



## International Covenant on Civil and Political Rights

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### Human Rights Committee

#### Communication No. 1548/2007

#### Views adopted by the Committee at its 106th session (15 October–2 November 2012)

<i>Submitted by:</i>	Zoya Kholodova (represented by counsel)
<i>Alleged victim:</i>	The author's son, Dmitrii Kholodov (deceased)
<i>State party:</i>	Russian Federation
<i>Date of communication:</i>	5 December 2006 (initial submission)
<i>Document references:</i>	Special Rapporteur's rule 97 decision, transmitted to the State party on 6 March 2007 (not issued in document form)
<i>Date of adoption of Views:</i>	1 November 2012
<i>Subject matter:</i>	Death of a journalist in an explosion; unfair trial
<i>Substantive issues:</i>	Right to life; fair trial; freedom of expression
<i>Procedural issue:</i>	Substantiation of claim
<i>Articles of the Covenant:</i>	2; 6; 14; 19
<i>Article of the Optional Protocol:</i>	2

## 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 (106th session)**

concerning

#### **Communication No. 1548/2007\***

*Submitted by:* Zoya Kholodova (represented by counsel)  
*Alleged victim:* The author's son, Dmitrii Kholodov (deceased)  
*State party:* Russian Federation  
*Date of communication:* 5 December 2006 (initial submission)

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

*Meeting on* 1 November 2012,

*Having concluded* its consideration of communication No. 1548/2007, submitted to the Human Rights Committee by Zoya Kholodova 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 Zoya Kholodova, a Russian national born in 1937.<sup>1</sup> She submits the communication on behalf of herself and her son, Dmitrii Kholodov, a Russian national deceased in 1994. She claims violation by the State party of her rights under article 2, paragraph 3. and article 14, paragraph 1, of the International Covenant on Civil and Political Rights, as well as violation of her son's rights under article 6, paragraph 1, and article 19 of the Covenant. The Optional Protocol entered into force for the State party on 1 January 1992. The author is represented by counsels K. Moskalenko and M. Rachkovskiy.

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\* The following members of the Committee participated in the examination of the present communication: Mr. Yadh Ben Achour, Mr. Lazhari Bouzid, Mr. Cornelis Flinterman, Mr. Yuji Iwasawa, Mr. Walter Kälin, Ms. Zonke Zanele Majodina, Mr. Gerald L. Neuman, Mr. Michael O'Flaherty, Mr. Rafael Rivas Posada, Sir Nigel Rodley, Mr. Fabián Omar Salvioli, Mr. Marat Sarsembayev, Mr. Krister Thelin, and Ms. Margo Waterval.

<sup>1</sup> The initial submission was co-authored by Yuri Kholodov, father of Dmitrii Kholodov. On 26 April 2011, the author's counsel informed the Committee that Yuri Kholodov had passed away.

**The facts as submitted by the author**

2.1 The author's son, Dmitrii Kholodov, worked as a journalist at the newspaper *Moskovsky Komsomolets*. On 17 October 1994, a briefcase exploded in the newspaper's premises, killing Mr. Kholodov and injuring others. The author contends that the explosion was aimed at stopping her son's work of reporting on irregularities, including corruption, in the army.

2.2 On 17 October 1994, the Presnensk inter-district Prosecutor's Office initiated a criminal case in connection with the explosion. On 18 October 1994, in the light of the particular gravity and importance of the crime, a Deputy Prosecutor-General of the Russian Federation decided to entrust the General Prosecutor's Office with the investigation.

2.3 In the course of the investigation, five military officers and a civilian were identified as suspects for having organized the bombing, presumably acting on the orders of high-level military officials at the direct request of the Minister of Defence. The investigators concluded that the military officials had stolen explosives from their military unit and hidden an explosive device in a briefcase which was later provided to the author's son as containing sensitive information. The author's son died when opening the briefcase in his office, and other individuals in the newspaper's office were injured.

2.4 The criminal case was initially examined by the Moscow Regional Military Court starting in November 2000.<sup>2</sup> The court ordered a number of complementary expert examinations by medical-forensic, explosive device teams, among others, whose results differed from those made during the preliminary investigation. In particular, the latest conclusions showed that the amount of explosive used was not as large as initially stated, and the epicentre of the explosion was said to have been different. The author claims that the experts who carried out the second set of examinations were divided, and their conclusions differed from those reached following the examinations carried out during the preliminary investigation. The author contends that the conclusions of the first expert examination were more appropriate.

2.5 On 26 June 2002, the Moscow Regional Military Court acquitted the six accused and ordered their immediate release.<sup>3</sup> The prosecution as well as the author appealed to the Military College of the Supreme Court of the Russian Federation. On 27 May 2003, the Supreme Court quashed the 26 June 2002 sentence of the Moscow Regional Military Court and referred the case back to the same court for a new examination, but with a different composition.

2.6 The second court trial took place from July 2003 to June 2004. According to the author, the court examined the different conclusions of the expert examinations ordered during the first trial. The author claims that during the second trial, the transcript of the first trial was studied, but the annotations made on it were not taken into account.

2.7 On 10 June 2004, the Moscow Regional Military Court again acquitted the accused of the explosion. The prosecution and the author appealed again to the Supreme Court,<sup>4</sup> claiming that the court started the trial in the absence of some parties; did not clarify all the contradictions subsisting in a number of witness depositions; nor did it interrogate one important witness nor read out the annotations made on the transcript of the first trial when examining it, and therefore retained inadmissible evidence.

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<sup>2</sup> The author did not provide details about the preliminary investigation carried out between 1994 and 2000.

<sup>3</sup> The author did not provide details on the exact date of arrest of the accused.

<sup>4</sup> The author's appeal was submitted on 18 June 2004.

2.8 On 14 March 2005, the Military College of the Supreme Court confirmed the acquittal decision by the Moscow Regional Military Court. The author requested the Presidium of the Supreme Court to have the case re-examined under supervisory proceedings. On 25 April 2005, the Presidium of the Supreme Court rejected the request to order the examination of the case under supervisory proceedings.

2.9 The author claims that the court trials suffered a number of procedural irregularities.<sup>5</sup> She refers to public criticism by the Minister of Defence of her son's publications, which, in her view, shows that her son was a victim of the actions of high-level officials in the army. She maintains that the courts did not take account of the testimonies of one witness who had affirmed during the preliminary investigation that, shortly before the crime, he had seen a suitcase with an explosive device in it on the desk of one of the military personnel accused of the murder, and who had also claimed that he had seen several of the accused leaving their military unit together in the morning preceding the explosion.<sup>6</sup> The investigator who interrogated this witness initially was not called to court for questioning, in spite of the author's requests. The author also claims that the conclusions of the courts were contradictory and not supported by the evidence examined during the trial. In addition, five out of the six accused in the first trial were military personnel and the case was examined by a military court, which resulted in a biased decision.

2.10 Referring to the Committee's jurisprudence,<sup>7</sup> the author contends that the criminal proceedings in this case suffered undue delay. According to her, the trial was unfair because although the first instance court concluded that the explosion in the newspaper's premises was due to the activation of an explosive device, it acquitted the accused. She also challenges the conclusions of several experts and the courts' assessments of the conclusions and claims that the courts used unreliable evidence and failed to provide any legal assessment on a number of points at issue.<sup>8</sup>

2.11 The author states that domestic remedies have been exhausted.

### **The complaint**

3.1 The author claims that her son was murdered while performing his professional duties as a journalist. In her opinion, the crime was politically motivated and high-ranking officials had an interest in not having it elucidated. Thus, the officials in question prevented the case from being dealt with diligently; the preliminary investigation lasted six years.

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<sup>5</sup> The author claims, for example, that when examining the case for a second time in 2004, the Moscow Regional Military Court referred to the trial transcript of the previous (2000-2002) trial, without reading the annotations. She claims that the presiding judge on the second examination of the case was a subordinate to the first presiding judge. She also explains that the court wrongly retained the conclusions of a complex expert examination on the quantity of explosives used.

<sup>6</sup> It transpires from the material on file, however, that the witness in question subsequently retracted his initial testimonies, claiming that he had initially given them in an investigation detention centre when he was suffering from a serious disease and was not in his normal state. He said that the investigator had put him under pressure and forced him to acquiesce to certain theses, and the interrogations had to stop on numerous occasions due to his health conditions. The courts decided to retain the witnesses' subsequent testimonies, as they were in line with the depositions of a multitude of other witnesses and persons, and other corroborating evidence.

<sup>7</sup> The author refers to the Committee's decision in Communication No. 203/1986, *Herzoza v. Peru*, Views adopted on 4 November 1988.

<sup>8</sup> The author further explains that the first instance court, when examining the case for the second time, failed to provide a legal assessment of the statements made in public by the Minister of Defence concerning her son.

According to the author, the State party is responsible for the arbitrary deprivation of her son's life. She claims that the authorities failed, not only in their duty to effectively protect the life of her son, but also in not ensuring that an effective investigation was conducted by an impartial organ into the killing of her son, and not prosecuting and sanctioning those responsible for his death, in violation of article 6, paragraph 1, and article 2, paragraph 3, of the International Covenant on Civil and Political Rights.<sup>9</sup>

3.2 The author claims to be a victim of a violation of article 14, paragraph 1, of the Covenant, as the proceedings were initiated on 17 October 1994, but the last court decision – the ruling of the Supreme Court – was handed down on 14 March 2005, i.e. almost nine and a half years later. She contends that the trial was biased as it was held before a military court, even though five of the accused were military officers and it was a criminal case. She considers that the murder of a journalist in a democratic State supposes special attention by the authorities and an exhaustive and impartial investigation, and claims that this was not respected in the present case. She invokes a number of irregularities, allegedly committed by the courts in relation to the criminal procedure law (see paras. 2.9 - 2.10 above). In this respect, the author claims that the fact that no perpetrators were identified prevents her from receiving compensation for the loss of her son, in violation of article 2, paragraph 3, of the Covenant.

3.3 The author claims that her son was killed because of his work as a journalist and as a consequence of his publications on problems in the army and the existence of corrupt practices among high-ranking army officials. According to her, the murder aimed at protecting representatives of the army and resulted in a limitation of her son's right to freedom of expression, in particular his freedom to express opinions and to disseminate information, in violation of article 19 of the Covenant.

#### **State party's observations on admissibility**

4.1 By note verbale of 16 May 2007, the State party explained that the author challenges the effectiveness of the investigation concerning the death of her son, as well as the effectiveness of the court proceedings in the case. The State party adds that the author considers that the law-enforcement authorities have either failed or refused to carry out an effective inquiry into the circumstances of the death of her son, and they have failed to discover those responsible, whereas the courts have *de facto* failed in their duty to administer justice.

4.2 The State party explains that the criminal case concerning the killing of Mr. Kholodov was examined by the competent judicial authorities of the Russian Federation, in strict compliance with the law. The case was examined twice by courts of first and second instance: on 26 June 2002, the Moscow Regional (Circuit) Military Court acquitted the accused, Mssrs. Barkovsky, Kapuntsov, Mirzayants, Morozov, Popovskikh and Soroka, as their involvement in the killing of Mr. Kholodov could not be established. On 2 December 2002, the author appealed this decision in the Supreme Court with a request to annul the judgement and refer the case back to the court for new examination. On 27 March 2003, the Supreme Court annulled the decision of 26 June 2002, and sent the case back for new examination by another composition of the the Moscow Regional Military Court.

4.3 On 10 June 2004, the Moscow Regional Military Court again acquitted the accused. The court transmitted the criminal case concerning the bombing in the newspaper's premises and the death of Mr. Kholodov to the General Prosecutor's Office, with a request

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<sup>9</sup> In this context, the author claims that by not identifying the persons responsible for the explosion, the authorities prevented her from seeking monetary compensation for damages suffered, in violation of article 2, paragraph 3, of the Covenant.

to carry out an investigation in order to establish who was responsible. All case materials and evidence were transmitted to the General Prosecutor's Office.

4.4 On 18 June 2004, the author filed a cassation appeal with the Supreme Court of the Russian Federation, asking to have the decision of the Moscow Regional Military Court of 10 June 2004 annulled and submitted an additional appeal on 14 December 2004. On 14 March 2005, the Supreme Court rejected the appeal and confirmed the sentence of 10 June 2004. On 31 March 2005, the author appealed both decisions under the supervisory review procedure to the Presidium of the Supreme Court, claiming that both decisions were handed down in violation of the Criminal Procedure Code. On 25 April 2005, the Presidium of the Supreme Court rejected the author's appeal.

4.5 The State party explains that by that time, the criminal case concerning the bombing and the death of the author's son was under investigation by the General Prosecutor's Office. The State party considers that the requirement of exhaustion of domestic remedies has not been fulfilled and the communication should be declared inadmissible under article 5, paragraph 2 (b), of the Optional Protocol. The State party rejects the author's allegation that the authorities do not have the will to investigate the case effectively, stating that it is groundless.

#### **Author's comments on the State party's observations**

5.1 On 30 July 2007, the author notes that the State party has not adduced any evidence in support of its contention that the criminal case has been investigated effectively. In her view, even if the investigation were to end with the identification of suspects and ultimate recognition of their guilt, she would still be a victim due to the delays in carrying out the criminal proceedings. In addition, there are no guarantees that the sentence would not be quashed later on, which would result in further and indeterminate delays. The author therefore considers that in the circumstances, nothing prevents the Committee from examining the communication.

5.2 The author further notes that the State party's submission implies that the delays in the proceedings are imputable to her own actions. She contends that in reality, in addition to her claims, the Supreme Court also received cassation appeals from the General Prosecutor's Office, the Moscow Prosecutor's Office and the Head Military Prosecutor's Office against the acquittal decision of the Moscow Regional Military Court. Furthermore, the Supreme Court has examined lower court decisions on two occasions.

5.3 The author further contends that the authorities' position on the criminal case is not related to the circumstances of the investigation of the case. As such, the criminal case was initiated by the Presnensk inter-district Prosecutor's Office on 17 October 1994, i.e., more than 12 years prior to the submission of the communication, and no final court decision has been rendered. For 10 years, the investigators focused on only one version of the events, which was ultimately rejected by the courts as erroneous.

5.4 The author notes that as of the opening of the criminal case up to the acquittal decision on 18 June 2004, the General Prosecutor's Office constantly insisted that the accused persons in the case were responsible for both the explosion on the newspaper's premises and the murder of the author's son. She also believes that a new examination of the case would most probably not have a positive outcome, due to the time elapsed.

5.5 The author further explains that by that time, a new investigation was pending by the General Prosecutor's Office, but that she was not informed of any movement in the case. This led her to the conclusion that the authorities have again failed in their duties and the investigation remains ineffective. The authorities have also failed in their duty to provide the victim with effective access to the investigation.

5.6 Finally, the author contends that the State party has failed to refute her allegations in any way.

#### **Additional observations by the State party**

6.1 On 29 December 2007, the State party reiterates that according to article 5, paragraph 2 (b), of the Optional Protocol, the Committee shall not consider any communication from an individual before ascertaining that all available domestic remedies have been exhausted. It states that at the time, the preliminary investigation concerning the murder of Mr. Kholodov was ongoing. Investigation activities were being carried out with the aim of identifying those responsible, and active measures were taken to elucidate the crime. Thus, domestic remedies have not been exhausted.

6.2 The State party notes that on 14 September 2006, the European Court of Human Rights declared the application submitted by the author inadmissible.

6.3 The State party further notes that in her comments, the author has not specified which of her rights have been violated by the authorities. In substance, her contentions relate only to the non-effectiveness and the delays in the investigation and court proceedings. In the State party's view, her allegation that the investigation was unjustifiably delayed does not correspond to the reality. The State party emphasizes that the preliminary investigation and the court trial were held in conformity with the criminal procedure law, and notes that the delays occurred for objective reasons and do not show that the authorities do not wish to effectively investigate the circumstances of the crime.

6.4 The State party adds that the General Prosecutor's Office is empowered by the criminal procedure law to file a cassation appeal against acquittal sentences, if it considers that the court decision was unlawful or groundless. Therefore, the author's allegation that the occurrence of such appeal in the present criminal case would negatively affect further investigation is frivolous.

6.5 The State party further contends that the allegation that the author has no access to the current investigation and that therefore demonstrates its ineffectiveness is groundless. The Criminal Procedure Code specifically regulates the manner in which injured parties are informed both of the criminal case material and of the outcome of the investigation. Article 125 of the Criminal Procedure Code allows for appeals in court against acts or omissions by the officials in charge of the preliminary investigation. The material on file does not permit the conclusion that the author has complained to the courts subsequent to the latest transmittal of the criminal case to the General Prosecutor's Office.

6.6 The State party adds that the allegations on the possible acquittal of suspects, if identified, is a hypothetical one and cannot be taken into account in assessing the issue of an unjustified delay in the present case. In the light of all these elements, the State party considers that the delay in the investigation and in the examination of the criminal case cannot be considered as undue. It adds that the criminal investigation was still open and that it was prolonged until 15 December 2007, under the supervision of the General Prosecutor's Office.

#### **Author's comments on the State party's submission**

7.1 On 14 March 2008, the author notes that the requirements of article 5, paragraph 2 (b), of the Optional Protocol does not apply where the application of the domestic remedies is unreasonably prolonged. She notes that as at that time, 13 years had elapsed, during which the authorities had allegedly taken active steps to resolve the criminal case.

7.2 As to the decision of the European Court of Human Rights of 14 September 2006, the author contends that the Court based its inadmissibility decision on the grounds that the

murder of Mr. Kholodov had taken place prior to the entry into force of the European Convention of Human Rights and Fundamental Freedoms for the State party, and not on the grounds of failure to exhaust domestic remedies.

7.3 Regarding the State party's contention that in her submission, she did not specify which of her rights under the Covenant were violated, the author explains that her initial submission to the Committee includes the specific articles and argumentation thereon.

7.4 Finally, on the issue of the appeals under article 125 of the Criminal Procedure Code, the author explains that in the light of the length of the criminal proceedings, such an appeal would clearly be ineffective.

#### **Additional information by the State party**

8.1 On 2 August 2011, the State party recalls the chronology of the investigation and court proceedings in the criminal case and states that on 30 October 2006, the file material of the criminal case was brought to the General Prosecutor's Office for a new investigation. On 15 December 2008, the preliminary investigation was closed, as no suspects could be identified. On the recommendation of the investigator, the operative search organs continued to carry out actions aiming at identifying the persons responsible for the crime.

8.2 According to the State party, the analysis of the criminal case, which is composed of 298 files, permits the conclusion that all possible investigation activities have been carried out, exhaustively. The investigation of the criminal case could only resume on the basis of new information. The State party also notes that as of September 2007, the author has not sought any information from the Head Investigation Office of the Investigation Committee of the Russian Federation about the investigation.

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

##### *Consideration of admissibility*

9.1 Before considering any claims 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.

9.2 The Committee has ascertained, as required by article 5, paragraph 2 (a), of the Optional Protocol, that the matter is not being examined under any other procedure of international investigation or settlement.

9.3 On the issue of exhaustion of domestic remedies, the Committee notes the State party's contention that the case should be declared inadmissible as a new investigation was ongoing at the time the communication was submitted. However, the Committee notes that at present, the investigation in question is closed.<sup>10</sup> In the circumstances, the Committee considers that it is not precluded by the requirement of article 5, paragraph 2 (b), of the Optional Protocol from considering the present communication.

9.4 The Committee considers that the author's allegations concerning issues under article 2, paragraph 3; article 6, paragraph 1; article 14, paragraph 1, and article 19, of the International Covenant on Civil and Political Rights have been sufficiently substantiated for purposes of admissibility, and therefore proceeds with its examination of the merits.

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<sup>10</sup> See para. 8.1 above.

*Consideration of the merits*

10.1 The Human Rights Committee has considered this communication in the light of all the information received, in accordance with article 5, paragraph 1, of the Optional Protocol.

10.2 The Committee has taken note of the author's allegation that the State party's authorities failed to conduct an effective and timely investigation into the exact circumstances of her son's death and to have those responsible prosecuted and tried, and that the proceedings were unduly delayed. The Committee notes that in the present case, the authorities initiated an investigation on 17 October 1994, i.e., immediately following the explosion; this investigation led to the arrest, prosecution and subsequent trial of six suspects. In response to the appeal in May 2003, following the initial acquittal of the six individuals in a trial held between November 2000 and June 2002, the Supreme Court referred the case back to the same court for further investigation and trial. In June 2004, following the second acquittal of the accused, the Supreme Court again examined the case, and in March 2005, ultimately confirmed the acquittal. In the circumstances, and in the light of the material on file, the Committee considers that the delay of the above-mentioned proceedings cannot be considered unreasonable nor the result of unjustified prolongation of the proceedings by the authorities, even if a new investigation was subsequently opened by the General Prosecutor's Office.

10.3 The Committee has taken note of the author's claims that the court trials in this case were unlawful; that the courts were biased because the judges were military officers and five of the six accused were active military officers and that there was a relationship of hierarchical subordination between the two judges presiding over the two first-instance trials. The Committee notes that the State party has not refuted these allegations specifically, but only stated that the trial was held in strict compliance with the provisions of the criminal procedure law. The Committee further notes the author's claim that the military officers accused of the explosion and the death of her son were acting outside the framework of their official duties as members of the armed forces and that the accusation maintained that they had acted under the informal orders of the Minister of Defense and not in their official capacity.

10.4 The Committee recalls its general comment No. 34,<sup>11</sup> which states that attacks on journalists, among others, should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims, or, in the case of killings, their representatives, should receive an appropriate form of redress (para. 23). It further recalls that its general comment No. 31<sup>12</sup> stresses that failure by a State party to bring to justice perpetrators of such violations could in and of itself give rise to a separate breach of the Covenant (para. 18). General comment No. 31 further states that these obligations arise notably in respect of violations recognized as criminal under either domestic or international law, such as torture and similar cruel, inhuman and degrading treatment (article 7), summary and arbitrary killing (article 6) and enforced disappearance (articles 7 and 9 and, frequently, 6). The

<sup>11</sup> See the Committee's general comment No. 34 (2011) on freedoms of opinion and expression, *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 40*, vol. I (A/66/40 (Vol. I)), annex V; also para. 12 of the basic Principles and guidelines on the rights to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law (General Assembly resolution 60/147, annex) states that "a victim of a gross violation of international human rights law [...] shall have equal access to an effective judicial remedy as provided for under international law."

<sup>12</sup> See the Committee's general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 40*, vol. I (A/59/40 (Vol. I)), annex III.

Committee remains concerned that the problem of impunity for these violations may well be an important contributing element in their recurrence.

10.5 In this context, the Committee considers that in a democratic State where the rule of law must prevail, military criminal jurisdictions should have a restrictive and exceptional scope. In this connection, the Committee refers to principle 9 of the draft Principles governing the administration of justice through military tribunals, which states: “in all circumstances, the jurisdiction of military courts should be set aside in favour of the jurisdiction of the ordinary courts to conduct inquiries into serious human rights violations such as extrajudicial executions, enforced disappearances and torture, and to prosecute and try persons accused of such crimes.”<sup>13</sup> In the present case, while five of the six accused tried by the Moscow Regional Military Court were indeed military personnel, they were manifestly and uncontestedly not engaged in official duties. The State party has not attempted to give an explanation, beyond citation of its own law, as to why military justice was the appropriate jurisdiction to try military personnel accused of this grave crime. Consequently, the author’s right to reparation for herself as well as in the name of her son, was seriously compromised. Accordingly, the Committee concludes that the author’s rights under article 2, paragraph 3 (a), in conjunction with article 6, paragraph 1, of the International Covenant on Civil and Political Rights have been violated. In the light of this conclusion, the Committee decides not to examine separately the claims made by the author under article 14, paragraph 1, of the Covenant.

10.6 As to the author’s remaining claims, the Committee considers that the material before it does not enable it to conclude in a definitive manner that the explosion on the newspaper’s premises and the resulting death of the author’s son can be imputed to the State party’s authorities seeking to prevent him from performing his duties as a journalist. Consequently, the Committee cannot conclude that the State party has violated Mr. Kholodov’s rights under article 2, paragraph 3; article 6, paragraph 1, and article 19 of the Covenant.

11. 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 State party has violated the author’s rights under article 2, paragraph 3 (a), in conjunction with article 6, paragraph 1, of the International Covenant on Civil and Political Rights.

12. 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, and take all possible measures to ensure the those responsible for the death of her son are brought to justice. Furthermore, the State party is under an obligation to avoid similar violations in the future.

13. 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, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to its Views. The State party is also requested to publish the present Views and to have them widely disseminated in the official language of the State party.

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<sup>13</sup> See E/CN.4/2006/58; also principle 29 of the updated Set of principles for the protection and promotion of human rights through action to combat impunity (E/CN.4/2005/102/Add.1) states: “the jurisdiction of military tribunals must be restricted solely to specifically military offences committed by military personnel, to the exclusion of human rights violations, which shall come under the jurisdiction of the ordinary domestic courts or, where appropriate, in the case of serious crimes under international law, of an international or internationalized criminal court.”

[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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