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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. 2719/2016*, **

Communication submitted by:	Kestutis Stasaitis (represented by counsel, Stanislovas Tomas)
Alleged victim:	The author
State party:	Lithuania
Date of communication:	15 November 2015 (initial submission)
Document references:	Decision taken pursuant to rule 92 of the Committee's rules of procedure, transmitted to the State party on 28 January 2016 (not issued in document form)
Date of adoption of Views:	6 November 2019
Subject matter:	Alleged violation of rights in the course of criminal proceedings
Procedural issues:	Exhaustion of domestic remedies; level of substantiation of claims
Substantive issues:	Prohibition of inhuman or degrading treatment; right to a defence; presumption of innocence; right to privacy
Articles of the Covenant:	7, 14 (2) and (3) (e) and 17
Articles of the Optional Protocol:	2 and 5 (2) (b)

1.1 The author of the communication is Kestutis Stasaitis, a national of Lithuania born on 5 July 1973. He claims that the State party has violated his rights under articles 7, 14 (2) and (3) (e) and 17 of the Covenant. The author is represented by counsel.

1.2 On 29 March 2016, the State party submitted its observations on admissibility and asked the Committee to consider the admissibility of the communication separately from its

* Adopted by the Committee at its 127th session (14 October–8 November 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, Schuichi Furuya, Christoph Heyns, Bamariam Koita, Photini Pazartzis, Hernán Quezada Cabrera, Vasilka Sancin, José Manuel Santos Pais, Yuval Shany, Hélène Tigroudja, Andreas Zimmermann and Gentian Zyberi.

merits. On 1 July 2016, the Committee, acting through its Special Rapporteur on new communications and interim measures, decided to refuse the State party's request.

The facts as presented by the author

2.1 The author worked as a medical assistant in emergency unit associated with Vilnius University emergency hospital. On 23 October 2009, the author, who was on duty, was in an ambulance that was called to a woman who was drunk. That same night, the woman, referred to below as the victim in the criminal case brought against the author, filed a criminal report with the police claiming that two men, including the author, had had sexual intercourse with her in the ambulance against her will, taking advantage of her helpless condition. Subsequently, criminal proceedings were initiated against the alleged perpetrators on the suspicion of having committed rape, theft and other crimes under the Criminal Code of Lithuania.

2.2 On 15 December 2010, the author was convicted of rape, theft and other offences by Vilnius District Court. The author was sentenced to seven years' imprisonment. On 27 June 2011, Vilnius Regional Court upheld the judgment of the court of first instance. The trial was widely followed by the public through extensive media coverage. The author was kept in a metal cage in the courtroom throughout the criminal proceedings and journalists were able to take pictures of him in handcuffs. Moreover, his name and photographs of him were published on the Internet in connection with the criminal case and, as a result, he received numerous threats from anonymous individuals.

2.3 On 23 January 2012, the Supreme Court of Lithuania slightly modified the decisions of the courts of lower instance as to the theft charge and reduced the author's sentence to six years' imprisonment. In relation to the author's claim that he was precluded from cross-examining the victim in breach of the Code of Criminal Procedure, the Supreme Court held that, considering that the victim was heard on several occasions during the pretrial investigation phase and before the court of first instance and since the author had also had the opportunity to pose questions to the victim at the trial, the lower courts' dismissal of the author's motions was reasonable.[1]

2.4 The author was released on parole in August 2015.

The complaint

3.1 The author, citing article 14 (3) (e) of the Covenant, alleges that at no stage of the domestic proceedings was he provided with an opportunity to examine the victim in the criminal case. He accepts having examined the witness once at a court hearing but submits that this was not a real and effective opportunity for cross-examination given that at the time he did not have access to the pretrial investigation documents. In his view, questioning the victim would have been important as she was the only witness attesting to the charges against him and thus his right to an efficient defence was breached. The author submits that the following issues would have been of key importance and would have been raised had he been given the chance to re-examine the witness testifying against him: (a) the victim was intoxicated by alcohol and her statement was not wholly reliable; (b) during the pretrial investigation phase, the victim stated that the author was wearing a doctor's smock while the author asserts that he was wearing a red emergency uniform; (c) the victim stated that the author had injected a substance into her veins and that, as a consequence, she had lost her ability to move while the author alleges that no needle traces were detected on the victim's body and no traces of diazepam or any other similar substance were found in her urine; (d) the victim stated that although she could not move after the injection she could see the author committing the offence while the author claims that in order to see the rape the victim had to remove the oxygen mask; and (e) the victim was the only witness stating that the crime against her had been committed in a group,[2] which would aggravate the charges against him and increase the length of his prison term. Therefore, the author argues

[1] The author provided only two translated paragraphs of the Supreme Court's decision. He did not submit any other supporting documents except for photographs of him published on the Internet.

[2] That is, the perpetrators coordinated their actions instead of acting in a chaotic manner.

that clarifying these points as regards the circumstances of the incident would have been essential in the course of the criminal proceedings conducted against him.

3.2 The author, citing article 14 (2) of the Covenant, further complains that his right to be presumed innocent has been infringed as he was kept in a metal cage in the courtroom throughout the criminal proceedings and journalists were able to take pictures of him in handcuffs. As a result, he was humiliated in the eyes of the public and subjected to inhuman and degrading treatment, also in breach of article 7 of the Covenant.

3.3 Citing article 17 (1) of the Covenant, the author alleges that his right to privacy has been violated because the prosecution disclosed his identity to the media during the pretrial investigation phase. He submits that his trial was widely followed by the public and that the extensive media coverage influenced the judges. Moreover, his name and photographs of him were published on the Internet in connection with the criminal case and, as a result, he received numerous threats from anonymous individuals. He also claims that it will be impossible for him to reintegrate into society once he serves his prison sentence.

3.4 In light of the above, the author claims that the State party has violated his rights under articles 7, 14 (2) and (3) (e) and 17 of the Covenant.

State party's observations on admissibility and the merits

4.1 In a note verbale dated 29 March 2016, the State party requested the Committee to declare the communication inadmissible partly for non-exhaustion of domestic remedies and partly for non-substantiation under articles 2 and 5 (2) (b) of the Optional Protocol to the Covenant.

4.2 As regards the author's allegations under article 14 (3) (e) of the Covenant, the State party first notes that the cited article does not provide an unlimited right to obtain the attendance of any witness requested by the accused, but only a right to have witnesses admitted who are relevant for the defence and to be given the opportunity to question and challenge witnesses against the accused at some stage of the proceedings. The State party recalls the Committee's general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, in which it is established that, within these limits and subject to the limitations on the use of statements, confessions and other evidence obtained in violation of article 7, it is primarily for the domestic legislatures of States parties to determine the admissibility of evidence and how the courts assess them. Turning to the relevant guarantees enshrined in domestic law, the State party also notes that the right of the accused to a defence has been acknowledged by the Constitutional Court as being ensured by article 31 (6) of the Constitution. In addition, the right to a defence, as enshrined at the constitutional level, is to be interpreted in light of respective standards of international law, in particular the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention of Human Rights), which clearly guarantees the right of accused persons to examine witnesses against them.

4.3 The State party stresses that in the present case the author was given the opportunity to examine the victim during the course of the criminal proceedings. As it transpires from the court documents, the victim had in fact been questioned in the pretrial investigation phase on three occasions, i.e. on 24 October 2009, 18 November 2009 and 23 March 2010. The victim also attended two hearings of the court of first instance, on 10 May 2010 and 2 June 2010. The State party points out that at the hearing on 10 May 2010 the victim gave extensive and detailed testimony as regards the circumstances of the crime committed against her and the sequence of events that took place on the night of the incident. The State party further submits that it is evident from the transcript of the hearing before Vilnius District Court that the author and his counsel were allowed to cross-examine the victim and that both asked her questions. Therefore, the State party is of the view that the author had the opportunity to challenge the reliability of the victim's testimony and that the author's claim alleging a breach of his right to a defence by the State party should be dismissed as unfounded.

4.4 The State party adds that the author's requests for additional cross-examination were thoroughly assessed by the courts on three instances and were rejected on the basis of reasoned decisions. As it appears from the court decisions, the author's requests were

rejected primarily because he failed to prove that cross-examining the victim would be necessary or relevant to the defence considering that the victim had already been questioned in court and that the right of the author to examine the victim had therefore already been ensured. Secondly, the author's request was overridden by the need to protect the rights and interests of the victim, i.e. by not exposing her to further psychological trauma. Lastly, the victim had moved to Norway, so it was not possible to summon her to a court hearing in Lithuania.

4.5 Furthermore, the State party also emphasizes that, contrary to the author's allegation, it was not solely the testimony of the victim that had led the domestic courts to establish the author's guilt. The State party submits that reports of medical experts, reports on the examination of the victim's clothes, toxicology reports, DNA and serology laboratory results together with expert testimonies and testimonies by medical staff and other witnesses were assessed in their entirety by the courts of first and second instance.

4.6 In addition, the State party asserts that the allegations raised in the communication as regards the alleged unreliability of the witness testimony of the victim mainly relate to the assessment of the facts and their acknowledgement as evidence by the national courts. The State party notes the Committee's well-established case law in that respect and adds that the Committee should not act as a "court of fourth instance" and review the domestic courts' assessment. Referring to the relevant parts of the courts' decisions, the State party stresses that various courts in three instances thoroughly verified, in accordance with the adversarial principle, the reliability and relevance of all evidence adduced in the case and excluded any doubts or contradictions between the testimonies obtained in the case.

4.7 The State party concludes that the author has failed to substantiate his claims under article 14 (3) (e) of the Covenant for the purposes of admissibility. Thus, this part of the communication should be declared inadmissible under article 2 of the Optional Protocol to the Covenant as insufficiently substantiated.

4.8 As regards the author's claims under articles 14 (2) and 7 of the Covenant, the State party submits that Lithuanian law safeguards the presumption of innocence, which is set forth in article 31 of the Constitution, as well as in article 44 (6) of the Code of Criminal Procedure. The State party is of the position, however, that the author has failed to exhaust all domestic remedies, as he failed to raise the alleged violation of his right to be presumed innocent at the domestic level, namely before any of the courts involved in his criminal case.

4.9 As regards the alleged violation of the author's rights under article 7, the State party also submits that the author has failed to exhaust all domestic remedies since he could have instituted civil proceedings requesting redress for the alleged damage caused under article 6.272 of the Civil Code of Lithuania.[3] The State party notes that, when dealing with the issue of compensation for non-pecuniary damages caused by the unlawful actions of State authorities, the questions of unreasonable delays in criminal proceedings have been addressed extensively in the case law of the Supreme Court demonstrating that there is no legal uncertainty as to the effectiveness of such a remedy. The State party also draws the Committee's attention to the decision in *Svinarenko and Slyadnev v. Russia* of the European Court of Human Rights,[4] in which the Court held that the applicants' confinement in a metal cage in the courtroom amounted to degrading treatment prohibited by article 3 of the European Convention on Human Rights. The State party highlights that in the cited judgment the Court provided a list of criteria to be considered when deciding whether such treatment could be justified by security considerations in the circumstances of a particular case. Thus, the State party argues that had the author exhausted domestic remedies, the

[3] Article 6.272 of the Civil Code of Lithuania reads as follows: "1. Damage resulting either from unlawful conviction, or unlawful arrest, as a measure of suppression, as well as from unlawful detention, or application of unlawful procedural measures of enforcement, or unlawful infliction or administrative penalty – arrest – shall be compensated fully by the state irrespective of the fault of the officials of preliminary investigation, prosecution or court … 3. In addition to pecuniary damage, the aggrieved person shall be entitled to non-pecuniary damage".

[4] Application Nos. 32541/08 and 43441/08, judgment of 17 July 2014.

national courts would have been able to assess the circumstances of his case in light of the aforementioned factors.

4.10 As to the alleged violation of the author's rights under article 17 (1), the State party submits that the author has failed to exhaust all domestic remedies. The State party asserts in particular that Lithuanian law provides for two distinct civil remedies against violations of the right to a private life in relation to publications: firstly, a claim for damages in respect of damage caused by the publication of erroneous information humiliating a person's honour, and, secondly, a claim for damages in respect of damage caused by the disclosure of private information without a person's consent, irrespective of whether that information was erroneous or not.[5] The State party provides examples where domestic courts have found that the applicants' right to privacy has been breached.[6] Having regard for the jurisprudence of the domestic courts, the State party argues that the author failed to make use of a domestic remedy that was relevant and could have been effective in his case, adding that his allegations under article 17 (1) should therefore be declared inadmissible pursuant to article 5 (2) (b) of the Optional Protocol to the Covenant.

Author's comments on the State party's observations

5.1 On 25 June 2016, the author submitted comments on the State party's observations. The author confirms that he did indeed have the opportunity to cross-examine the victim once but that at the time, and despite the author's repeated requests, he did not have access to and thus was not aware of the content of the documents that had been collected during the pretrial investigation phase.

5.2 The author adds that the justification provided by the courts, namely that the victim had moved to Norway and that it had been necessary to refuse his request in order to protect the victim's psychological well-being, cannot be accepted as no official certificate has been submitted to prove that cross-examination would indeed threaten her psychological condition. The author maintains that having another opportunity to cross-examine the victim would have been essential in his criminal case and that the State party has therefore breached article 14 (3) (e) of the Covenant.

5.3 In response to the State party's observations in relation to articles 14 (2) and 7 of the Covenant, the author submits that the domestic remedy invoked by the State party is not capable of putting an end to the violation of rights when they are still ongoing and thus offers redress for the concerned person only post factum. In addition, the State party has not shown that such remedy is indeed effective and can be relied upon for the purposes of admissibility. Accordingly, he claims that his communication cannot be rejected for non-exhaustion of domestic remedies.

5.4 In response to the State party's observations in relation to article 17 (1) of the Covenant, the author maintains that the State party had a positive obligation to protect his privacy but failed to do so. Besides, the domestic remedies invoked by the State party have not been shown to be effective as the State party has failed to cite any court cases finding in favour of a person so accused against journalists.

[5] The State party notes that article 2.23 of the Civil Code stipulates, among other things, that the private life of a natural person shall be inviolable; that information about the private life of a person can only be published with his or her consent; and that publication of facts of private life, regardless of their conformity with reality, as well as other unlawful acts breaching the right to privacy, shall constitute grounds for lodging a claim for compensation for pecuniary and non-pecuniary damage incurred by said acts.

[6] In the first case the applicant was awarded compensation due to the fact that private information about the applicant's son and his sexual activities were published in a newspaper without consent. In the second case, the Supreme Court found that the applicant's right to privacy had been breached as information regarding the health and the death of the applicant's son had been published in a newspaper without consent; the claim for compensation was then sent for re-examination to the court of first instance.

State party's additional observations

6. In a subsequent note verbale dated 25 July 2016, the State party maintained that the communication should be declared inadmissible for non-substantiation and, in relation to certain claims, for non-exhaustion of domestic remedies pursuant to articles 2 and 5 (2) (b) of the Optional Protocol to the Covenant. The State party also submits that, should the Committee examine the merits of the complaint, it should consider the State party's observations dated 29 March 2016 in respect of both the admissibility and the merits of the author's claims and establish that there has been no violation of articles 14 (2) and (3) (e) and 17 (1) of the Covenant for the reasons set out therein.

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 author's claim under article 17 (1) of the Covenant that his right to privacy has been violated as the prosecution disclosed his identity to the media, as a result of which his name and photographs of him were published on the Internet, making it impossible for him to reintegrate into society after having served his prison sentence. The Committee also notes the State party's argument that Lithuanian law provides for two distinct civil remedies against violations of the right to a private life in relation to publications: firstly, a claim for damages in respect of damage caused by the publication of erroneous information humiliating a person's honour, and, secondly, a claim for damages in respect of damage caused by the disclosure of private information without a person's consent, irrespective of whether that information was erroneous or not. The State party has also provided examples of cases in order to show that such remedies are indeed available and effective. The Committee observes that the author did not bring his claim before the domestic courts, nor has he advanced any reasons as to why he might have been unable to do so or why such remedies would not have been effective in his case. In such circumstances, the Committee concludes that the author has failed to exhaust the available domestic remedies. This complaint must therefore be declared inadmissible under article 5 (2) (b) of the Optional Protocol.

7.4 As concerns the author's claims under articles 7 and 14 (2) of the Covenant, the Committee notes the State party's argument that the author could have instituted civil proceedings requesting redress for the alleged damage caused under Lithuanian law. The Committee also notes the author's submission that even if there had been precedents for providing redress for similar violations of rights, such processes would have afforded only a post factum remedy and could not therefore be deemed effective. Although the Committee is mindful of the examples of cases provided by the State party to demonstrate that there is no legal uncertainty as to the effectiveness of such remedies, the Committee notes that the cases cited deal with the issue of compensation for non-pecuniary damages caused by unreasonable delays in criminal proceedings. Furthermore, the State party makes reference to a case brought before the European Court of Human Rights in 2014 in which the Court found that the confinement of defendants in metal cages in courtrooms breached the European Convention on Human Rights. Nevertheless, the Committee considers that the State party could not convincingly show that such confinement, which seems to have been a standard practice at the time in Lithuania, would have been considered by the domestic courts as an unlawful action of the State authorities and could have served as a basis for compensation under the law at the time. The Committee therefore considers that it is not precluded by article 5 (2) (b) of the Optional Protocol from examining the author's claims in relation to articles 7 and 14 (2) of the Covenant.

7.5 Regarding the author's claims under article 14 (3) (e), the Committee notes that the author has brought this issue to the attention of the domestic courts in the course of the criminal proceedings conducted against him. The Committee further observes that the State party has not objected to the admissibility of this part of the communication under article 5 (2) (b) of the Optional Protocol. Accordingly, the Committee considers that the requirements of article 5 (2) (b) of the Optional Protocol have been met as concerns the alleged claims under article 14 (3) (e) of the Covenant.

7.6 Finally, the Committee notes the State party's challenge to admissibility in relation to the author's claims due to non-substantiation. However, the Committee considers that, for the purposes of admissibility, the author has adequately explained the reasons concerning his complaints not only under article 14 (3) (e) but also under articles 7 and 14 (2) of the Covenant. Therefore, the Committee declares the communication admissible and proceeds with its consideration of the merits.

Consideration of the merits

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

8.2 As regards the author's claim under article 14 (3) (e) of the Covenant, the Committee notes that the author had the opportunity to question the victim once in the course of the criminal proceedings but that, despite his repeated requests, he was not granted access to the pretrial investigation materials at the time and could not therefore effectively exercise his right to examine the witness against him. The Committee also notes the author's claim that he should have had the opportunity to cross-examine the victim one more time, especially given the inconsistencies in the statements made by her, in the author's absence, during the pretrial phase, inconsistencies that should have been clarified.

8.3 The Committee notes the State party's claim in this respect that the author and his counsel were allowed to cross-examine the victim during the hearing before Vilnius District Court and that both asked her questions. The Committee is also mindful of the State party's submission that the domestic courts thoroughly examined the request of the author in this respect and provided reasoned decisions for refusing it and that, therefore, the author's right to examine the witness against him was respected.

8.4 The Committee recalls paragraph 39 of its general comment No. 32, according to which article 14 (3) (e):

> Guarantees the right of the accused person to examine, or have examined, the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them. As an application of the principle of equality of arms, this guarantee is important for ensuring an effective defence by the accused and their counsel and thus guarantees the accused the same legal powers of compelling the attendance of witnesses and of examining or cross-examining any witnesses as are available to the prosecution. It does not, however, provide an unlimited right to obtain the attendance of any witness requested by the accused or their counsel, but only a right to have witnesses admitted that are relevant for the defence, and to be given a proper opportunity to question and challenge witnesses against them at some stage of the proceedings. Within these limits, and subject to the limitations on the use of statements, confessions and other evidence obtained in violation of article 7, it is primarily for the domestic legislatures of States parties to determine the admissibility of evidence and how their courts assess it.

8.5 The Committee further recalls its jurisprudence, according to which considerable weight should be given to the assessment conducted by the State party, and that it is generally for the organs of the States parties to the Covenant to review and evaluate facts

and evidence in order to determine whether such risk exists, unless it can be established that the evaluation was clearly arbitrary or amounted to a manifest error or denial of justice.[7]

8.6 In the present case, the Committee observes that both the author and his counsel were allowed to cross-examine the victim and both asked her questions at a court hearing on 10 May 2010, on which occasion she gave extensive and detailed testimony. The Committee further observes that the victim's statements, the consistency of which the author wished to question by examining the witness for a second time, were not the sole evidence on which the courts' findings of guilt were based. The Committee also notes that the issues that the author wanted to raise during the requested examination, and about which he had learned only after having examined the witness for the first time, could have been raised by the author before the domestic courts and equally assessed by the courts, even in the absence of the victim. The Committee further observes that the domestic courts thoroughly assessed the author's request to secure the attendance of the witness and provided reasoned decisions for their refusal. In that respect, the Committee attaches great importance to the reasoning adduced by the domestic courts stating that the restriction on the author's right was justified by the need to protect the victim's rights. The Committee notes in this regard the approach taken by the European Court of Human Rights, which, in assessing whether an accused person has received a fair trial or not, takes into account the rights of the perceived victim.[8] In the circumstances of the present case, it is not apparent from the information before the Committee that the court's refusal to allow the author to re-examine the victim was such as to infringe on the equality of arms between the prosecution and the defence. Accordingly, the Committee is unable to conclude that article 14 (3) (e) has been violated.

8.7 As regards the author's allegations under articles 14 (2) and 7 of the Covenant, the Committee notes the author's complaint that he was kept in a metal cage in the courtroom during the court proceedings, which he found humiliating and caused him physical pain, and that journalists were able to take pictures of him while handcuffed. The author submits that such a security measure should be perceived as excessive, amounts to a violation of the presumption of innocence and constitutes inhuman and degrading treatment in breach of articles 14 (2) and 7 of the Covenant, respectively.

8.8 As regards the author's allegations under article 7 of the Covenant, the issue before the Committee is whether the author's handcuffing and placement in a metal cage during the court hearings subjected him to degrading treatment. The Committee recalls that the prohibition in article 7 is complemented by the positive requirements of article 10 (1) of the Covenant: "all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person". It also recalls its general comment No. 21 (1992) on humane treatment of persons deprived of their liberty, which places on the State party a positive obligation to guarantee the human dignity of all persons deprived of their liberty and to ensure that they enjoy all the rights set forth in the Covenant, subject to the restrictions that are unavoidable in a closed environment (para. 3).[9] The Committee notes that the State party has addressed these allegations only on the admissibility and has failed to demonstrate that the measure imposed on the author was consistent with article 7 of the Covenant. Accordingly, and in the absence of other pertinent information on file, the Committee concludes that the facts as presented reveal a violation of the author's rights under article 7 of the Covenant.

8.9 As regards the author's allegations under article 14 (2) of the Covenant, the Committee recalls its jurisprudence as reflected in paragraph 30 of its general comment No. 32, according to which the presumption of innocence, which is fundamental to the protection of human rights, imposes on the prosecution the burden of proving the charge, guarantees that no guilt can be presumed until the charge has been proved beyond reasonable doubt, ensures that the accused has the benefit of doubt and requires that persons

[7] See *Lin v. Australia* (CCPR/C/107/D/1957/2010), para. 9.3.

[8] See, inter alia, *S.N. v. Sweden* (application No. 34209/96), judgment of 2 July 2002, para. 47; *Oyston v. United Kingdom* (application No. 42011/98), judgment of 22 January 2002; and *Y. v. Slovenia* (application No. 41107/10), judgment of 28 May 2015, paras. 69–72 and 106.

[9] See *Pustovoit v. Ukraine* (CCPR/C/110/D/1405/2005), para. 9.2.

accused of a criminal act must be treated in accordance with this principle. Furthermore, defendants should normally not be shackled or kept in cages during a trial, nor should they be otherwise presented to the court in a manner indicating that they may be dangerous criminals.[10] The media should avoid news coverage undermining the presumption of innocence.

8.10 The Committee notes that the State party has failed to demonstrate that the measure imposed on the author is consistent with article 14 (2) of the Covenant. In particular, it has failed to demonstrate that placing the author in a metal cage during the public court hearings, with his hands handcuffed, was necessary for the purpose of security or the administration of justice, and that no alternative arrangements could have been made, consistent with the rights of the author. Moreover, photographs of the author in handcuffs were published in the mass media. On the basis of the information before it, the Committee considers that the facts as presented demonstrate that the right of the author to be presumed innocent, as guaranteed under article 14 (2) of the Covenant, has been violated.

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 articles 7 and 14 (2) 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 provide adequate compensation. The State party is also under an obligation to take all steps necessary to prevent similar violations from occurring in the future.

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.

[10] See, e.g., *Burdyko v. Belarus* (CCPR/C/114/D/2017/2010), para. 8.4; *Selyun v. Belarus* (CCPR/C/115/D/2289/2013), para. 7.5; and *Grishkovtsov v. Belarus* (CCPR/C/113/D/2013/2010), para. 8.4.