively peaceful nature, the author argues that the State party's authorities should have provided justification as to why the restriction on her right of peaceful assembly, that is the refusal to authorize the meeting, was "necessary" for the protection of one of the legitimate purposes provided for in article 21 of the Covenant.

8.4 The Committee recalls that the right of peaceful assembly, as guaranteed under article 21 of the Covenant, constitutes a fundamental human right that is essential for the public expression of an individual's views and opinions and indispensable in a democratic society.¹² That right entails the possibility of organizing and participating in a peaceful assembly in a public location. The organizers of an assembly generally have the right to choose a location within sight and sound of their target audience, and no restriction on this right is permissible, unless it is imposed in conformity with the law and is necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. When a State party imposes restrictions with the aim of reconciling an individual's right of assembly and the aforementioned interests of general concern, it should be guided by the objective of facilitating the right, rather than placing unnecessary

¹⁰ *Alekseev v. Russian Federation* (CCPR/C/109/D/1873/2009), para. 8.4; *Lozenko v. Belarus* (CCPR/C/112/D/1929/2010), para. 6.3; *Sudalenko v. Belarus* (CCPR/C/115/D/2016/2010), para. 7.3; and *Poplavny and Sudalenko v. Belarus* (CCPR/C/118/D/2139/2012), para. 7.3.

¹¹ *Kostenko v. Russian Federation* (CCPR/C/115/D/2141/2012), para. 6.3.

¹² *Korol v. Belarus* (CCPR/C/117/D/2089/2011), para. 7.5.

or disproportionate limitations on it. The State party is thus under an obligation to justify the limitation on the right protected by article 21 of the Covenant.¹³

8.5 The Committee further notes that, while the requirement to obtain prior authorization to hold a peaceful assembly may be seen by the authorities as important for the smooth conduct of public events, its enforcement cannot become an end in itself and cannot limit the very essence of the right of peaceful assembly. In this context, the Committee notes the State party's argument that the Constitution guarantees the protection of the right of peaceful assembly, and that the realization of this right can only be restricted by law in the interests of State security, public order, and the protection of the health, rights and freedoms of others, the normal functioning of transport and the preservation of infrastructure. The Committee also notes the author's argument that the intended meeting was going to be peaceful in nature and that the State party did not provide any evidence demonstrating that it was aimed at pursuing one of the purposes prohibited under its domestic law. The Committee recalls that the limitations on the right of peaceful assembly, even if authorized by domestic law, must also be justified in each specific case in terms of the criteria established under article 21 of the Covenant.¹⁴ The Committee considers, therefore, based on the material before it, that in the present case the State party has failed to provide any justification or explanation as to how, in practice, the author's intended meeting would have violated the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others, as set out in article 21 of the Covenant. Accordingly, the Committee concludes that the facts before it constitute a violation of the author's rights under article 21 of the Covenant.

8.6 The Committee also notes the author's claim that the authorization by the State party's authorities to organize public events of a "social and political nature" in only one specially designated place, while authorizing State-run and non-political public events in other locations, is politically motivated and discriminatory, and amounts to a violation by the State party of her rights under article 26 of the Covenant. Although the State party has not responded to this specific claim, it has acknowledged in its submissions to the Committee that, pursuant to its domestic laws and regulations, the holding of non-governmental public events of a "social and political nature" is authorized only in designated areas, based on the decisions of local executive bodies (see paras. 4.2–4.3 and 4.8 above).

8.7 The Committee recalls that, in paragraph 1 of its general comment No. 18 (1989) on non-discrimination, it stated that article 26 entitles all persons to equality before the law and equal protection of the law, prohibits any discrimination under the law and guarantees to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The Committee further recalls its jurisprudence that not every differentiation based on the grounds listed in article 26 of the Covenant amounts to discrimination, as long as it is based on reasonable and objective criteria¹⁵ and is in pursuit of an aim that is legitimate under the Covenant.¹⁶ The Committee observes, however, that in the present case neither the State party nor the domestic courts have shown that the decision of the Maslikhat of Almaty to authorize the holding of non-governmental public events of a "social and political nature" in Almaty, including the one organized by the author, only in one specially designated place was based on reasonable and objective criteria and in pursuit of an aim that is legitimate under the Covenant. Moreover, no evidence that would point to the existence of factors that might justify a distinction between the regulations applicable to events of a "social and political nature" organized by non-governmental organizations, as opposed to State-run or non-political events, has been advanced by the State party.

¹³ *Poplavny v. Belarus* (CCPR/C/115/D/2019/2010), para. 8.4.

¹⁴ *Abildayeva v. Kazakhstan* (CCPR/C/125/D/2309/2013), para. 8.7.

¹⁵ See, for example, *Broeks v. Netherlands* (CCPR/C/29/D/172/1984), para. 13; *Zwaan-de Vries v. Netherlands* (CCPR/C/29/D/182/1984), para. 13; *Müller and Engelhard v. Namibia* (CCPR/C/74/D/919/2000), para. 6.7; and *Derksen v. Netherlands* (CCPR/C/80/D/976/2001), para. 9.2.

¹⁶ See, for example, *O'Neill and Quinn v. Ireland* (CCPR/C/87/D/1314/2004), para. 8.3.

8.8 In the above-mentioned circumstances, the Committee considers that the refusal by the Akimat of Almaty to authorize a peaceful assembly in any one of the 30 locations identified by the author, on the basis of the earlier decision adopted by the Maslikhat of Almaty, pursuant to which all non-governmental public events of a “social and political nature” should be held in a specific location designated for those purposes, amounted to a violation of the author’s rights under article 21, read alone and in conjunction with article 26, of the Covenant.

9. The Committee, acting under article 5 (4) of the Optional Protocol, is of the view that the facts before it disclose a violation by the State party of the author’s rights under article 21, read alone and in conjunction with article 26, of the Covenant.

10. 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 take appropriate steps to provide the author with adequate compensation and reimbursement of any legal costs incurred by her. The State party is also under an obligation to take all steps necessary to prevent similar violations from occurring again in the future. In that connection, the Committee reiterates that, pursuant to its obligations under article 2 (2) of the Covenant, the State party should review its legislation, in particular the Law on the Procedure for the Organization and Conduct of Peaceful Assemblies, Meetings, Processions, Pickets and Demonstrations, as well as the decisions of local executive bodies adopted pursuant to that Law, as they have been applied in the present case, with a view to ensuring that the rights under articles 21 and 26 of the Covenant may be fully enjoyed in the State party.¹⁷

11. 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 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 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 to have them widely disseminated in the official languages of the State party.

¹⁷ *Toregozhina v. Kazakhstan* (CCPR/C/124/D/2257/2013 and 2334/2014), para. 9.