



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE
Eighty-sixth session
13-31 March 2006

VIEWS

Communication No. 915/2000

<u>Submitted by:</u>	Mrs. Darmon Sultanova (represented by counsel)
<u>Alleged victims:</u>	The author, the author's deceased sons, Mr. Uigun and Oibek Ruzmetov, and author's husband, Mr. Sobir Ruzmetov
<u>State party:</u>	Uzbekistan
<u>Date of communication:</u>	7 February 2000 (initial submission)
<u>Document references:</u>	Special Rapporteur's rule 92/97 decision, transmitted to the State party on 22 February 2000 (not issued in document form)
<u>Date of adoption of Views:</u>	30 March 2006

* Made public by decision of the Human Rights Committee.

Subject matter: Death sentence after unfair trial, torture, unavailability of habeas corpus, inhuman treatment in custody, violation of the right to privacy.

Substantive issues: Right to life, torture, degrading treatment or punishment, arbitrary detention, right to be brought promptly before a judge/officer authorized by law to exercise judicial power, right to communicate with counsel, right to examine witnesses, interim measures to avoid irreparable damage to the alleged victim, violation of obligations under the Optional Protocol, unlawful interference with one's privacy.

Procedural issues: —

Articles of the Covenant: 2, paragraph 3; 6; 7; 9; 10, paragraph 1; 14, paragraphs 1, 2, 3 (b), (d), (e), and (g); and 17.

Articles of the Optional Protocol: 1, 2 and 5, paragraphs 2 (a) and (b)

On 30 March 2006, the Human Rights Committee adopted the annexed draft as the Committee's Views, under article 5, paragraph 4, of the Optional Protocol in respect of communication No. 915/2000. The text of the Views is appended to the present document.

[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

eighty-sixth session

concerning

Communication No. 915/2000*

Submitted by: Mrs. Darmon Sultanova (represented by counsel)

Alleged victims: The author, the author's deceased sons, Mr. Uigun and Oibek Ruzmetov, and author's husband, Mr. Sobir Ruzmetov

State party: Uzbekistan

Date of communication: 7 February 2000 (initial submission)

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

Meeting on 30 March 2006,

Having concluded its consideration of communication No. 915/2000, submitted to the Human Rights Committee by Mrs. Darmon Sultanova 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:

* The following members of the Committee participated in the examination of the present communication: Mr. Nisuke Ando, Mr. Prafullachandra Natwarlal Bhagwati, Ms. Christine Chanet, Mr. Maurice Glèlè Ahanhanzo, Mr. Edwin Johnson, Mr. Walter Kälin, Mr. Ahmed Tawfik Khalil, Mr. Rajsoomer Lallah, Mr. Rafael Rivas Posada, Sir Nigel Rodley, Mr. Ivan Shearer, Mr. Hipólito Solari-Yrigoyen and Mr. Roman Wieruszewski.

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

1.1 The author of the communication is Darmon Sultanova, an Uzbek national born in 1945. She submits the communication on her own behalf, on behalf of her sons, Uigun and Oibek Ruzmetov, also Uzbek nationals, born in 1970 and 1965 respectively. Her sons were sentenced to death by the Tashkent Regional Court on 24 July 1999 (Uigun) and 29 July 1999 (Oibek). The sentences were upheld on appeal by the Supreme Court of the Republic of Uzbekistan on 20 September 1999. The whereabouts of her sons was unknown at the time of submission of the communication. Mrs. Sultanova also acts on behalf of her husband, Sobir Ruzmetov, an Uzbek national born in 1935, who at the time of submission of the communication was serving a five-year prison term in colony UYA 64/61 in Karshi, Surkhandarya region, pursuant to a judgement handed down by the Khazorasp District Court on 28 May 1999 and upheld on appeal on 2 November 1999 (title of the court not provided). Mrs. Sultanova claims that she is a victim of violations by Uzbekistan of article 9, and in light of her sons' execution, of article 7 of the International Covenant on Civil and Political Rights.¹ She further claims that her sons are the victims of violations by Uzbekistan of articles 7, 9, 14, paragraphs 1, 2, 3 (b), (d), (e) and (g), and in light of their execution, of article 6. She also claims that her husband is a victim of violations of articles 9, 10, paragraph 1, and 14, paragraphs 1, 2, 3 (b), (d), (e) and (g). The author is represented by counsel.

1.2 On 22 February 2000, in accordance with rule 92 (old rule 86) of its rules of procedure, the Human Rights Committee, acting through its Special Rapporteur for New Communications, requested the State party not to carry out the death sentence against Uigun and Oibek Ruzmetov, pending the determination of their case by the Committee. This request for interim measures for protection was reiterated on 17 December 2002. No reply was received from the State party.

1.3 By letter of 14 October 2003, the author informed the Committee that after several inquiries about the whereabouts of her sons to the authorities, she was informed, by letter of the Tashkent Regional Court dated 13 June 2000, that Uigun and Oibek Ruzmetov had been executed on 29 September 1999 (i.e. prior to the receipt of the communication by the Committee).² She indicates, however, that information provided by the Tashkent Regional Court contradicts information which she received on an unspecified date from the Yunusabad District Bureau of the Civilian Registry Office (ZAGS), an agency responsible for maintaining records of the death of individuals, confirming that no official record about the death of Uigun and Oibek Ruzmetov had been received in 1999-2000.

Factual background

2.1 At midnight on 28 December 1998, five officers of the Khazorasp prosecutor's office and District Department of Internal Affairs, accompanied by several militiamen, broke into

¹ The Optional Protocol entered into force for the State party on 28 September 1995 (accession).

² The communication was received on 7 February 2000.

the author's house in Khazorasp. They conducted a thorough search, without any warrant, in the presence of two witnesses. In response to the author's request to be served a search warrant, an officer of the Department of Internal Affairs began questioning her about religious beliefs and the whereabouts of her sons, who were in Pitnak, around 20 km from Khazorasp. A protocol certifying that the search had produced no results was drawn up in two copies, one of which was given to the author. Six militiamen remained as guards. At 5 a.m. on 29 December 1998, one Mr. Bozbekov entered a room in the house and placed three bullets into a jar. At midnight on 30 December 1998, militiamen armed with machine guns entered the author's house with a prosecutor and a Chief of the militia, and conducted another search, this time with a warrant. The three bullets in the empty jar, banned religious literature and a packet of drugs were found this time. A protocol was drawn up but no copy was given to the author, despite repeated requests. According to the author, subsequent charges against her sons and husband were partly based on what was found during the second search. A number of personal belongings were taken from the house during the searches. According to the author, seven militiamen lived in her house from 28 December 1998 to 6 February 1999. Throughout this period, all family members were threatened with being shot, and they were at all times accompanied by a militiaman. No family member was allowed to leave the house or to make phone calls.

2.2 Uigun and Oibek Ruzmetov were arrested on 1 January 1999, and their father, Sobir Ruzmetov was arrested on 2 January 1999 in their apartment in Pitnak, on the basis of the warrants issued by the Prosecutor of Khozarasp. Uigun and Oibek Ruzmetov's charges included: (a) attempt to overthrow the government, (b) forcefully to change the constitutional regime, (c) to establish an Islamic fundamentalist regime, (d) to organize a "jihad" movement, and (e) murder under aggravating circumstances. Sobir Ruzmetov was charged with illegal possession of weapons and drugs without intent to sell. According to the author, while in detention in the basement of Urgench Office of the Department of Internal Affairs, her sons were subjected to torture by militia officers, with a view to obtaining self-incriminating "confessions". Allegedly, they were punched; beaten with truncheons; kicked; raped; hung up with their hands tied at the back; forcefully dropped on a cement floor; threatened with rape of their wives and with arrest of their parents.

2.3 At 7 p.m. on 5 January 1999, Mrs. Sultanova was allegedly ordered to bring all her clothes and food from the house in order to visit her husband, Sobir Ruzmetov, in a prison in Urgench. She was brought to the Chief of Urgench National Security Service, who insulted her. She then was brought to the basement of Urgench Office of the Department of Internal Affairs, handcuffed and placed in solitary confinement. Her clothes were removed, and she was thus exposed by the National Security Service's Chief to 2-3 young men, among them one of her sons. She allegedly hardly recognized Uigun, whose body was covered with bruises and showed visible marks of torture.

2.4 Early on 6 February 1999, seven militiamen entered the author's house and caused considerable damage to her property. The author submitted close to 100 complaints, requesting an investigation. They were addressed to the Khazorasp prosecutor, the Regional Prosecutor's Office, the President of Uzbekistan, the Minister of Internal Affairs

and the President of the Supreme Court. According to the author, none of the above initiated an investigation.

2.5 The author contends that she was not informed of the date of her sons' trial. As a result, she could not hire an independent lawyer to defend them during the trial, and they were represented by an *ex officio defence attorney*. Having learned by accident on 12 June 1999 that the trial of her sons, along with that of six other co-defendants, was in process in Tashkent Regional Court, she was allowed into the court room on 12, 13 and 14 June 1999. Thereafter, she allegedly was refused access. The author claims that the trial of her sons was largely held in camera, and that none of the witnesses, not even witnesses for the prosecution, were present in the court room despite numerous requests to this effect by all co-defendants. The author adds that the presiding judge acted in an accusatory manner.

2.6 During the hearing on 13 July 1999, Uigun and Oibek Ruzmetov testified that they were forced to confess and described the torture they had been subjected to. Uigun stated that a pistol, 12 bullets and drugs were placed into his pocket and that he signed a form confessing his "guilt" only after being shown his naked mother and after being told that his wife would be raped unless he signed the form. They also asserted that they were interrogated in the basement of the National Security Service Office in Tashkent in the absence of a lawyer and were subjected to torture. Oibek Ruzmetov was allegedly unable to walk without help after the interrogation. Uigun and Oibek also testified that they did not have access to a lawyer of their choosing during the investigation. Allegedly, the court disregarded all the testimonies and admitted the evidence obtained through torture and in the absence of a counsel of the author's sons' choosing.

2.7 On 24 July 1999, the Tashkent Regional Court sentenced five out of eight co-defendants, including Uigun and Oibek Ruzmetov, to death. The court concluded that Oibek Ruzmetov had created an armed group in 1995, with intent to commit robbery and to collect money for the purchase of weapons and the establishment of an Islamic regime based on the "Wahhabi" ideology. It further found that Oibek Ruzmetov and other members of the group, including Uigun Ruzmetov, established a centre in Burchmullo, Tashkent region, with the intent to blow up a water reservoir. The court found Uigun Ruzmetov guilty of a violation of many provisions of the Criminal Code, including illegal organization of public unions or religious organizations; smuggling; illegal possession of weapons, cartridges, explosive materials or explosive assemblies; premeditated murder; and production or distribution of materials threatening public security and public order. Mr. Oibek Ruzmetov was found guilty of a violation of similar provisions of the Criminal Code, as well as of an attempt against the constitutional order of the Republic of Uzbekistan and sabotage. On appeal, the Supreme Court upheld the death sentence on 20 September 1999. An appeal for review submitted to the Ministry of Justice was refused on 7 October 1999. The author submits that the appeals for pardon were submitted to the Presidential Office on 20 March and 5 September 2000, respectively.

2.8 On 24 July 1999, in alleged violation of article 137 of the Uzbek Code of Criminal Procedure, relatives of Uigun and Oibek Ruzmetov, including the author, were not allowed to meet them nor to deliver letters. The author claims that while her sons were in custody,

she could meet them only twice, on 1 August and 23 September 1999. Their lawyer, hired by the author, was twice refused access to them in custody after the pronouncement of the death sentence.

2.9 The author's husband was sentenced to five years' imprisonment by the Khazorasp Regional Court on 28 May 1999. The author claims that her husband was also subjected to torture in custody, as a result of which he had to be brought to court on a stretcher on 28 May 1999. The author contends that she could not attend her husband's trial that lasted for only two hours; that her husband was not assisted by a lawyer during the hearing and was not given an opportunity to question witnesses or to examine evidence in court. For the author, the evidence against her husband was fabricated. Allegedly, Sobir Ruzmetov was not eligible for amnesty after pronouncement of his sentence because his conduct allegedly violated prison regulations.

2.10 According to the author, regular searches, interrogations and harassment of herself and her family by officers of Khazorasp District Department of Internal Affairs continued throughout 2000 and 2001. On 1 April 2001 the author, her handicapped daughter and three grandchildren relocated to her other apartment in Pitnak, where they were subsequently harassed by officers of the Pitnak Department of Internal Affairs. On 4 April 2001, the Chief of the Pitnak Department of Internal Affairs insulted the author, ordered her to remove her headscarf and threatened to put her in prison.

The complaint

3.1 The author claims that her deprivation of liberty by persons acting in an official capacity between 28 December 1998 and 6 February 1999 without charges, and the subsequent failure of the State party to investigate these acts, constitutes a violation of article 9 of the Covenant. These facts would also appear to raise issues under articles 7 and 17, although these provisions were not invoked by the author.

3.2 The author contends that she is a victim of a violation of article 7, in relation to the execution of her sons of which she was only informed after the event.

3.3 The author claims that the charges against her sons were fabricated, and that her sons' arrest on the basis of warrants issued by the prosecutor, their detention for seven months without any judicial review, as well as their treatment in custody and during the trial give rise to violations of articles 6, 7, 9, 14, paragraphs 1, 2, 3 (b), (d), (e) and (g).

3.4 The author claims that the charges against her husband were also fabricated, and that her husband's arrest and the treatment he was subjected to in custody and trial amount to violations of articles 9, 10, paragraph 1, and 14, paragraphs 1, 2, 3 (b), (d), (e) and (g).

3.5 Finally, the author claims that the State party executed her sons in spite of a request for interim measures of protection addressed to the State party on behalf of the Committee. She contends that the State party forged official death records, so that the date of execution of her sons would appear to pre-date registration of the communication and the request for interim measures. In this regard she points to the discrepancy between the

records of the Tashkent Regional Court and the records of the Yunusabad District Bureau of the Civilian Registry Office (ZAGS) (see paras. 1.3 and 2.9 above). She notes that a letter of the Tashkent Regional Court was sent to her almost 10 months after the date of the alleged execution, but after the request for interim measures of protection had been addressed to the State party. This is said to constitute a breach of the State party's obligations under the Optional Protocol.

State party's observations on admissibility and merits

4. By Notes Verbales of 22 February 2000, 20 February and 25 July 2001, and 17 December 2002, the State party was requested to submit to the Committee information on the admissibility and merits of the communication. On 19 December 2003, the State party submitted that Uigun and Oibek Ruzmetov had been tried and found guilty by the Tashkent Regional Court on 29 June 1999 of a variety of crimes under the Criminal Code of Uzbekistan. Both were sentenced to death, and their sentences were upheld by decision of the Supreme Court on 20 September 1999. The State party provides a list of all the criminal acts that Uigun and Oibek Ruzmetov were found guilty of. It submits that the court correctly qualified their acts, and imposed the proper sentences by taking into account the "public danger" of their crimes.

Issues and proceedings before the Committee

Alleged breach of the Optional Protocol

5.1 The Committee has noted the author's allegation that the State party violated its obligations under the Optional Protocol by executing her sons, in spite of the fact that a communication was sent to the Committee and a request for the interim measures had been issued on 22 February 2000. No reply has been received from the State party on the request for interim measures, and no explanations were provided in relation to the allegation (see paragraph 3.5) that the author's sons were executed after the registration of the communication by the Committee, and after a request for interim measures was issued to the State party. The author has contended that the State party had forged its death records, so that the date of execution of her sons would pre-date the registration of the communication and the interim measures request.

5.2 The Committee recalls³ that by adhering to the Optional Protocol, a State party to the Covenant recognizes the competence of the Committee to receive and consider communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant (Preamble and article 1). Implicit in a State's adherence to the Protocol is an undertaking to cooperate with the Committee in *good faith* so as to permit and enable it to consider such communications, and after examination to forward its views

³ *Piandiong v. the Philippines*, Communication No. 869/1999, para. 5.1, Views adopted on 19 October 2000, *Khalilov v. Tajikistan*, Communication No. 973/2001, Views adopted on 30 March 2005, para. 4.1, *Saidov v. Tajikistan*, Communication No. 964/2001, Views adopted on 8 July 2004, para. 4.1.

to the State party and to the individual (article 5, paragraphs 1 and 4). The Committee further recalls that interim measures pursuant to rule 92 of the Committee's rules of procedure are essential to the Committee's role under the Protocol. Flouting of the Rule, especially by irreversible measures such as the execution of the alleged victims, undermines the protection of Covenant rights through the Optional Protocol.⁴

5.3 In its previous case law, the Committee had addressed the issue of a State party acting in breach of its obligations under the Optional Protocol by executing a person on whose behalf a communication was submitted to the Committee, not only from the perspective whether the Committee had explicitly requested interim measures of protection, but also on the basis of the irreversible nature of capital punishment. In view of the State party's failure to cooperate with the Committee in good faith on the issue of interim measures in spite of the reiterated request, and in the absence of any response to the allegation that the author's sons were executed after the registration of the communication by the Committee, and after a request for interim measures was issued to the State party, the Committee considers that the facts as submitted by the author disclose a breach of the Optional Protocol.

Consideration of admissibility

6.1 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 case is admissible under the Optional Protocol to the Covenant.

6.2 The Committee begins by noting that the author has not provided any proof that she is authorized to act on behalf of her husband, despite the fact that by the time of consideration of the Communication by the Committee he should have already served his sentence. Neither has she substantiated why it was impossible for the victim to submit a communication on his own behalf. In the circumstances of the case and in the absence of a power of attorney or other documented proof that the author is authorized to act on his behalf, the Committee must conclude that as far as it relates to her husband, the author has no standing under article 1 of the Optional Protocol.⁵

6.3 The Committee has ascertained, as required under article 5, paragraph 2 (a), of the Optional Protocol, that the same matter is not being examined under another procedure of international investigation or settlement. Concerning the exhaustion of domestic remedies, the Committee has noted that according to the information submitted by the author, all available domestic remedies have been exhausted. In the absence of any pertinent information from the State party, the Committee considers that the requirements of article 5, paragraph 2 (b), of the Optional Protocol have been met with regard to the author and the author's sons.

⁴ *Weiss v. Austria*, Communication No. 1086/2002, para. 6.4, *Saidov v. Tajikistan*, Communication No. 964/2001, Views adopted on 8 July 2004, para. 4.4.

⁵ *H. v. Italy*, Communication No. 565/1993, inadmissibility decision of 8 April 1994, para. 4.2.

6.4 The Committee considers that there is no impediment to the admissibility of the author's claims under articles 7; 9 and 17, with regard to herself; articles 6; 7; 9, 14, paragraphs 1, 2, 3 (b), (d), (e) and (g) with regard to the author's sons, and proceeds to consider it on the merits.

Consideration of the merits

7.1 The Human Rights Committee has considered the communication in the light of all the information made available to it by the parties, as provided under article 5, paragraph 1, of the Optional Protocol. It notes that, while the State party has commented on the author's sons' cases and their conviction, it has not provided any information about the author's claims with regard to herself and her sons. In the absence of any pertinent information from the State party, due weight must be given to the author's allegations, to the extent that these have been properly substantiated.

7.2 The Committee has noted the author's description of the torture to which her sons were subjected to make them confess guilt (paras. 2.2, 2.3 and 2.6 above). She has identified the individuals alleged to have participated in these acts. The material submitted by the author also states that the allegations of torture were brought to the attention of the authorities by the victims themselves, and that they were ignored. In these circumstances, and in the absence of any pertinent explanation from the State party, due weight must be given to her allegations, in particular that the State party authorities did not properly discharge their obligation effectively to investigate complaints about incidents of torture. The Committee considers that the facts as submitted disclose a violation of article 7 in relation of the author's sons.

7.3 On the claim of a violation of the author's sons' rights under article 14, paragraph 3 (g), in that they were forced to sign a confession, the Committee must consider the principles that underlie this guarantee. It refers to its previous jurisprudence that the wording, in article 14, paragraph 3 (g), that no one shall "be compelled to testify against himself or confess guilt", must be understood in terms of the absence of any direct or indirect physical or psychological coercion by the investigating authorities on the accused with a view to obtaining a confession of guilt.⁶ The Committee considers that it is implicit in this principle that the burden of proof that the confession was made without duress is on the prosecution. However, the Committee notes that in this case, the burden of proof whether the confession was voluntary was on the accused. The Committee notes that both the Tashkent Regional Court and the Supreme Court ignored the allegations of torture made by the author's sons. Therefore, the Committee concludes that the State party has violated article 14, paragraphs 2, and 3 (g).

⁶ *Berry v. Jamaica*, Communication No. 330/1988, Views adopted on 4 July 1994, para. 11.7, *Nallaratnam Singarasa v. Sri Lanka*, Communication No. 1033/2001, Views adopted on 21 July 2004, para. 7.4, and *Deolall v. Guyana*, Communication No. 912/2000, Views adopted on 1 November 2004, para. 5.1.

7.4 As to the author's claim that her sons were denied access to a lawyer of their choosing during the pre-trial investigation and the trial, the Committee also notes the author's contention that she was not informed of the date of her sons' trial and thus could not hire an independent lawyer to defend them at the trial. Their lawyer, subsequently hired by the author, was twice refused permission to see his clients after they were sentenced to death. The Committee recalls its jurisprudence that, particularly in cases involving capital punishment, it is axiomatic that the accused is effectively assisted by a lawyer at all stages of the proceedings.⁷ In the circumstances of the case, and in the absence of pertinent explanations from the State party, the Committee considers that the legal assistance did not meet the required threshold of effectiveness. Therefore, the information before the Committee discloses a violation of article 14, paragraph 3 (b) and (d).

7.5 The Committee has noted the author's claim that the trial of her sons was unfair, since the court did not act impartially and independently (paras. 2.5 and 2.6 above). It also notes the author's contention that the trial of her sons was largely held in camera and that none of the witnesses were present in the court room despite numerous requests to this effect from all eight co-defendants, including Uigun and Oibek Ruzmetov. The judge denied these requests, without giving any reasons. In the absence of any pertinent State party information, the Committee concludes that the facts before it disclose a violation of article 14, paragraphs 1 and 3 (e), of the Covenant.

7.6 The Committee recalls⁸ that the imposition of a sentence of death upon conclusion of a trial in which the provisions of the Covenant have not been respected constitutes a violation of article 6 of the Covenant. In the present case, the death sentences on Uigun and Oibek Ruzmetov was passed in violation of the right to a fair trial set out in article 14 of the Covenant, and was thus also in breach of article 6.[in Spanish: "en violaci3n del art3culo 6", notr 'incumplimiento con el art. 6']

7.7 The Committee notes that the author's sons' pre-trial detention was approved by the public prosecutor, and that there was no subsequent judicial review of the lawfulness of detention until they were brought before a court and sentenced on 24 July 1999 (Uigun) and 29 July 1999 (Oibek). The Committee observes that article 9, paragraph 3, is intended to bring the detention of a person charged with a criminal offence under judicial control and recalls that it is inherent to the proper exercise of judicial power, that it be exercised by an authority which is independent, objective and impartial in relation to the issues dealt

⁷ *Aliev v. Ukraine*, Communication No. 781/1997, Views adopted on 7 August 2003, para. 7.3, *Robinson v. Jamaica*, Communication No. 223/1987, Views adopted on 30 March 1989, para. 10.3, and *Brown v. Jamaica*, Communication No. 775/1997, Views adopted on 23 March 1999, para. 6.6.

⁸ *Levy v. Jamaica*, Communication No. 719/1996, Views adopted on 3 November 1998, para. 7.3, *Marshall v. Jamaica*, Communication No. 730/1996, Views adopted on 3 November 1998, para. 6.6. See also General Comment No. 6 on article 6, para. 7.

with.⁹ In the circumstances of the present case, the Committee is not satisfied that the public prosecutor may be characterized as having the institutional objectivity and impartiality necessary to be considered an “officer authorized to exercise judicial power” within the meaning of article 9, paragraph 3. The Committee therefore concludes that there has been a violation of this provision.

7.8 The Committee has considered the author’s claim, which is made out in detail, that her deprivation of liberty by persons acting in an official capacity from 28 December 1998 to 6 February 1999 without charges and the subsequent failure of the State party to investigate these acts. It recalls that article 9, paragraph 1, is applicable to all forms of deprivation of liberty,¹⁰ and considers that in the above circumstances and in the absence of pertinent explanation from the State party, the facts as submitted amount to an unlawful deprivation of liberty in violation of article 9, paragraph 1.

7.9 The Committee considers that in the absence of any explanation from the State party, the search of the author’s house without warrant on 28 December 1998 (para. 2.1 above), amounts to a violation of article 17.

7.10 The Committee has noted the author’s claim that the State party authorities ignored her requests for information and systematically refused to reveal her sons’ situation or whereabouts. The Committee understands the continued anguish and mental stress caused to the author, as the mother of the condemned prisoners, by the persisting uncertainty of the circumstances that led to their execution, as well as the location of their gravesite. The secrecy surrounding the date of execution, and failure to disclose the place of burial have the effect of intimidating or punishing families by intentionally leaving them in a state of uncertainty and mental distress. The Committee considers that the authorities’ failure to notify the author of the execution of her sons, amounts to inhuman treatment, in violation of article 7.¹¹

7.11 The Committee considers that in the absence of any explanation from the State party, the author’s exposure, handcuffed and naked, to her son, Uigun, on 5 January 1999 (para. 2.3 above), in itself amounts to inhuman and degrading treatment, contrary to article 7 and constitutes a violation thereof.

⁹ Communication No. 521/1992, *Kulomin v. Hungary*, Views adopted on 22 March 1996, para. 11.3, *Platonov v. Russian Federation*, Communication No. 1218/2003, Views adopted on 1 November 2005, para. 7.2.

¹⁰ General Comment No. 8 on article 9, para. 1.

¹¹ Communication No. 886/1999, *Bondarenko v. Belarus*, Views adopted on 3 April 2003, para. 9.4, Communication No. 887/1999, *Lyashkevich v. Belarus*, Views adopted on April 2003, para. 9.2, Communication No. 973/2001, *Khaliliov v. Tajikistan*, Views adopted on 30 March 2005, para. 7.7.

8. 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 facts before it disclose violations of:

- (a) the rights of Uigun and Oibek Ruzmetov, under articles 6; 7; 9, paragraph 3; 14, paragraphs 1, 2, 3 (b), (d), (e) and (g);
- (b) the author's rights under articles 7, 9, paragraph 1; and 17.

9. 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 information on the location where her sons are buried, and compensation for the anguish she has suffered. The State party is also under an obligation to prevent similar violations in the future.

10. 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 remedy in case a violation has been established, the Committee wishes to receive from the State party, within 90 days, information about the measures taken to give effect to the Committee's Views. The State party is also requested to publish 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.]
