



**International Covenant on
Civil and Political Rights**

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Human Rights Committee

Communication No. 2058/2011

**Decision adopted by the Committee at its 104th session,
12 to 30 March 2012**

<i>Submitted by:</i>	O. D. (represented by the Konsul Law firm)
<i>Alleged victim:</i>	The author
<i>State party:</i>	Russian Federation
<i>Dates of communication:</i>	13 January 2011 (initial submission)
<i>Date of adoption of Views:</i>	26 March 2012
<i>Subject matter:</i>	The author's conviction for a traffic offence
<i>Procedural issues:</i>	Incompatibility of claims with the Covenant
<i>Substantive issues:</i>	Right to a fair hearing by an impartial tribunal
<i>Articles of the Covenant:</i>	14
<i>Articles of the Optional Protocol:</i>	2

Annex

Decision of the Human Rights Committee under the Optional Protocol to the International Covenant on Civil and Political rights (104th session)

concerning

Communication No. 2058/2011*

Submitted by: O. D. (represented by the Konsul Law firm)

Alleged victims: The author

State party: Russian Federation

Date of communication: 13 January 2011 (initial submission)

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

Meeting on 26 March 2012,

Adopts the following:

Decision on admissibility

1. The author of the communication is O. D., a Russian Federation national born in 1968. He claims to be a victim of violations by the Russian Federation of his rights under article 14 of the International Covenant on Civil and Political Rights.¹ The author is represented by the “Konsul” law firm.

The facts as presented by the author

2.1 The author submits that, on 28 May 2009, he entered into conflict with a certain officer of the State Inspectorate for Road Traffic Safety, because he criticized the latter’s work and told him that he was blocking the traffic for no reason. In response, the officer accused the author of hitting him with his vehicle and leaving the scene of the accident, actions which constitute separate administrative offences according to domestic legislation. Charges were brought against the author and, on 7 July 2009, he was convicted of committing an administrative offence under article 12.27, paragraph 2, of the Code of Administrative Proceedings of the Russian Federation, namely leaving the scene of an accident, by the Peace Judge of the 79th District in Krasnoyarsk. He was sentenced to 13 days’ imprisonment.

2.2 The author appealed the verdict before the Federal Court of the Soviet District of Krasnoyarsk, which, by a decision dated 21 July 2009, amended the verdict and reduced the

* The following members of the Committee participated in the examination of the present communication: Lazhari Bouzid, Christine Chanut, Ahmad Amin Fathalla, Cornelis Flinterman, Yuji Iwasawa, Walter Kaelin, Zonke Zanele Majodina, Iulia Antoanella Motoc, Gerald L. Neuman, Michael O’Flaherty, Rafael Rivas Posada, Nigel Rodley, Fabian Omar Salvioli, Marat Sarsembayev, Krister Thelin and Margo Waterval.

¹ The Optional Protocol entered into force for the Russian Federation on 1 October 1991.

author's sentence to five days' imprisonment. The author filed for a supervisory review of that decision before the Krasnoyarsk Region Court and the Supreme Court of the Russian Federation, which rejected the appeals on 4 February 2010 and 4 July 2010 respectively.

2.3 The author submits that the decisions of the courts were based on the arguments, statements and evidence presented by the law enforcement agents, namely the officers of the State Inspectorate for Road Traffic Safety, and that his own and his lawyer's explanations were rejected without grounds. The author points out that he was convicted only of leaving the scene of an accident, not of committing the said accident, and that the fact of the accident was not investigated or established. The author maintains that no accident ever took place. He attempts at length to rebut the evidence of the Traffic Safety Inspectorate (such as smears on his vehicle's bumper and their origin, etc.), claims that there were no witness statements confirming the fact of the accident; and points out alleged discrepancies between the officer's statement and the medical certificate that the latter presented to the court.

2.4 The author contends that he has exhausted all available and effective domestic remedies.

The complaint

3. The author claims to be a victim of violations by the Russian Federation of his rights to a fair hearing, as protected by article 14, paragraph 1, of the Covenant.

Issues and proceedings before the Committee

4.1 Before considering any claim contained in a communication, the Human Rights Committee must determine whether it is admissible under the Optional Protocol to the International Covenant on Civil and Political Rights.

4.2 With regard to the author's claims that his rights under article 14, paragraph 1, have been violated by the State party, the Committee observes that these allegations relate primarily to the evaluation of facts and evidence by the State party's courts. The Committee recalls its jurisprudence in this respect and reiterates that, generally speaking, it is for the relevant domestic courts to review or evaluate facts and evidence.² Based on the material before it the Committee considers that the author has not shown sufficient grounds to support his argument that there was such arbitrariness or denial of justice. The Committee, therefore, concludes that the communication must be declared inadmissible pursuant to article 2 of the Optional Protocol.

5. The Human Rights Committee therefore decides:

(a) That the communication is inadmissible under article 2 of the Optional Protocol;

(b) That the decision be transmitted to the State party and to the author.

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

² See, *inter alia*: Communication No. 541/1993, *Simms v. Jamaica*, decision of inadmissibility adopted on 3 April 1995, para. 6.2; communication No. 1212/2003, *Lanzarote v. Spain*, decision of inadmissibility of 25 July 2006, para. 6.3; communication No. 1537/2006, *Gerashchenko v. Belarus*, decision of inadmissibility of 23 October 2009, para. 6.5.