



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE
Eightieth session
15 March-2 April 2004

VIEWS

Communication No. 888/1999

Submitted by: Mrs. Yuliya Vasilyevna Telitsina (represented by the Centre of Assistance for International Protection)

Alleged victim: Mr. Vladimir Nikolayevich Telitsin

State party: Russian Federation

Date of communication: 24 October 1997 (initial submission)

Prior decisions: Special Rapporteur's rule 91 decision, transmitted to the State party on 1 November 1999 (not issued in document form)

Date of adoption of Views: 29 March 2004

On 29 March 2004 the Human Rights Committee adopted its Views, under article 5, paragraph 4, of the Optional Protocol, in respect of communication No. 888/1999. The text of the Views is appended to the present document.

[ANNEX]

* Made public by decision of the Human Rights Committee.

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**

Eightieth session

concerning

Communication No. 888/1999*

Submitted by: Mrs. Yuliya Vasilyevna Telitsina (represented by the Centre of Assistance for International Protection)

Alleged victim: Mr. Vladimir Nikolayevich Telitsin

State party: Russian Federation

Date of communication: 24 October 1997 (initial submission)

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

Meeting on 29 March 2004,

Having concluded its consideration of communication No. 888/1999, submitted by Mrs. Yuliya Vasilyevna Telitsina on behalf of her son, Mr. Vladimir Nikolayevich Telitsin, 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. The author is Mrs. Yuliya Vasilyevna Telitsina, acting on behalf of her son, Vladimir Nikolayevich Telitsin, a Russian citizen born in 1959 who died on 13 February 1994 during his detention in a correctional labour centre. The author claims that the Russian Federation has

* The following members of the Committee participated in the examination of the present communication: Mr. Abdelfattah Amor, Mr. Nisuke Ando, Mr. Prafullachandra Natwarlal Bhagwati, Mr. Alfredo Castillero Hoyos, Ms. Christine Chanet, Mr. Franco Depasquale, Mr. Maurice Glèlè Ahanhanzo, Mr. Walter Kälin, Mr. Ahmed Tawfik Khalil, Mr. Rafael Rivas Posada, Sir Nigel Rodley, Mr. Martin Scheinin, Mr. Ivan Shearer, Mr. Hipólito Solari Yrigoyen, Mr. Roman Wieruszewski and Mr. Maxwell Yalden.

violated article 6, paragraph 1, article 7 and article 10, paragraph 1, of the International Covenant on Civil and Political Rights. The author is represented by the Centre of Assistance for International Protection.

The facts as submitted by the author

2.1 On 13 February 1994, Vladimir Nikolayevich Telitsin died as a result of acts of violence while serving a sentence in Correctional Labour Centre No. 349/5, in the town of Nizhny Tagil, in the Urals.

2.2 The author says that her son was brutally beaten, hung by a wire and left hanging inside the compound of the Centre. She disputes the view taken by the Correctional Centre authorities and the Nizhny Tagil procurator's office that the death was suicide. She also alleges that in the expert report these authorities deliberately glossed over the violent acts committed against her son. She claims to have seen in person, at the funeral, how her son's body had been mutilated - his nose had been broken and was hanging limply, a piece of flesh had been torn from the right side of his chin, his brow was swollen on the right, blood was coming out of his right ear, the palm of his right hand had been grazed and was a dark purple colour, his spine and back were damaged and his tongue was missing. The author has produced a petition signed by 11 persons who attended the funeral, confirming the condition of the deceased's body as reported above.

2.3 The author requested the Nizhny municipal procurator's office to investigate the circumstances of her son's death. On 13 April 1994, the procurator's office told the author that there was no evidence to support her claims that her son had died as a result of acts of violence, and that it had therefore decided not to initiate criminal proceedings. The author appealed against this decision on three occasions (on 26 April 1994, 20 June 1994 and 1 August 1994), but these appeals were rejected by the Sverdlovsk regional procurator's office in its decisions of 25 May 1994, 30 June 1994 and 31 August 1994, respectively.

2.4 The author also applied to have her son's body exhumed in order to obtain a second opinion, as the conclusions of the initial expert report had, according to Mrs. Telitsina, failed to mention the injuries described above. On 27 October 1994, the Nizhny Tagil procurator's office told the author that any exhumation was subject to the initiation of criminal proceedings, under article 180 of the Criminal Code of the Russian Federation. In the case in point, the author's request could not be met, according to the procurator's office, as the decision of 13 April 1994 by the Nizhny Tagil procurator's office was under review by the Procurator General of the Russian Federation, following an appeal lodged by Mrs. Telitsina.

2.5 On 11 October 1994, the Procurator General of the Russian Federation set aside the decision not to initiate criminal proceedings on the grounds that the circumstances of Mr. Telitsin's death had not been fully examined. He also ordered that all the evidence in the case should be sent to the Sverdlovsk regional procurator's office so that it could carry out additional checks.

2.6 On 14 November 1994, upon completion of this expert report, the Sverdlovsk procurator's office decided not to initiate criminal proceedings and therefore not to exhume the deceased's body. On 7 August 1995 and 10 November 1995, the Sverdlovsk procurator's office informed Mrs. Telitsina that her son's death was the result of a suicidal act provoked by "deviations of a mental nature" and that the injuries the author claimed to have seen on the deceased's body had not been found.

2.7 Following complaints by the author, on 21 September 1995 and 27 February 1996, the Procurator General of the Russian Federation informed her that a thorough investigation had been carried out into the circumstances of her son's death, that her allegations of facial injuries to the deceased had been refuted by the conclusions of the forensic medical report and by statements made by prison staff and prisoners and that the death was the result of suicide.

2.8 According to the author, the examinations carried out were superficial, particularly since the body had not been exhumed, so that the suicide theory advanced by the authorities was invalid.

The complaint

3.1 The author claims that the above facts show a violation by the Russian Federation of article 6, paragraph 1, article 7 and article 10, paragraph 1, of the International Covenant on Civil and Political Rights.

3.2 The author also asserts that all available remedies for the purpose of having criminal proceedings initiated and obtaining a proper expert opinion on the causes of her son's death have been exhausted, as explained above.

Observations by the State party

4.1 In its observations of 10 August 2000, the State party explains that the Office of the Procurator General of the Russian Federation conducted an inquiry into the events relating to this communication.

4.2 From this inquiry, it appears that, according to the report of the forensic medical expert, Mr. Telitsin's death occurred following mechanical suffocation resulting from a slip knot tightening around the organs of the neck. An inspection of the scene of the incident and the body of the deceased showed no signs of a struggle. In the course of the inquiry, particularly when the Office of the Procurator General studied the evidence in the case, special attention was paid to photographs of the deceased, which also showed no sign of physical injury. A superficial graze in the area of the chin could have been caused by a sharp instrument just before, or in the throes of, death. The graze had no causal relationship with the death. In the investigative part of the report, the forensic medical expert points out that there were no injuries to the bones of the fornix or the base of the skull. The State party sees no reason to doubt this conclusion.

4.3 Moreover, the medical expert points out that it has been established that the footprints in the snow that led to the scene of the incident were those of a single person. According to the State party, the deceased was not in conflict with other prisoners or with prison staff. The results of the inquiry therefore corroborate the conclusion of suicide. The State party points out that the

request for criminal proceedings to be initiated had been rejected in the absence of a corpus delicti and that the decision had been endorsed by the Office of the Procurator General of the Russian Federation.

Comments by the author on the State party's observations

5.1 In her comments of 25 October 2000, the author says that the State party has not taken into account her assertions - which are neither refuted nor confirmed - that her son's body displayed a large number of injuries, as confirmed by 11 witnesses at the funeral (see para. 2.2). The author wonders whether the refusal to exhume the body and to analyse the photographs does not show that the Office of the Procurator General is covering up the murder of her son. She adds that the authorities have no photographs showing the place and manner of her son's hanging, which left him covered in blood and disfigured, but only a rough pencil drawing. Finally, she states that her son's file contains photographs of someone whose face is not that of Vladimir Nikolayevich Telitsin.

5.2 In her comments of 6 July 2001, the author once again rejects the theory of suicide and claims that her son was killed by guards from the Correctional Centre. She also maintains that the photographs mentioned above are a montage that was prepared after she had complained, since they show an injury on the left side of the chin, whereas it was actually on the right-hand side, as described above and confirmed by witnesses. The author repeats her demand to have the photographs analysed. Finally, Mrs. Telitsina states that she was never permitted to read the medical report.

Issues and proceedings before the Committee

6.1 Before considering any claims contained in a communication, the Human Rights Committee must, in accordance with rule 87 of its rules of procedure, decide whether or not it is admissible under the Optional Protocol to the Covenant.

6.2 The Committee notes that the State party has not raised any objections with regard to the admissibility of the communication and that the author has exhausted all available domestic remedies.

6.3 The Committee also considers that the author's complaint that the events she has described constitute violations of article 6, paragraph 1, article 7 and article 10, paragraph 1, of the Covenant has been sufficiently substantiated for the purposes of admissibility and that it deserves to be considered on the merits.

Consideration of the merits

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, in accordance with article 5, paragraph 1, of the Optional Protocol.

7.2 The Committee has examined all the information provided by both the author and the State party on Mr. Telitsin's death.

7.3 It notes that the State party maintains the theory of suicide on the basis of the report by the forensic medical expert, an inspection of the scene of the incident, a study of the photographs of the deceased and statements by prison staff and prisoners. It also takes note of the author's arguments rebutting the suicide explanation, particularly the absence of photographs of the place and manner of her son's death by hanging and the production by the authorities of photographs that Mrs. Telitsina claims have been manipulated.

7.4 The Committee observes that the State party has not responded to all the arguments put forward by the author in her communication. In particular, the State party has not commented on the testimony of 11 persons who attended Mr. Telitsin's funeral (cf. para. 2.2). Nor has the State party produced any document to support its assertion that the photographs of the deceased show no sign of physical injury except for a graze on the chin (cf. para. 4.2), despite the specific allegations made by the author about her son's mutilated body. Finally, the Committee takes note of the claim that the author was not permitted to read the medical report and also of the failure to exhume the body of the deceased.

7.5 The Committee regrets that the State party did not respond to or provide the necessary clarification on all the arguments put forward by the author. As far as the burden of proof is concerned, the Committee, in accordance with its jurisprudence, considers that the burden of proof cannot rest solely with the author of the communication, especially when the author and the State party do not have equal access to the evidence and when the State party is often in sole possession of the relevant information, such as the medical report in the case in point.

7.6 Consequently, the Committee cannot do otherwise than accord due weight to the author's arguments in respect of her son's body as it was handed over to the family, which raise questions about the circumstances of his death. The Committee notes that the authorities of the State party have not carried out a proper investigation into Mr. Telitsin's death, in violation of article 6, paragraph 1, of the Covenant.

7.7 In view of the findings under article 6, paragraph 1, of the Covenant, the Committee finds that there was a violation of article 7, as well as of the provisions of article 10, paragraph 1, of the Covenant.

8. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, finds that the State party violated article 6, paragraph 1, article 7 and article 10, paragraph 1, of the Covenant.

9. Pursuant to article 2, paragraph 3 (a), of the Covenant, the Committee considers that the author, who has lost her son, is entitled to an effective remedy. The Committee invites the State party to take effective measures (a) to conduct an appropriate, thorough and transparent inquiry into the circumstances of the death of Mr. Vladimir Nikolayevich Telitsin; and (b) to grant the author appropriate compensation. The State party is, moreover, under an obligation to take effective measures to ensure that similar violations do not occur again.

10. The Committee recalls that, by becoming a party to the Optional Protocol, the Russian Federation has recognized the competence of the Committee to determine whether there has been a violation of the Covenant or not and that, under article 2 of the Covenant, the State

party has undertaken to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy when a violation has been established. Consequently, the Committee wishes to receive from the State party, within 90 days of the transmission of these findings, 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 original text being the French version. Subsequently to be issued also in Arabic, Chinese and Russian, as part of the Committee's annual report to the General Assembly.]
