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on civil and  
political rights**

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HUMAN RIGHTS COMMITTEE  
Ninety-fifth session  
16 March – 3 April 2009

**VIEWS**

**Communication No. 1447/2006**

<u>Submitted by:</u>	Mr. Abubakar Amirov (represented by counsel, Mr. Boris Wijkström, World Organization Against Torture, and Ms. Doina Straisteanu, Stichting Russian Justice Initiative)
<u>Alleged victims:</u>	The author and his wife Mrs. Aïzan Amirova
<u>State party:</u>	Russian Federation
<u>Date of communication:</u>	9 January 2006 (initial submission)
<u>Document references:</u>	Special Rapporteur's rule 97 decision, transmitted to the State party on 26 January 2006 (not issued in document form)
<u>Date of adoption of Views:</u>	2 April 2009

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\* Made public by decision of the Human Rights Committee.

*Subject matter:* Deprivation of life of a Russian national of Chechen origin in the course of a military operation; failure to conduct an adequate investigation and to initiate proceedings against the perpetrators; denial of justice.

*Substantive issues:* Right to life; torture, cruel, inhuman or degrading treatment or punishment; denial of justice; effective remedy.

*Procedural issues:* Non-substantiation of claims; exhaustion of domestic remedies.

*Articles of the Covenant:* 2, paragraph 1; 6; 7; 9; 26 and 2, paragraph 3, read in conjunction with 6, 7, 9 and 26.

*Articles of the Optional Protocol:* 2; 5, paragraph 2(b)

On 2 April 2009, the Human Rights Committee adopted the annexed text as the Committee's Views, under article 5, paragraph 4, of the Optional Protocol in respect of communication No. 1447/2006.

[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

Ninety-fifth session

concerning

**Communication No. 1447/2006\*\***

<u>Submitted by:</u>	Mr. Abubakar Amirov (represented by counsel, Mr. Boris Wijkström, World Organization Against Torture, and Ms. Doina Straisteanu, Stichting Russian Justice Initiative)
<u>Alleged victims:</u>	The author and his wife Mrs. Aïzan Amirova
<u>State party:</u>	Russian Federation
<u>Date of communication:</u>	9 January 2006 (initial submission)

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

Meeting on 2 April 2009,

Having concluded its consideration of communication No. 1447/2006, submitted to the Human Rights Committee by Mr. Abubakar Amirov in his own name and on behalf of Mrs. Aïzan Amirova 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**

1.1 The author of the communication, Mr. Abubakar Amirov, a Russian national of Chechen origin born in 1953, is the husband of Mrs. Aïzan Amirova (deceased), also a Russian national of Chechen origin born in 1965. Mrs. Amirova's body was found on 7 May 2000 in Grozny. The

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\*\* The following members of the Committee participated in the examination of the present communication: Mr. Abdelfattah Amor, Mr. Prafullachandra Natwarlal Bhagwati, Mr. Ahmad Amin Fathalla, Mr. Yuji Iwasawa, Ms. Helen Keller, Mr. Lazhari Bouzid, Ms. Iulia Antoanella Motoc, Mr. Rafael Rivas Posada, Sir Nigel Rodley, Mr. Fabian Omar Salvioli, Mr. Krister Thelin and Ms. Ruth Wedgwood.

author acts on his own behalf and on behalf of his wife, and claims a violation by the Russian Federation of his wife's rights and of his own rights under article 2, paragraph 1; article 6; article 7; article 9 and article 26; as well as under article 2, paragraph 3, read in conjunction with article 6; article 7; article 9 and article 26, of the International Covenant on Civil and Political Rights. The Optional Protocol entered into force for the State party on 1 January 1992. The author is represented by Mr. Boris Wijkström and Ms. Doina Straisteanu.

1.2 On 16 August 2006, the State party requested the Committee to examine the admissibility of the communication separately from its merits, in accordance with Rule 97, paragraph 3, of the Committee's rules of procedure. On 1 February 2007, the Special Rapporteur for New Communications and Interim Measures decided, on behalf of the Committee, to examine the admissibility of the communication together with the merits.

### **The facts as presented by the author**

2.1 The author and Mrs. Amirova were married in 1989 and lived in Grozny until 1999 when the Russian Federation's second military operation in the Chechen Republic began. Shortly after, author and family moved to the village of Zakan-Yurt for safety reasons. In mid-November 1999, the author returned to Grozny to collect family belongings. He returned to Zakan-Yurt on or around 18 November 1999, but did not find his family and was unable to determine their whereabouts.

2.2 Not knowing about the whereabouts of wife and children, the author travelled to the village of Achkhoy-Martan, where he had relatives. He remained in Achkhoy-Martan because it was impossible for him to continue searching for his family due to heavy fighting in the area from November 1999 to early February 2000.<sup>1</sup>

2.3 On an unspecified date, he found his children at their place of temporary residence in Nagornoe village, but his wife was not with them. He learned that at some point in early January 2000 his wife, who was eight months pregnant at the time, had left for Grozny in order to retrieve some belongings that had been left in their apartment and to attempt to look for him. On 11 January 2000, she registered with the local police for permission to cross checkpoint No. 53 in Grozny.

2.4 After Grozny was occupied by Russian federal forces in early February 2000, the author returned Grozny. On an unspecified date, not having heard of his wife's whereabouts since her departure for Grozny, he informed the authorities of her disappearance. The search for his wife officially started on 28 March 2000.

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<sup>1</sup> The author provides copies of 35 reports on the 1999 – 2003 military operation of the Russian federal forces in the Chechen Republic published by Amnesty International, Chechnya Justice Project of the Stichting Russian Justice Initiative, Parliamentary Assembly of the Council of Europe, Human Rights Watch, "Memorial" Human Rights Centre, United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, High Commissioner for Human Rights, Working Group on Enforced or Involuntary Disappearances, United Nations Commission on Human Rights and World Organisation Against Torture.

2.5 On 7 May 2000, the body of a woman was found by residents of Grozny in the basement of a storehouse in Grozny. According to the testimony of one of the residents, the body had started to decompose and the basement looked as if there had been some sort of explosion in it. Investigators of the Staropromyslovsky Temporary Department of Internal Affairs of Grozny and agents of the Ministry of Emergency Situations were called to the crime scene.

2.6 The same day, the author was informed by his family that an unidentified body had been found in Grozny which could be that of his wife. The author immediately visited the office of the Ministry of Emergency Situations in Grozny, where he asked for a car to be taken where the body had been found. At the crime scene, he identified the body and informed the agents of the Ministry of Emergency Situations that it was indeed his wife. He asked for an autopsy to be performed. The agents of the Ministry of Emergency Situations allegedly replied that he should be grateful to have found her remains. At the author's insistence, however, agents of the Ministry of Emergency Situations issued a statement attesting to the state of his wife's body. According to this statement, the body presented three perforations on the chest (two) and on the neck (one). There was a cut on the left side of the abdomen measuring 20-25 centimetres, made by a sharp object. There was no underwear on the body, pullover and dress were unbuttoned and some buttons were missing.

2.7 On 7 May 2000, investigators of the Staropromyslovsky Temporary Department of Internal Affairs of Grozny filed two reports on the discovery of Mrs. Amirova's body, as well as a record on the examination of the crime scene. The author claims that the investigators did not take photographs of the body, did not remove clothing or otherwise examined the body for further clues about the circumstances of her death, and did not bring the body to a hospital or morgue for an autopsy.

2.8 On 8 May 2000, the author took his wife's body to the village of Dolinskoe and buried her the same day.

2.9 On an unspecified date, the Head of the Staropromyslovsky Temporary Department of Internal Affairs of Grozny closed the official inquiry into the case of Mrs. Amirova's disappearance, as her remains had been identified on 7 May 2000.

2.10 On 19 May 2000, an investigator of the Grozny Prosecutor's Office initiated a criminal investigation into the circumstances of Mrs. Amirova's death. The prosecutor explained that "[a]s a result of the initial examinations, the investigator has come to the conclusion that the elements of a crime are present in this case and therefore, in application of articles 108, 109, 112, 115, 126 of the Code of Criminal Procedure of the Russian Federation a preliminary inquiry should be opened in this case". The same day, the investigator requested the Head of the Staropromyslovsky Temporary Department of Internal Affairs of Grozny to carry out a number of investigative actions. The same day, the same investigator requested the Head of the Territorial Department of the Ministry of Emergency Situations of the Chechen Republic to indicate the location of Mrs. Amirova's grave, to proceed to exhume her body and carry out a forensic medical examination. The author submits that, in the end, forensic medical examination of his wife's body was not performed, because, according to the authorities, they did not know where to find his wife's body.

2.11 At the end of May 2000, a number of witnesses' statements were taken by the investigators. The author submits that these statements, many of which were from Mrs. Amirova's relatives, appear to be formulaic in nature, and contain no information of interest to the criminal investigation. Thus, witnesses were not questioned about the state of her body when it was found, nor asked other relevant questions which could have shed light on the circumstances of her death. The author argues that the investigation failed to identify other persons who remained in Staropromyslovsky District during the period from December 1999 to February 2000, and who could have possibly testified about the activities of Russian federal forces in the area. Although the author had alleged that his wife had been raped and killed by the Russian federal forces, and although it was known that these forces took control of Staropromyslovsky District at the time of her death, no efforts were made to establish the identity of the Russian military unit operating in the area in order to question its commanding officers.

2.12 On 1 June 2000, the Deputy Minister of the Ministry of Emergency Situations replied to the investigator's request of 19 May 2000, stating that Mrs. Amirova's burial was not listed in the Ministry's register. The author argues that the investigator did not ask the Ministry of Emergency Situations for information on how to reach Mrs. Amirova's immediate family in order to find her grave, nor did the Ministry offer to provide this information.

2.13 On 19 June 2000, investigator closed the criminal case for lack of "evidence of a crime", since "the body of the victim was not observed to bear signs of a violent death" and Mrs. Amirova "was not a victim of a crime but rather died from pregnancy complications, since in January 2000 she was 8 months pregnant." The author submits that the investigator did not specify what evidence was collected during the investigation, or how such evidence justified his decision. The unfounded nature of the investigator's conclusion on the cause of his wife's death is evident from the fact that no autopsy was ever performed, absent which it was not possible to establish that Mrs. Amirova had indeed died from pregnancy complications.

2.14 On 21 June 2000, the author petitioned the Special Representative of the President of the Russian Federation for the Promotion of Human and Civil Rights and Freedoms in the Chechen Republic, and requested his assistance in reopening the investigation. The author stated in his petition that his wife was last seen on 12 January 2000 at the "Tashkala" bus stop, when she and the other two women were "taken captive by military officers". On 7 July 2000, the appeal was forwarded to the Office of the Military Prosecutor of the Northern Caucasus Military District.

2.15 On 17 August 2000, a senior prosecutor of the Grozny Prosecutor's Office refused to reopen the investigation, claiming that the author himself had obstructed the inquiry by burying his wife before an autopsy could be performed, and by acting against the exhumation of Mrs. Amirova's body. The author claims that in fact he requested an autopsy to be performed when he identified his wife's body, but his request was denied. For this reason, he had insisted that the agents of the Ministry of Emergency Situations issue a statement attesting to the state of Mrs. Amirova's body when it was found. Another reason advanced by the prosecutor in justification for his refusal to reopen the investigation was that at the time of Mrs. Amirova's death there were no Russian troops in the Staropromyslovsky district of Grozny.

2.16 In August 2000, two months after the investigation had been closed the first time, the author was accorded the status of “victim” under Russian criminal procedure.<sup>2</sup> This meant that he did not have the right to present his testimony, demonstrate evidence, have access to the investigation materials, or complain or appeal actions taken by the prosecutors until after the initial investigation had already been suspended.

2.17 On 31 August 2001, Mrs. Amirova’s death certificate was issued by the Civilian Registry Office of the Staropromyslovsky District. The certificate stated that she died from a gunshot wound to the chest on 12 January 2000.

2.18 On 5 November 2000, the author requested the Prosecutor of the Chechen Republic to inform him of the results of the investigation. The same day, he requested the Central Office of the Military Prosecutor of the Russian Federation to resume the investigation, claiming specifically that his pregnant wife was raped and then atrociously killed by the Russian federal servicemen. On 30 January 2001, the author requested the Prosecutor of Grozny to inform him of the decision in his wife’s case. All these requests were re-transmitted to the prosecutorial authorities in Grozny.

2.19 On 24 March 2001, the Grozny Deputy Prosecutor concluded that the decision of 19 June 2000 to close the investigation into Mrs. Amirova’s death had violated the Criminal Procedure Code. Specifically, he established the person in charge of the case at the time had failed to “undertake any judicial investigation” of the case prior to its closure, and that his conclusion about the non-violent nature of Mrs. Amirova’s death was “not based on the evidence of the criminal case”. The Deputy Prosecutor also noted that despite the need to perform a forensic medical examination to establish the cause of death of the author’s wife, such an examination was never performed. Given the author’s testimony about the traces of gunshot wounds on Mrs. Amirova’ body, the investigator should have interrogated witnesses. On 28 March 2001, the investigation was assigned to an investigator of the Grozny Prosecutor’s Office. On 4 April 2001, the Military Prosecutor informed the author that the criminal investigation of his wife’s case had been officially resumed.

2.20 On 14 April 2001, the author requested the Prosecutor of Grozny to provide him with a copy of criminal case file contents. On 24 April 2001, the investigator decided to suspend the preliminary investigation, as it was impossible to identify the perpetrator/s, despite the investigative and operational measures undertaken.

2.21 On 28 August 2001, the author again requested the Prosecutor of Grozny to resume the investigation. On 12 September 2001, the investigation was resumed for the third time by the same Grozny Deputy Prosecutor who had reopened it on 24 March 2001. Once again, he established that the preliminary investigation had been prematurely suspended and specifically requested the identification and interrogation of the individuals “who were present at the post-mortem examination of Mrs. Amirova’s body” and of “the agents of the Ministry of Emergency Situations who carried out the burial of her body”. This time, the author himself took steps to identify witnesses for the prosecution and wrote to the Prosecutor of Grozny on 6, 11, 14, 17 September and 11 October 2001, urging him to interrogate these witnesses. On 14 September

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<sup>2</sup> Article 53 of the Criminal Procedure Code.

2001, he requested the Prosecutor of Grozny to conduct a thorough search of the crime scene to collect evidence.

2.22 The author submits that a certain number of witnesses were indeed questioned and their testimonies added to the case record to no avail. On 12 October 2001, the Prosecutor of Grozny suspended the investigation, stating that it was impossible to identify the perpetrator, despite the measures taken. This decision did not explain what measures had been taken and/or why they were unsuccessful. It mentioned that Mrs. Amirova's body bore "marks of violent death" on it when discovered. The same day, the author was informed in writing that the case was "temporarily suspended".

2.23 The author continued to try to ascertain the outcome of the investigation in 2002 and 2003. His last effort in this regard took place in 2004 when he went to the Grozny Prosecutor's Office, where he was told that the Prosecutor's Office "was tired of hearing [his] complaints" and that he should "wait until the war in Chechnya comes to an end" and then they would help him find those responsible for the crime. About a week after his inquiry he was beaten up by persons in military uniform who came to his home and whom he believes were sent by the State party's authorities to intimidate him into silence. As a result of this attack, the author has changed his place of residence and has ceased his efforts to enquire about the investigation out of fear for his life and that of his children.

2.24 In 2001, Human Rights Watch submitted an application to the European Court of Human Rights on the author's behalf. One year after the application was made, the Court requested additional information on the application from the author. As the author had changed his place of residence, he was unaware of the Court's request and did not reply on time. In the absence of a reply from the author, his dossier was closed.

2.25 After the last suspension of the investigation in Mrs. Amirova's criminal case on 12 October 2001, it appears that some additional investigative actions were made, including a forensic analysis on 23 October 2001 of a piece of an explosive device found in the basement where the body of the author's wife had been discovered. Since the beginning of 2003 the author has not received more information about the status of the investigation and believes that the State party's authorities were never serious about pursuing the criminal investigation.

2.26 On the issue of exhaustion of domestic remedies, the author submits that he took all possible steps to ensure that a proper investigation was conducted into the cause and circumstances of his wife's death and that there are no available remedies for the victims of human rights violations of Chechen origin in the Chechen Republic. He argues that the lack of accountability for perpetrators of the most serious human rights violations in the Chechen Republic is extensively documented.<sup>3</sup>

2.27 The author submits that the State party's law enforcement authorities have engaged in the systematic practice of failing to follow-up allegations of crimes committed in the Chechen Republic with serious investigations. Prosecutions of military and police authorities are

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<sup>3</sup> Supra n.1. The Parliamentary Assembly of the Council of Europe has stated that "the prosecuting bodies are either unwilling or unable to find and bring to justice the guilty parties." Parliamentary Assembly of the Council of Europe, Resolution 1315, 2003, paragraph 5.



extremely rare and convictions merely anecdotic. According to NGO reports, “[a]lthough in many instances, local prosecutors do launch criminal investigations into civilians’ complaints of serious abuses, they routinely suspend these investigations shortly afterwards claiming that it is impossible to establish the identity of the perpetrator.”<sup>4</sup> The author refers to the Committee’s jurisprudence, according to which there is a duty to exhaust domestic remedies only to the extent that they are available, effective<sup>5</sup> and not unreasonably prolonged.<sup>6</sup> The author argues that the recitation of facts above and submitted supporting documents<sup>7</sup> clearly demonstrate that remedies are neither available nor effective in his case. The fact that five years have elapsed between Mrs. Amirova’s death and the submission of the present communication to the Committee, during which no effective investigation has been conducted, demonstrates that remedies in the Russian Federation are unreasonably prolonged.

2.28 The author argues that a submission of civil claim for damages is *ab initio* ineffective, because under the State party’s law, the civil court has no power to identify those responsible for a crime or to hold them accountable. A civil remedy faces serious obstacles if those responsible for the crime have not already been identified in criminal proceedings. He concludes that an application to a civil court is neither an alternative nor is it an effective remedy in his case.

2.29 The author claims that the Russian federal forces were the “material authors” of the human rights violations in his case and their actions are attributable directly to the State party. He invokes the decision of the Inter-American Court of Human Rights in *Velásquez Rodríguez*,<sup>8</sup> in which the Court concluded that the responsibility of a State for a given crime will be proven whenever (1) it can be shown that there was an official practice of a certain kind of violation of human rights in the country, carried out by the Government or at least tolerated by it, and (2) the abuse committed against a specific victim can be linked to that practice.<sup>9</sup> He argues that these two elements are met in his case: the Russian federal forces engaged in, or at a very minimum, tolerated, a consistent practice of massive and systematic human rights violations during the military operation in the Chechen Republic;<sup>10</sup> and the circumstances surrounding Mrs. Amirova’s death are consistent with these well-documented practices.<sup>11</sup>

2.30 Lastly, the author submits that the State party’s obligations under article 2 of the Covenant are both negative and positive in nature. States parties must not only refrain from committing

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<sup>4</sup> Chechnya Justice Project, Annual Report 2003, Moscow, Nazran, Utrech, 2004, p. 10.

<sup>5</sup> Communications Nos. 210/1986 & 225/1987, *Pratt & Morgan v. Jamaica*, Views adopted on 6 April 1989.

<sup>6</sup> Communication No. 336/1988, *Fillastre & Bizoarn v. Bolivia*, Views adopted on 5 November 1991.

<sup>7</sup> *Supra* n.1.

<sup>8</sup> *Velásquez Rodríguez v. Honduras*, Judgment of July 29, 1988, Series C No. 4, paragraph 124.

<sup>9</sup> *Ibid*, paragraph 126.

<sup>10</sup> The author refers to the Human Rights Watch report entitled “Civilian Killings in Staropromyslovsky District of Grozny”, documenting that the district of Grozny where Mrs. Amirova was killed, was an area that came under a particularly intensive attack by the Russian federal forces, who systematically killed unarmed civilians, mostly women and elderly people.

<sup>11</sup> The author refers specifically to the same geographic location, same moment in time, same pattern of killing and same method of cover-up.

violations, they must also take actions to prevent their occurrence. The positive duties of prevention apply regardless of whether the source of the violation is an agent of the State or a private individual. The more serious the violation, e.g. one relating to the right to life and the right to be free from torture and ill-treatment, the more compelling the duty of due diligence<sup>12</sup> owed by the State party to prevent their occurrence and investigate and punish the perpetrators. The author contends that the State party's responsibility is engaged regardless of the identity of the perpetrator.

### The complaint

3.1 The author submits that the State party violated his and his wife's rights under article 2, paragraph 1; article 6; article 7; article 9 and article 26; as well as under article 2, paragraph 3, read in conjunction with article 6; article 7; article 9 and article 26 of the Covenant.

3.2 The author refers to the Committee's jurisprudence, according to which in cases involving the arbitrary deprivation of life, the obligation to provide effective remedies entails: (a) investigating the acts constituting the violation, (b) bringing to justice any person found to be responsible for the death of the victim, (c) paying compensation to the surviving families, and (d) ensuring that similar violations do not occur again.<sup>13</sup> He argues that the first element of the remedy, i.e. the investigation, is critical to ensuring the subsequent ones and notes that the investigative obligation is one of process, not outcome. The State party is not obliged to prosecute and convict someone in every single criminal case. However, the State party is obligated to initiate an investigation *that is capable of leading to the prosecution and punishment*<sup>14</sup> of the guilty parties.<sup>15</sup> As a direct result of the failure of the State party's authorities to initiate a good faith investigation into the killing of his wife, no suspect(s) were ever identified, questioned, or charged, and no one was prosecuted, tried, let alone convicted for her torture and death, and the author has received no compensation for his loss. This demonstrates a breach of the right to a remedy guaranteed by article 2, paragraph 3, read in conjunction with article 6; article 7; article 9 and article 26.

3.3 As to the claim under article 6 of the Covenant, the author refers to the Committee's General Comment on this article, in which the Committee explained that "[...] States parties should take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their security forces. The deprivation of life by the authorities of the State is a matter of the utmost gravity. Therefore, the law must strictly control and limit the circumstances in which a person may be deprived of his life by such authorities."<sup>16</sup> He claims that the fact that Mrs. Amirova was arbitrarily deprived of her life is conclusively established by

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<sup>12</sup> Human Rights Committee, General Comment No. 31, CCPR/C/21/Rev.1/Add.13, 26 May 2004, paragraph 8.

<sup>13</sup> Communications Nos.146/1983 & 148-154/1983, *Baboeram-Adhin et al. v. Suriname*, Views adopted on 4 April 1985, paragraphs 15 and 16; Communication No. 778/1997, *José Antonio Coronel et al. v. Colombia*, Views adopted on 24 October 2002, paragraph 10.

<sup>14</sup> The italicized language reflects that standard of the ECHR, see *Khashiyev and Akayeva v. Russia* judgment of 24 February 2005, paragraph 153.

<sup>15</sup> Human Rights Committee, General Comment No. 20, paragraph 14.

<sup>16</sup> Human Rights Committee, General Comment No. 6, paragraph 3.

the numerous documents, including the statement issued by the Ministry of Emergency Situations attesting to the state of Mrs. Amirova's body when it was found and her death certificate which attributes her death to a "gunshot wound to the chest". This description is consistent his account of the facts as described in the multiple letters he wrote the authorities, and by the State party's authorities' numerous references in their decisions to Mrs. Amirova's "murder", "violent death", etc. The circumstances of her death prove that she was killed by state agents. The author, therefore, submits that his wife's killing by the Russian federal forces and the subsequent failure of the State party's authorities to take appropriate measures to investigate her murder constitute a violation of the negative obligations under article 6 to prevent arbitrary deprivation of life at the hands of state security forces, and a violation of the positive duty to take measures to prevent, investigate, punish and redress such violations.

3.4 The author adds that his wife was first severely tortured and ill-treated before she was killed. He argues that the infliction of a knife wound of 20 to 25 centimetres in length in the abdomen of Mrs. Amirova, is an act which also clearly rises to the threshold of torture. Considering that she was 8 months pregnant at the time, it is reasonable to conclude that the infliction of such an injury was deliberately intended to provoke, and must in fact have provoked, an extreme suffering both physical and psychological in the moments preceding her death. The fact that she was not wearing any underwear when she died indicates that she was most likely subjected to sexual violence, possibly rape, before her death. The author claims, that the rape or the threat of rape of a person in the custody of state agents amounts to a violation of article 7. In her case, the violation was particularly egregious considering the advanced state of her pregnancy.

3.5 The author also claims that his wife was the victim of a violation of her right to security. The Committee has held that right to security of a person must be protected even outside the detention context and that any person subject to the State party's jurisdiction is entitled to benefit from this right.<sup>17</sup> The failure of the State party to adopt adequate measures to ensure the individual's security constitutes a breach of article 9 because States have not only negative obligations to refrain from violating this right but also positive duties to ensure an individual's liberty and security. The author invokes the Committee's jurisprudence.<sup>18</sup>

3.6 The author adds that in the case of civilian victims of human rights abuses of Chechen origin at the hands of the Russian federal forces, the State party failed to respect the equal protection and non-discrimination principles by systematically denying the protections and remedies afforded by its domestic law to them on the ground of their national origin. The author contends, in particular, that the facts of the case clearly reveal that he was a victim of this kind of discrimination in his attempts to secure a remedy for the murder of his wife. He argues, therefore, that his case reveals a joint violation by the State party of its obligations under article 2, paragraph 1, and article 26, of the Covenant.

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<sup>17</sup> Communication No. 195/1985, *Delgado Páez v. Colombia*, Views adopted on 12 July 1990.

<sup>18</sup> Communication No. 859/1999, *Luis Asdrúbal Jiménez Vaca v. Colombia*, Views adopted on 25 March 2002, paragraph 7.1.

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

4.1 On 16 August 2006, the State party challenged the admissibility of the communication, arguing that the author did not exhaust domestic remedies, as according to the Supreme Court of the Chechen Republic in the period between 2002 and 2006, he did not appeal to a court any decisions of the investigation authorities related to the suspension of the investigation in the criminal case concerning the discovery of his wife's body.

4.2 On the merits, the State party reiterates that on 19 May 2000, an investigator of the Grozny Prosecutor's Office initiated a criminal case concerning the discovery on 7 May 2000 of Mrs. Amirova's body. The case was opened under article 105 of the Criminal Code (murder). The State party submits that the author's allegation about its failure to conduct the investigation in good faith is contrary to the facts and to case file materials. It describes in detail the authorities' efforts to examine the crime scene on 7 May 2000, and notes that it was impossible to identify the age of the victim and the time of her death, due to the decomposition of her body. No signs of violent death were discovered and no photographs of the crime scene were taken. The State party claims that it was impossible to conduct a forensic medical examination of Mrs. Amirova's body at a later stage, as requested by the investigator, since under local custom, her body was buried by her relatives the day it was discovered. The investigator questioned all the witnesses mentioned in the author's letters to the authorities but it was the author himself who refused to allow the exhumation of his wife's body and to communicate the location of her grave. The State party submits that the author, in numerous complaints to various bodies, requested the questioning of various individuals capable of corroborating his claim that his wife's body bore knife and gunshot wounds. But at no stage did he communicate the location of her grave or request the exhumation of her body and a forensic medical examination. The State party argues that only these examinations could have shed light on the real cause of Mrs. Amirova's death. The author's own testimony and that of agents of the Ministry of Emergency Situation are insufficient to conclude that the wounds were inflicted when Mrs. Amirova was still alive, as none of them has specialized knowledge on the matter. Moreover, their testimony contradicts that of other witnesses also present at the crime scene.

4.3 For the State party, the author's allegations that his wife's death is imputable to the Russian federal forces are inconsistent and unfounded for the following reasons. Firstly, the causes of Mrs. Amirova's death have not been established; secondly, there is no reliable information in the case file that would suggest that her death was caused by federal servicemen; thirdly, there was no mention of the signs of violent death during the author's initial testimony of 31 May 2000. In fact, the first ever reference by the author to the fact that the Russian federal servicemen have raped and then atrociously killed his pregnant wife appears in the letter to the Prosecutor of the Chechen Republic dated 5 November 2000.

4.4 The State party notes that on 1 May 2006, the decision of the Prosecutor of Grozny of 12 October 2001 to suspend the investigation into the circumstances of Mrs. Amirova's death was revoked as being premature upon instruction of the Office of the General Prosecutor to examine the new arguments raised by the author in his communication to the Committee. The State party specifically refers to the author's agreement to allow an exhumation and a forensic medical examination of his wife's body, as well as a necessity to investigate the author's allegations of him being beaten up by persons in military uniform in 2004, as a result of which he changed his

place of residence. The same day, the resumed investigation was handed over to the investigator of the Prosecutor's Office of the Staropromyslovsky District, which sought to establish the author's whereabouts, as for the last two years he has not been living at the address indicated in the communication.

4.5 The State party considers that the absence of positive results in the investigation does not mean that the investigation was not conducted in good faith. The investigation was influenced by other objective factors, such as the situation in which the inquiry was carried out, the influence of ethnographic factors, local customs, and the realistic possibility of participation by specialists in certain investigatory and forensic procedures. The opening of a criminal case under article 105 of the Criminal Code does not necessarily mean that the investigation established the circumstances of the victim's death and confirmed that it was a violent one.

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

5.1 On 14 December 2006, the author refutes the State party's arguments and draws the Committee's attention to the fact that the State party has presented no evidence in support of its assertions, while he does refer to specific documentation that corroborates his allegations.

5.2 The State party argued that it could not proceed with the forensic examination of Amirova's body due to the author's refusal to communicate the location of his wife's place of burial. The author challenges this statement and recalls that on 7 May 2000 when he recognized the body of his wife, he informed the agents of the Ministry of Emergency Situations and asked that an autopsy be performed. Only the next day, on 8 May 2000, the author took his wife's body to Dolinskoe and buried her. The place of burial was no secret, as well as the address of his place of residence where prosecutors could have contacted him about the exhumation. The State party's claim that the author refused to communicate the place of his wife's burial is untrue. He was not asked by any representative of the law enforcement agencies to indicate the place of burial and to agree with the exhumation. Normally this would be in a form of written protocol signed by investigator and the author. No such document was attached to the State party's observations in support of its claim. The State party's argument that the author did not inform law enforcement agencies about his wife's place of burial in his many complaints is inconsistent. The author requested an investigation into the cause of his wife's death but how that investigation should have been performed was within the State party's own remit.

5.3 The State party denies the Russian federal forces' involvement in his wife's death. The author submits, however, that this statement alone does not suffice to overturn his well founded suspicions and evidence which directly point to the Russian federal forces' responsibility for his wife's death.

5.4 The author regrets that the decision of the Prosecutor of Grozny of 1 May 2006 to resume the investigation into the circumstances of his wife's death was taken because of his communication to the Committee. All his attempts over five years to revoke the suspension of the investigations had been fruitless. The author therefore does not consider this resumption of the investigation to have been done in good faith. In the Author's opinion, the objective factors invoked by the State party could in no way excuse the State party from the obligation of conducting an effective investigation. There was no state of emergency declared on the territory of the Chechen Republic and no derogations were adopted from the legislation in force.

5.5 The author argues that the fact that “the body of the victim was not observed to bear traces of a violent death” is due to the unprofessional work of the Staropromyslovsky Temporary Department of Internal Affairs of Grozny. Now the State party interprets this omission in its favour declaring that “there is no violent death” which in itself contradicts the case facts. The author refutes the State party’s argument that “under local custom the body had been buried by relatives the day it was discovered”. He submits that investigators of the Staropromyslovsky Temporary Department of Internal Affairs left the crime scene saying nothing about the autopsy to him even after he requested one. The author took his wife’s body on 8 March 2000, i.e. one day after the discovery of the body. The author also submits that the State party failed to explain numerous omissions in the preliminary investigation that were indicated in his initial submission.

5.6 As to the State party’s claim that the communication is inadmissible for failure to exhaust domestic remedies, the author argues that appeal of the prosecutor’s decision to close the case is an ineffective remedy, incapable to repair the omissions of the investigation. He submits that this remedy is provided in article 125 of the Criminal Procedure Code. A complaint against the inquirer, investigator, or the prosecutor’s omissions or actions can be filed with the appropriate court by the applicant, his defense lawyer, his legal or another representative. The court is obliged to hear the case within five days from receiving the complaint and the judge shall pass a decision to confirm or dismiss the complaint. A copy of the decision shall be sent to the applicant and the prosecutor.

5.7 The author submits, based on the experience of Stichting Russian Justice Initiative, that this remedy is not effective in the Chechen Republic. The Stichting Russian Justice Initiative and its numerous applicants whom it represents have lodged complaints under article 125 of the Criminal Procedure Code against prosecuting and investigating bodies with various courts in the Chechen Republic in more than 30 separate cases. However, the complaints have not yielded any results, as in most cases, the complaints went unanswered. The author considers that there is no requirement that he pursue this domestic remedy since it has proved to be illusory, inadequate and ineffective and since, inter alia, the incident complained of was carried out by and under the responsibility of State agents.

5.8 The author explains that the ongoing investigation is a *pro forma* exercise and submits that while this domestic remedy exists on paper, it is ineffective. He argues that there is a well-founded fear against pursuing such remedies in so far as there is: a) a lack of genuine investigations by public prosecutors and other competent authorities; b) positive discouragement of those attempting to pursue remedies; c) an official attitude of legal unaccountability towards the Russian federal forces, and d) a lack of prosecutions against members of the Russian federal forces for alleged extra-judicial killings.

#### **Supplementary State party’s submissions on the author’s comments**

6.1 On 25 May 2007, the State party submits that on 1 June 2006, the Prosecutor’s Office of the Staropromyslovsky District decided to suspend the investigation into the circumstances of Mrs. Amirova’s death on the basis of article 208, paragraph 1, part 1, of the Criminal Procedure Code, as it was impossible to identify the perpetrator/s.

6.2 On the facts, the State party adds that subsequently to the discovery of Mrs. Amirova’s body, a number of supplementary examinations of the crime scene were carried out. These

examinations, however, did not produce any positive results. The State party reiterates that, according to the criminal case file, the author has never petitioned for the forensic medical examination of his wife's body. On the contrary, the case file contains the protocol of the author's examination of 14 April 2001, in which he refuses to allow an exhumation of Mrs. Amirova's body and to communicate the location of her grave. The State party claims that the author has refused to sign this protocol.

6.3 The State party further submits that in the absence of the forensic medical examination, it was impossible to objectively ascertain whether Mrs. Amirova's body bore gunshot wounds. At the same time, the author's testimony corroborated by that of the agent of the Ministry of Emergency Situations, give reasons to believe that Mrs. Amirova's death was violent. Therefore, the criminal case was initiated under article 105, part 1 (murder), of the Criminal Code and the investigation is not yet completed. The preliminary investigation, however, did not establish any objective evidence of the involvement of federal servicemen in this crime.

6.4 The State party adds that, given the author's agreement to allow an exhumation and to communicate the location of his wife's place of burial, on 29 March 2007, the Prosecutor's Office of the Chechen Republic revoked the decision of the Prosecutor's Office of the Staropromyslovsky District of 1 June 2006 to suspend the investigation into the circumstances of Mrs. Amirova's death. In accordance with article 37 of the Criminal Procedure Code, the Prosecutor's Office of the Chechen Republic ordered a number of investigative actions, such as supplementary interrogation of the author and of the agent of the Ministry of Emergency Situations, interrogation of investigators of the Department of Internal Affairs who examined the crime scene on 7 May 2000, and the medical forensic examination of Mrs. Amirova's body.

6.5 The State party refutes the claim that the referral of the case to courts of the Chechen Republic is an ineffective remedy. It argues that all the complaints filed with the courts of the Chechen Republic under article 125 of the Criminal Procedure Code have been examined. For example, out of the 39 complaints examined in 2006, 17 were granted. The State party submits that under article 127 of the Criminal Procedure Code, decisions of the court of first instance can be appealed on cassation (chapters 42-45 of the Criminal Procedure Code) and through the supervisory review procedure (chapters 48-49 of the Criminal Procedure Code). During 2004-2006, decisions of the district courts were appealed to the Supreme Court of the Chechen Republic.

#### **Authors' comments on the State party's supplementary submissions**

7. On 20 December 2007, with reference to the State party's submissions of 27 May 2007, the author notes that the State party has simply repeated the arguments it had made in its prior submission of 17 August 2006 and once again has not backed up its claims with any concrete evidence. As the State party raises the same issues, the author refers the Committee to his prior comments of 14 December 2006.

#### **Further submissions from the State party and the author**

8.1 On 19 March 2008, the State party submits that on 2 April 2007 the resumed investigation was handed over to an investigator of the Prosecutor's Office of the Staropromyslovsky District. On 13 April 2007, this investigator requested the Head of the Department of Internal Affairs of

the Staropromyslovsky District, to reinvigorate the efforts to identify the perpetrator/s of the crime, witnesses and eyewitnesses, as well as to secure appearance in the prosecutor's office for interrogation of the two agents of the Ministry of Emergency Situations and of the three officers of the Staropromyslovsky Temporary Department of Internal Affairs of Grozny who were present at or examined the crime scene on 7 May 2000.

8.2 On 26 April 2007, the Head of the Department of Internal Affairs of the Staropromyslovsky District replied that reinvigorated efforts to identify the perpetrator/s of the crime, witnesses and eyewitnesses did not produce any positive results so far; it was impossible to secure appearance of the three officers of the Staropromyslovsky Temporary Department of Internal Affairs of Grozny, because these officers have left the Chechen Republic at the end of their assignment and their current whereabouts were unknown; efforts to establish the whereabouts and to secure the appearance of the two agents of the Ministry of Emergency Situations did not produce any positive results so far. At the time of supplementary interrogation of 25 April 2007, the author stated that the protocol of his examination of 14 April 2001 was contrary to the facts. The State party argues that during supplementary interrogation of 25 April 2007 the author did not deny that he had refused to sign the protocol of 14 April 2001, which proves that he indeed was examined by the prosecutor and refused to allow an exhumation of Mrs. Amirova's body and to communicate the location of her place of burial.

8.3 The State party adds that although the author himself does not presently object against the exhumation of his wife's body, he must be aware that Mrs. Amirova's relatives do object against it, as being contrary to the Muslim customs. The State party specifically refers to the protocol of interrogation of Mrs. Amirova's sister of 27 April 2007. On 2 May 2007, the investigator of the Prosecutor's Office of the Staropromyslovsky District decided to suspend the investigation into the circumstances of Mrs. Amirova's death on the basis of article 208, paragraph 1, part 1, of the Criminal Procedure Code, as it was impossible to identify the perpetrator/s. The author and Mrs. Amirova's sister were informed of the decision in writing.

9. On 24 July 2008, with reference to the State party's submissions of 19 March 2008, the author notes that the State party has simply repeated the arguments it had made in its prior submissions and has not yet provided any concrete evidence to the case. Because the State party raises the same issues, the author refers the Committee to his prior comments of 14 December 2006.

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

#### **Consideration of admissibility**

10.1 Before considering any claim contained in the communication, the Human Rights Committee must, in accordance with rule 93 of its rules of procedure, decide whether or not the communication is admissible under the Optional Protocol to the Covenant.

10.2 The Committee notes that the same matter is not being examined under any other international procedure, in line with the requirements of article 5, paragraph 2(a), of the Optional Protocol.



10.3 Regarding the exhaustion of domestic remedies, pursuant to article 5, paragraph 2(b), of the Optional Protocol, the Committee is precluded from considering any communication unless it has been ascertained that all available domestic remedies have been exhausted; this rule does not, however, apply if it is established that the application of domestic remedies has been or would be unreasonably prolonged or would be unlikely to bring effective relief to the presumed victim.

10.4 The State party has argued that the communication is inadmissible for failure to exhaust domestic remedies. In support of its argument, the State party has noted that the author has failed to appeal to a court any decisions of the investigation authorities related to the suspension of the investigation in the criminal case concerning the discovery of Mrs. Amirova's body. The author claims, however, that the referral to the courts of the Chechen Republic is an ineffective remedy, incapable to repair the omissions of the investigation. Furthermore, he argues, there is a well-founded fear against pursuing such remedies in so far as there is: a) a lack of genuine investigations by public prosecutors and other competent authorities; b) positive discouragement of those attempting to pursue remedies; c) an official attitude of legal unaccountability towards the Russian federal forces, and d) a lack of prosecutions against members of the Russian federal forces for alleged extra-judicial killings. In addition, the author refers to the experience of Stichting Russian Justice Initiative that has lodged complaints under article 125 of the Criminal Procedure Code on behalf of other persons whom it represented; in most cases these complaints went unanswered. The Committee notes that the State party challenges the author's claim about the ineffectiveness of the judicial remedies in the Chechen Republic, without, however, providing any evidence that any investigation initiated pursuant to a court decision had led to the effective prosecution and punishment of the perpetrator/s. In the circumstances, the Committee considers that the question of exhaustion of domestic remedies in the present communication is so closely linked to the merits of the case that it is inappropriate to determine it at the present stage of the proceedings and that it should be joined to the merits.

10.5 In relation to the alleged violation of article 2, paragraph 1, and article 26 of the Covenant, in that the State Party has failed to respect the equal protection and non-discrimination principles by systematically denying the protections and remedies to, generally, civilian victims of human rights abuses of the Chechen origin and, specifically, to the author, on the ground of their national origin, the Committee considers that these claims have been insufficiently substantiated, for purposes of admissibility. They are thus inadmissible under article 2 of the Optional Protocol.

10.6 Concerning the author's claim of a violation of article 9, in that the State party failed to adopt adequate measures to ensure Mrs. Amirova's liberty and security even outside the detention context, the Committee considers that this claim has not been sufficiently substantiated, for purposes of admissibility, and is inadmissible under article 2 of the Optional Protocol.

10.7 The Committee considers that the author's claims under article 6 and article 7, as well as under article 2, paragraph 3, read in conjunction with article 6 and article 7, of the Covenant, have been sufficiently substantiated, for purposes of admissibility, and declares them admissible.

### **Consideration of the merits**

11.1 The Human Rights Committee has considered the communication in the light of all the information made available to it by the parties, as provided for under article 5, paragraph 1, of the Optional Protocol.

11.2 With regard to the author's claim that article 6 was violated, the Committee recalls its General Comment No. 6 on article 6, which states that the right enshrined in this article is the supreme right from which no derogation is permitted even in time of public emergency which threatens the life of the nation.<sup>19</sup> The Committee recalls its jurisprudence that criminal investigation and consequential prosecution are necessary remedies for violations of human rights such as those protected by article 6.<sup>20</sup> It further recalls its General Comment No. 31, that where investigations reveal violations of certain Covenant rights States parties must ensure that those responsible are brought to justice.<sup>21</sup>

11.3 The Committee notes that in its submissions of 25 May 2007 and 19 March 2008, the State party concedes that the author's testimony corroborated by that of the agent of the Ministry of Emergency Situations give reasons to believe that Mrs. Amirova's death was violent. The Committee also notes that Mrs. Amirova's death certificate of 31 August 2001 issued by the Civilian Registry Office of the Staropromyslovsky District states that she died from a gunshot wound to the chest on 12 January 2000. The Committee further notes the author's claim, attested by the death certificate, that her death occurred at the same time and in the same place as the second military operation in the Chechen Republic conducted by the Russian federal forces and that in his communication to the Committee and numerous letters to the State party's authorities, the author attributed his wife's arbitrary deprivation of life to the State party's federal forces. As regards the subsequent investigation, it was suspended on 2 May 2007 for the fifth time since 2000, for failure to identify the perpetrator/s. However, the investigation has not been completed, thereby preventing the author from pursuing his claim for compensation. The Committee notes that the author and the State party accuse each other of either failing or obstructing to carry out the exhumation and forensic medical examination of Mrs. Amirova's body. The Committee also notes that, as transpires from the facts presented by the author and uncontested by the State party, the author did ask for an autopsy to be performed the same day when his wife's body was discovered but his request was denied.

11.4 The Committee considers that the death by firearms warranted at the very minimum an effective investigation of the potential involvement of the State party's federal forces in Mrs Amirova's death, besides an uncorroborated statement that there was no objective evidence of the involvement of federal servicemen in this crime. The Committee notes the failure of the State party even to secure the testimony of the agents of the Ministry of Emergency Situations and of the Staropromyslovsky Temporary Department of Internal Affairs of Grozny who were present at the crime scene on 7 May 2000. The Committee also notes the uncontested evidence submitted by the author of a pattern of alleged violations by the State party of the sort asserted in the present case, as well as a pattern of perfunctory and unproductive investigations whose genuineness is doubtful. The facts of the present case exemplify this pattern. The Committee further observes that although over nine years have elapsed since Mrs. Amirova's death, the author still does not know the exact circumstances surrounding his wife's death and the State party's authorities have not indicted, prosecuted or brought to justice anyone. The criminal case remains suspended without any indication from the State party when it will be completed. The

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<sup>19</sup> Supra n.16, paragraph 1.

<sup>20</sup> Communication No.1436/2005, *Sathasivam v. Sri Lanka*, Views adopted on 8 July 2008, paragraph 6.4. See also, supra n.12, paragraphs 15 and 18.

<sup>21</sup> Supra n.12, paragraph 18.

Committee also notes that a civil claim for compensation, even if could provide adequate reparation, faces serious obstacles if those responsible for the crime have not already been identified in criminal proceedings. The State party must accordingly be held to be in breach of its obligation, under article 6, read in conjunction with article 2, paragraph 3, properly to investigate the death of the author's wife and take appropriate action against those found responsible.

11.5 As to the author's attribution of his wife's arbitrary deprivation of life to the State party's federal forces, the Committee recalls its jurisprudence<sup>22</sup> that the burden of proof cannot rest alone on the authors of the communication, especially considering that the authors and the State party do not always have equal access to evidence and that frequently the State party alone has access to relevant information. It is implicit in article 4, paragraph 2, of the Optional Protocol that the State party has the duty to investigate in good faith all allegations of violation of the Covenant made against it and its authorities, and to furnish to the Committee the information available to it. In addition, the deprivation of life by the authorities of the State is a matter of utmost gravity. Therefore, the law must strictly control and limit the circumstances in which a person may be deprived of his life by such authorities.<sup>23</sup> The Committee takes into account the evidence provided by the author pointing to the State party's direct responsibility for Mrs. Amirova's death, but considers that, the evidence does not reach the threshold that would allow a finding that there has been a direct violation of article 6, with regard to Mrs Amirova.

11.6 The author claimed that his wife was severely tortured, ill-treated and most likely subjected to sexual violence before she was killed. These allegations were presented both to the State party's authorities, i.e. the Central Office of the Military Prosecutor of the Russian Federation, and in the context of the present communication. The Committee recalls that once a complaint about ill-treatment contrary to article 7 has been filed, a State party must investigate it promptly and impartially.<sup>24</sup> In the present case, the State party refuted the author's allegation by stating that there was no objective evidence of the involvement of federal servicemen in this crime. In the absence of any information by the State party, specifically in relation to any inquiry made by the authorities both in the context of the criminal investigation or in the context of the present communication to address the allegations advanced by the author in a substantiated way, due weight must be given to the author's allegations. In these circumstances, the Committee considers that State party has failed in its duty to adequately investigate the allegations put forward by the author and concludes that the facts as presented disclose a violation of article 7, read in conjunction with article 2, paragraph 3, of the Covenant. For the same reasons mentioned in the previous paragraph in respect of article 6, the Committee considers that the evidence does not reach the threshold that would allow a finding of a direct violation of article 7 of the Covenant.

11.7 As to the author's claim also to be a victim of violations of the Covenant, the Committee recalls its jurisprudence according to which the close family of victims of enforced disappearance may also be victims of a violation of the prohibition of ill-treatment under article

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<sup>22</sup> Communication No. 30/1978, *Bleier v. Uruguay*, Views adopted on 24 March 1980, paragraph 13.3, Communication No. 84/1981, *Dermit Berbato et al. v. Uruguay*, Views adopted on 21 October 1982, paragraph 9.6.

<sup>23</sup> *Supra* n.16, paragraph 3.

<sup>24</sup> *Supra* n.15, paragraph 14.

7. This is because of the unique nature of the anxiety, anguish and uncertainty for those to the direct victim. That is the inexorable consequence of an enforced disappearance. Without wishing to spell out all the circumstances of indirect victimisation, the Committee considers that the failure of a State party responsibly to discharge its obligations to investigate and clarify the circumstances of the harm suffered by the direct victim will be usually be a factor. Additional factors may be necessary. In the present case, the Committee notes the horrific conditions in which the author came to find his wife's mutilated remains, as attested at the time by public officials (see paragraph 2.6), followed by the dilatory, sporadic measures undertaken to investigate the circumstances that have lead to the above findings of violations of articles 6 and 7, read together with article 2, paragraph 3. The Committee considers that, taken together, the circumstances require the Committee to conclude that the author's own rights under article 7 have also been violated.

12. 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 a violation in respect of Mrs. Amirova by the Russian Federation of article 6 and article 7, read in conjunction with article 2, paragraph 3, of the Covenant, and a violation in respect of the author of article 7.

13. Under article 2, paragraph 3(a), of the Covenant, the State party is under an obligation to provide the author with an effective remedy in the form, *inter alia*, of an impartial investigation in the circumstances of his wife's death, prosecution of those responsible, and adequate compensation. The State party is also under an obligation to prevent similar violations in the future.

14. 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 and enforceable remedy in case a violation has been established, 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 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.]

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