



**International covenant  
on civil and  
political rights**

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HUMAN RIGHTS COMMITTEE

Eighty-sixth session

13 – 31 March 2006

**VIEWS**

**Communication No. 1070/2002**

<u>Submitted by:</u>	Mr. Alexandros Kouidis (represented by counsel)
<u>Alleged victim:</u>	The author
<u>State party:</u>	Greece
<u>Date of communication:</u>	26 November 2001 (initial submission)
<u>Document references:</u>	Special Rapporteur's rule 97 decision, transmitted to the State party on 2 April 2002 (not issued in document form)
<u>Date of adoption of Views:</u>	28 March 2006

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

*Subject matter:* confession under alleged torture, unfair trial

*Procedural issues:* admissibility *ratione temporis*, exhaustion of domestic remedies

*Substantive issues:* torture and cruel and inhuman or degrading treatment, human treatment of detainees, forced confession of guilt, fair trial

*Articles of the Covenant:* articles 7; 10, paragraph 1; 14, paragraphs 3 (g) and 1

On 28 March 2006, the Human Rights Committee adopted the annexed draft as the Committee's Views, under article 5, paragraph 4, of the Optional Protocol in respect of communication No. 1070/2002. The text of the Views is appended to the present document.

[ANNEX]

**ANNEX**

Views of the Human Rights Committee under article 5, paragraph 4, of  
the Optional Protocol to the International Covenant on Civil and Political rights

Eighty-sixth session

concerning

**Communication No. 1070/2002\***

<u>Submitted by:</u>	Mr. Alexandros Kouidis (represented by counsel)
<u>Alleged victim:</u>	The author
<u>State party:</u>	Greece
<u>Date of communication:</u>	26 November 2001 (initial submission)

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

Meeting on 28 March 2006,

Having concluded its consideration of communication No. 1070/2002, submitted to the  
Human Rights Committee on behalf of Mr. Alexandros Kouidis 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 is Alexandros Kouidis, a Greek citizen born on 21 May  
1950, currently serving a life sentence at the Court Prison of Kerkyra in Corfu. He claims to be  
a victim of violations by Greece of articles 7; 10, paragraph 1; and 14, paragraphs 3 (g) and 1,  
of the International Covenant on Civil and Political Rights (the Covenant). The author is  
represented by counsel.

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

1.2 The Covenant and the Optional Protocol entered into force for the State party on 5 August 1997.

### **Facts as presented by the author**

2.1 On 17 May 1991, the author was arrested, interrogated and later charged with possession, purchase, import into Greece and sale of narcotic substances, possession of firearms, creation of a criminal group, and document forgery.

2.2 On 12 October 1992, he was found guilty as charged and sentenced to 18 years imprisonment by a three-member panel of the criminal court. On appeal, the five-member Athens Court of Appeal (hereafter the Appeal Court), by judgment of 4 November 1996, sentenced him to life imprisonment, a concurrent sentence of four years imprisonment, and a fine. On 3 April 1998, the Supreme Court confirmed the judgment of the Appeal Court.

2.3 According to the author, the judgments of the Appeal Court and the Supreme Court were based, *inter alia*, on the allegation that the author, during his post-arrest interrogation by the police, partially confessed the commission of the crime of trafficking and possession of narcotics. However, the author never made such a confession of his own free will, but allegedly after being subjected to grave corporal and physical violence inflicted by the police officers who had interrogated him. From 17 May to 27 June 1991, while being detained at the Athens General Police Directorate (GADA), the author was brutally beaten and systematically punched in the face, and his feet were subjected to falanga<sup>1</sup>. As a result of the ill-treatment, the author confessed that the apartment at Magnisias street, Athens, where the police had found cocaine, heroin and cannabis, was his second residence and was used to store drugs, which were, according to the indictment, subsequently dispatched to drug addicts.

2.4 However, the author claims that in reality, he lived at a different address in Athens, and that the above-mentioned apartment was rented by one of his friends, who lived there and occasionally let the author stay in a room.

2.5 To support these claims, counsel submits a photograph of the author in a Greek daily newspaper, published five days after his arrest. In addition, the author points out that after his arrest, he stayed at the Aghios Pavlos Hospital in Athens for fourteen months in order to recover from the torture and serious ill-treatment which he had suffered. Finally he underlines that the landlords of the apartment of Magnisias street were never interrogated or subpoenaed by the police, nor did they identify the author as the tenant of the apartment.

2.6 The author refers to the court transcripts and judgments of the Appeal Court and the Supreme Court and claims that even though he stated to the Appeal Court that he had been subjected to torture and ill-treatment which led to his forced confession, his allegations were not investigated or taken into account. He quotes from the minutes of his judgment by the Appeal Court, in which he is reported to have declared: "I said to the police that I brought the cocaine from there<sup>2</sup>, because I was beaten without mercy." The judgment of the Supreme Court mentions that "the defendant Kouidis partially confessed the crime

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<sup>1</sup> Beating of the soles of the feet

<sup>2</sup> The author refers to the apartment of Magnisias street where the drugs were found.

attributed to him, regarding drug trafficking. Particularly, he restricted his confession to the possession of the amounts that were confiscated". However, the Supreme Court did not mention the author's statements regarding his subjection to torture and cruel, inhuman and degrading treatment.

2.7 The author claims to have exhausted domestic remedies and states that the same matter is not being examined under another procedure of international investigation or settlement.

### **The complaint**

3.1 The author alleges violations of his Covenant rights because of torture and cruel, inhuman and degrading treatment by the police during his interrogation, which led to a confession and an unfair trial.

3.2 He claims to be a victim of a violation of article 7 of the Covenant, as he was subjected to torture (falanga) and cruel, inhuman and degrading treatment (severe, systematic beating and punching) during his interrogation by the police.

3.3 He further claims to be the victim of a violation of article 10, paragraph 1, as he was not treated with humanity and with respect for the inherent dignity of the human person during his detention by the police.

3.4 The author claims that the State party violated article 14, paragraph 3 (g), in that he was compelled to confess his guilt, following his torture and ill-treatment during his interrogation by the police and during pre-trial detention.

3.5 Finally the author alleges a violation of article 14, paragraph 1, as he did not enjoy the right to a fair trial before the Appeal Court and the Supreme Court, because their judgments were based, *inter alia*, on his forced self-incrimination.

### **The State party's submission on the admissibility and merits of the communication**

4.1 By note verbale of 27 January 2003, the State party commented on the admissibility and merits of the communication. It denies the author's claims of torture and cruel, inhuman and degrading treatment, submits that the author's confession was not taken into account during the trial, and claims that he received a fair trial.

4.2 On factual issues, the State party indicates that the author resisted his arrest on 17 May 1991. A fight ensued with the arresting officers, further to which the author was taken to hospital and treated for physical injuries (contusions). However, he was not hospitalised as this was deemed unnecessary.

4.3 The State party indicates that the search of the author's car revealed three million drachmas and drugs in various bags, which were confiscated. Further, his house was searched and large quantities of heroin, cannabis and cocaine were found. The search was extended to his second residence in another area of Athens (Patissia), where additional large quantities of drugs were found. The search also revealed forged documents, identity cards, passports and unlicensed firearms. After undergoing preliminary interrogation by the police, the author was taken to the Public Prosecutor on 18 May, who initiated criminal

proceedings against him on the above-mentioned charges (paragraph 2.1). The following day, he was taken before the examining Judge for interrogation.

4.4 The State party contends that the author did not complain to the Public Prosecutor on 18 May 1991 about the alleged inhuman and degrading treatment by the police officers who arrested and interrogated him, nor did the author request to be examined by a medical officer. Similarly, when he was brought before the regular examining Judge for interrogation on 19 May 1991, he neither complained of ill treatment by the police, nor requested a medical examination. The author also made no mention that physical or psychological force had been used by law enforcement authorities to make him confess to the crimes he was accused of.

4.5 The State party contends that on 22 May 1991, the author informed an interrogating judge that his testimony made before the police officers at the Police Headquarters was invalid because it was the result of police brutality. He indicated that he was beaten, tied, hit in the eyes and the ribs, and was coerced to say what he said. At the end of the testimony, he asked to be examined by a medical examiner, but with the sole purpose of proving that he was a drug addict, thus avoiding harsher punishment inflicted on drug dealers. He never asked to be examined for ill treatment and torture. The medical examination report did not indicate any significant findings. If there had been signs of ill-treatment or torture, they would have been included in the report of the physical examination, even if its object was to find out if the author was a drug addict or not.

4.6 On 27 June 1991, the author was admitted at Saint Paul Prisoners Hospital, to be treated for haematuria (presence of blood in the urine), and on 30 August, he returned to prison of his own free will. On 11 October, he was readmitted to hospital for the same cause, and on 5 November, he was transferred to a more appropriately equipped public hospital to undergo controls on haematuria and possible cancer. The State party emphasises that at no stage of his treatment at the Prisoners Hospital was the author treated as a victim of inhuman abuse and torture. The author repeatedly requested the interruption of his detention due to irreversible health damage, but all petitions were dismissed. Furthermore, at no point did the author remain in hospital for fourteen consecutive months, as he claims in his communication, to be treated for severe physical injury to the feet or head or to any other part of his body.

4.7 On 10 July 1992, the author was admitted to Athens General Hospital, from where he failed an attempted escape three days later. According to the State party, doctors at the Prisoners Hospital were also involved in the escape plan and issued medical certificates for him to be transferred to the public hospital. However, these certificates did not mention any symptoms of abuse or torture of the author.

4.8 On admissibility, the State party notes that the facts as presented in the communication occurred in 1991, before the entry into force for Greece of the Covenant and the Optional Protocol. It argues that it cannot be held responsible for violations of the Covenant which took place before it became a State party.

4.9 It further argues that the author has not exhausted domestic remedies, as he has not filed an action for reparation on the grounds of illicit police brutality before the national courts. According to Greek administrative law, in cases of acts or omissions of civil servants in the exercise of public duties assigned to them, the state is liable for damages, along with

the civil servant who committed the act or omitted to take action. Further, he has not filed a complaint with the Public prosecutor or the national courts against the State party or any specific police officers for inhuman and degrading treatment during the preliminary interrogation. The State party argues that if he had done so, an investigation and criminal proceedings would have been instituted against the policemen alleged to have participated in such acts.

4.10 On the merits and the allegations of unfair trial, the State party argues that the author's confession during his preliminary interrogation had no effect on his conviction. The State party emphasizes that in the first instance court, which originally convicted the accused in 1992, it did not consider the confession of the author dated 20 May 1991 in rendering a decision.

4.11 The same held true on Appeal. In its judgment of 4 November 1996, the Appeal Court indicated that the accused pleaded guilty of possession of large quantities of drugs, while denying the accusation of dealing with drugs. It further held that the author could not reasonably explain the possession of a precision scale (for drugs), the large amount of money found in his alternative residence, nor the large quantities of cocaine and heroin found in his car, and thus found him guilty of all the charges. The State party argues that the Appeal Court did not base its finding on the author's confession – because the confession was never introduced into evidence. The State Party notes that: “As it appears from the minutes as well as the judgment in question, among the documents used as evidence for the formation of a ruling there is no mention of any confession made by the accused to the police officers conducting the preliminary investigation.” Rather, his conviction and sentence of life imprisonment were based on the sum total of the evidence presented, his inability to overturn incontestable evidence, and the inconsistencies in his statements.

4.12 The State party notes that if the confession had been used at the Appeal Court, the author would have been able to request the invalidation of the judgment, on the basis of article 171, paragraph 1, section d, of the Code of Civil Procedure, which provides that a judgment shall be declared null and void as a whole if the court admits as evidence for the establishment of guilt, the contents of documents or statements which were not read during the hearing, or were not corroborated by other evidence. The author, however, made no such request.

4.13 Furthermore, the State notes that the author never alleged in national courts – including the Supreme Court - that the Appeal Court based its conviction on documents which had not been presented at the hearing. In any case, use of new evidence would have been illegal, and thus the Court could not have taken it into consideration for its deliberations and *ratio decidendi*.

4.14 According to the State party, the Supreme Court could not consider the author's claims of abuse during the preliminary investigation, as these allegations referred to facts and not to legal issues, and thus fell outside the competence of the Supreme Court.

4.15 On a general basis, the State party refers to the jurisprudence of the European Court of Human Rights, according to which the evaluation of evidence during criminal trials is mainly an issue to be handled by national law, while the European Court's role is to determine the fairness of the entire procedure. It states that as a general rule, the national court is competent to decide on the evidence presented before it.

4.16 On the allegations of a violation of article 7 of the Covenant, the State party contends that there is no issue of torture or cruel, inhuman or degrading treatment or punishment, in violation of article 7 of the Covenant. It refers to the jurisprudence of the European Court, according to which it is necessary to evaluate whether the treatment reached a certain minimum of brutality, as well as whether the treatment was aimed at degrading and humiliating the victim.

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

5.1 On 23 April 2003, the author responded to the State party's submissions. On the admissibility *ratione temporis* argument, he claims that the torture he suffered had continuous effects after the entry into force of the Covenant, because the author's confession, obtained through torture, was taken into account, and expressly referred to in the judgments of the Appeal Court (1996) and the Supreme Court (1998), which led to the author's conviction. In addition the ill-treatment has a continuous traumatic effect on his psyche and personality.

5.2 With regard to the claim that he did not exhaust domestic remedies in relation to his claims under article 14, paragraphs 1 and 3 (g), the author argues that his case was considered by the Supreme Court and that no further appeals are available. In relation to his claims under articles 7 and 10, paragraph 1, the author contends that he did not start proceedings for reparation, as his aim was a fair trial and not monetary compensation. In this regard, he claims to have continuously complained about his torture and severe ill-treatment to the examining judge and the Appeal Court, the latter complaint being reported in the 1996 minutes-judgment of the Appeal Court. However, no attention was paid to his statements, and the Public prosecutor failed to initiate an investigation and prosecution *ex officio*, as he should have under articles 137A and 137B of the Penal Code, which provide for the punishment of the crimes of torture and ill-treatment by state organs. The author argues that, in any case, such a complaint had no reasonable prospect of success, as ill-treatment and torture by police officials have been commonplace in Greece and the victims' complaints have never resulted in a conviction by the courts.

5.3 On the merits, the author rejects the State party's contention that his only ailment following his arrest by the police on 17 May 1991 was "slight physical injury (contusions)". He reiterates that he was brutally beaten and tortured by the police (systematically punched in his face, on his ribs and subjected to falanga) during his pre-trial detention and interrogation. This ill-treatment continued in the course of his pre-trial detention on the premises of the Athens General Police Directorate (GADA), from 17 May to 27 June 1991, even after he was taken to the Public Prosecutor on 18 May and the examining judge on 19 May.

5.4 The author contends that haematuria, which he suffered from, is a common symptom of torture and severe ill-treatment, and was the direct and incontestable result of the torture and severe ill-treatment he was subjected to.

5.5 He contends that he was hospitalised from 27 June to 30 August 1991 to be treated for haematuria, and then from 11 October 1991 to 4 August 1992, due to diagnosed arthropathy (pain) of his knees, back and spine, as a result of the torture and ill-treatment he suffered while in pre-trial detention. He rejects the State party's indication that he was hospitalised and examined for possible cancer, as he never had any cancer related symptoms.



5.6 On the State party's claim that the author did not make any complaint of ill-treatment to the competent judicial authorities before his trial, the author reiterates his claims that he did complain about torture and ill-treatment to all judicial authorities before and during his trial. He also recalled that he had complained about the ill treatment to the Appeal Court, as is confirmed in the transcript of the proceedings, where it is stated that the author said that he confessed to the police because he was beaten by the police without mercy. He claims, however, that the Greek authorities did not pay attention to his complaints.

5.7 The author argues that the Greek authorities rarely prosecute police officers accused of ill-treatment, and refers to a report of Amnesty International and the Helsinki Federation for Human Rights reporting on numerous allegations of ill-treatment, in some cases amounting to torture, of detainees, generally during arrest or at police stations, and on the reluctance of prosecuting and judicial authorities to prosecute police officers. He invokes reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published after visits to Greece in 1993, 1997 and 2001. According to these reports, "ill-treatment of detained persons by police officers remained fairly commonplace for at least certain types of criminal suspects".<sup>3</sup>

5.8 Finally, the author reiterates his claims that his confession obtained through torture constituted one of the decisive elements that seriously influenced the *ratio decidendi* of the judgments of the Appeal Court and Supreme Court. In its judgment, the Appeal Court notes that the author "partially confessed, limiting his confession exclusively to the possession of the confiscated quantities". However, no confession was read during the hearing. The only reference to a confession during the hearing was the author's above-mentioned testimony (paragraph 2.6), during which he mentioned ill-treatment. The Supreme Court judgment mentions that the author "partially confessed to the accusation attributed to him with regard to drug-trafficking. More specifically he limited his confession only to possession of drug quantities that were confiscated". The author concludes that his confession was taken into account by the two courts when deciding his case and convicting him.

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

### **Consideration of admissibility**

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

6.2 The Committee has ascertained that the same matter is not being examined under another procedure of international investigation or settlement for purposes of article 5, paragraph 2 (a) of the Optional Protocol.

6.3 The Committee takes note of the State party's objection that the communication is inadmissible *ratione temporis*, as it relates to events which occurred prior to the entry into force of the Optional Protocol for Greece on 5 August 1997. The Committee refers to its prior jurisprudence and reiterates that it cannot consider alleged violations of the Covenant which occurred before the entry into force of the Optional Protocol for the State party,

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<sup>3</sup> Doc. CPT/Inf (94) 20, 29.11.1994, paragraph 18

unless these violations continue after that date or continue to have effects which in themselves constitute a violation of the Covenant<sup>4</sup>. The Committee has found continuous violations where States, by act or by clear implication, have affirmed previous violations after the Optional Protocol entered into force<sup>5</sup>. The Committee observes that the author's claims under article 10, paragraph 1, refer to his arrest and pre-trial detention in 1991, i.e. before the entry into force of the Optional Protocol for the State Party, and finds this part of the communication inadmissible *ratione temporis* pursuant to article 1 of the Optional Protocol.

6.4 The author's claims under article 7 equally refer to the above-mentioned detention period and to the continuous effects of the treatment he was subjected to. The author has not substantiated his claim that any continuous effects of the treatment would in themselves constitute a violation of the Covenant and thus meet the requirement of the test set out in para. 6.3. The Committee therefore finds that the claim under article 7 read alone is inadmissible *ratione temporis* under article 1 of the Optional Protocol.

6.5 However, the Committee notes that although the author was convicted on appeal on 4 November 1996, i.e. before the entry into force of the Optional Protocol for the State party, the judgment of the Supreme Court upholding the Appeal Court judgment was issued on 3 April 1998, after the Optional Protocol came into force. The Committee reiterates its jurisprudence that a second or final instance judgment, confirming a conviction, constitutes an affirmation of the conduct of the trial<sup>6</sup>. The claims under article 14, paragraphs 3(g) and 1, refer to the conduct of the trial, which continued after the entry into force of the Optional Protocol for the State party. The Committee concludes that it is not precluded *ratione temporis* from considering the communication insofar as it raises issues relating to the author's trial.

6.6 With respect to the State party's argument that the author did not exhaust domestic remedies in relation to his torture claims, and considering these claims as arising under article 7 read in conjunction with article 14, paragraph 3(g), the Committee notes that the judgment of the Appeal Court specifically mentions the author's statement that he was "beaten without mercy" by the police and concludes that the State party was aware of the author's claims of ill-treatment at the time of the trial, and finds that the author has exhausted domestic remedies in that respect.

6.7 The Committee concludes that the communication is admissible insofar as it raises issues under article 7 in conjunction with article 14, paragraph 3(g), and 14, paragraph 1, read alone, and proceeds to its examination on the merits.

### **Consideration of the merits**

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<sup>4</sup> See Communication No. 520/1992, *Könye and Könye v. Hungary*, Decision on admissibility of 7 April 1994, para. 6.4; Communication No. 24/1977, *Sandra Lovelace v. Canada*, Views adopted on 30 July 1981, para. 7.3.

<sup>5</sup> See Communication No. 1033/2001, *Nallaratnam Singarasa v. Sri Lanka*, Views adopted on 21 July 2004, para. 6.3; Communication No. 520/1992, *E. and A.K. v. Hungary*, Decision on admissibility of 7 April 1994, para. 6.4; Communication No. 593/1994, *Patrick Holland v. Ireland*, Decision on admissibility of 26 October 1996, para. 9.2

<sup>6</sup> See Communication No. 1033/2001, *Nallaratnam Singarasa v. Sri Lanka*, Views adopted on 21 July 2004, para.6.3

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

7.2 The Committee notes that the State party and the author have provided essentially conflicting versions of the facts, in relation to the occurrence of ill-treatment during the author's pre-trial detention, the reasons for his hospitalisation, and the use of his confession by the courts during the trial.

7.3 The Committee observes that the evidence provided by the author in support of his claims of ill-treatment are a newspaper photograph of poor quality, that he allegedly spent fourteen months in hospital from related medical treatment, the lack of interrogation by the prosecution of the landlords of the apartment mentioned in his confession, and reports of NGOs and the CPT. On the other hand, the State party indicates that the author did not request to be examined by a medical officer with the purpose of establishing ill-treatment, which has not been contested by the author. The Committee further notes that despite spending such a long time in hospital so soon after the alleged ill-treatment<sup>7</sup>, and despite being in possession of medical certificates concerning his treatment in hospital of haematuria and arthropathy of his knees, back and spine, these certificates do not indicate that any of these sufferings resulted from actual ill-treatment. Nor do any of these certificates mention any traces or consequences of beatings on the author's head or body. The Committee considers that the author, who had access to medical care, had the possibility of requesting a medical examination and did so for the purpose of proving that he was a drug addict<sup>8</sup>. However, he failed to request a medical examination for the purpose of establishing ill-treatment.

7.4 Further, as noted by the State party, the manner in which a case should be investigated is for the national investigating authorities to decide, in as far as it is not arbitrary. The Committee considers that the author has not demonstrated that the investigating officers acted arbitrarily by failing to interrogate the landlords of the apartment in Magnisias street. Finally the NGO and Committee on the Prevention of Torture reports submitted by the author are of a general character and cannot establish ill-treatment of the author. In the circumstances, the Committee cannot conclude that the confession of the author resulted from treatment contrary to article 7, and finds that the facts do not disclose a violation of article 7 read in conjunction with article 14, paragraph 3 (g).

7.5 On the claim under article 14, paragraph 3 (g) read alone, the Committee notes the Supreme Court was aware of the allegations of ill-treatment. The Committee considers that the obligations under article 14, paragraph 3(g) entail an obligation of the State party to take account of any claims that statements made by accused persons in a criminal case were given under duress. In this regard, it is immaterial whether or not a confession is actually relied upon, as the obligation refers to all aspects of the judicial process of determination. In the present case, the State party's failure, at the level of the Supreme Court, to take account of the author's claims that his confession was given under duress, amount to a violation of article 14, paragraph 3(g).

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<sup>7</sup> The author claims to have been subjected to torture and cruel, inhuman and degrading treatment from 17 May to 27 June 1991, and was hospitalised on 27 June.

<sup>8</sup> See paragraph 4.17 above

7.6 On the claim under article 14, paragraph 1, that the trial and conviction was based *inter alia* on the author's confession, the Committee notes the State party's argument that the courts did not base their judgments on the author's confession. The Committee reiterates its jurisprudence that it is primarily for the courts of State parties to review facts and evidence in a particular case. It is for the appellate courts of State parties, and not for the Committee, to review the conduct of the trial, unless it can be ascertained that the evaluation of evidence was clearly arbitrary or amounted to a denial of justice, or that the judge manifestly violated his or her obligation of impartiality<sup>9</sup>. It appears that the author's trial does not suffer from any such defects. Accordingly, this part of the communication does not reveal a violation of article 14, paragraph 1.

8. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol, is of the view that the facts before it disclose violations of article 14, paragraph 3(g), of the Covenant.

9. In accordance with article 2, paragraph 3(a), of the Covenant, the State party is under an obligation to provide the author with an effective and appropriate remedy, including the investigation of his claims of ill-treatment, and compensation.

10. Bearing in mind that, by becoming a State party to the Optional Protocol, the State party has recognised 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 and subject to its jurisdiction the rights recognised in the Covenant, the Committee wishes to receive from the State party, within 90 days, information about the measures taken to give effect to its 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 in Arabic, Chinese and Russian as part of the Committee's annual report to the General Assembly.]

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<sup>9</sup> See Communication 838/1998, *Ola Hendricks v. Guyana*, Views adopted on 28 October 2002, para.6.2