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International Covenant on Civil and Political Rights

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Human Rights Committee

Decision adopted by the Committee under the Optional Protocol, concerning communication No. 3810/2020*, **

Communication submitted by:	F.E.C. (represented by counsel, Manuel Ollé Sesé and Jacinto J. Lara Bonilla)
Alleged victim:	The author
State party:	Spain
Date of communication:	19 November 2019 (initial submission)
Document references:	Decision taken pursuant to rule 92 of the Committee's rules of procedure, transmitted to the State party on 14 August 2020 (not issued in document form)
Date of adoption of decision:	6 November 2020
Subject matter:	Right to an effective remedy for a violation of the prohibition of torture
Procedural issues:	Admissibility *ratione temporis*; abuse of the right of submission; non-substantiation of claims
Substantive issues:	None
Articles of the Covenant:	2 (1), 2 (3), 7, 14 (1) and 15 (2)
Articles of the Optional Protocol:	2 and 3

1. The author of the communication is F.E.C., a national of Spain born on 18 January 1948. She claims that the State party has violated her rights under articles 2 (1), 2 (3) and 14 (1), read in conjunction with article 7, and article 15 (2), read in conjunction with articles 2 (3) and 14 (1), of the Covenant. The Optional Protocol entered into force for the State party on 25 April 1985. The author is represented by counsel.

Facts as submitted by the author

2.1 The author explains that the events referred to in the communication occurred during the dictatorship in place in Spain between 1939 and 1975. The dictatorship stemmed from a military coup d'état against the Government of the Second Republic on 18 July 1936, which, after encountering resistance, led to a violent civil war and, eventually, to the installation of

* Adopted by the Committee at its 130th session (12 October–6 November 2020).

** The following members of the Committee participated in the examination of the communication: Tania María Abdo Rocholl, Yadh Ben Achour, Arif Bulkan, Ahmed Amin Fathalla, Furuya Shuichi, Christof Heyns, Bamariam Koita, David H. Moore, Duncan Laki Muhumuza, Photini Pazartzis, Hernán Quezada Cabrera, Vasilka Sancin, José Manuel Santos Pais, Yuval Shany, Hélène Tigroudja, Andreas Zimmermann and Gentian Zyberi.

the dictatorship of General Francisco Franco. Repression and violence were fundamental pillars of the strategy both for guaranteeing the coup's success and for sustaining the Franco regime. The author appends an expert report[1] stating that torture was common practice until the end of the dictatorship, including during the years of political transition to democracy, and that it was practised by State law enforcement officials, particularly by members of the Brigadas Regionales de Información policiales, the regime's de facto political police. According to the same report, 12 people died as a result of torture committed by government officials in the State party between 1975 and 1982.

2.2 On 5 October 1974, the author was arrested for the first time by members of the Brigada Regional de Investigación Social for taking part in a workers' assembly at a church in Madrid and was released the same day. She had taken part in the assembly as a member of the Liga Comunista Revolucionaria, a political party she had joined in 1972.

2.3 On 8 October 1974, the author was arrested a second time at her home. The police officers broke down her door, held her at gunpoint, dragged her by the hair and hit her repeatedly all over her body. The author urinated on herself from the stress and fear caused by the police bursting into her home. Once on police premises, she was interrogated and tortured multiple times. The police officers involved in her interrogation and torture, most of whom she was unable to identify, included Antonio González Pacheco, also known as "Billy el niño". This police officer was known among opponents of the regime as one of the most ruthless torturers and as an officer who identified himself during torture sessions, boasting about who he was. He would identify himself in order to scare detainees, who usually had heard of his techniques.

2.4 The author was systematically beaten all over her body during interrogation. The punches were delivered chiefly by Antonio González Pacheco. The officers asked her whether she knew other members of the Liga Comunista Revolucionaria and told her that some of her companions had informed on her. They also insulted her, calling her "whore", "slut" and "Commie". At some point, Antonio González Pacheco said that her husband was cheating on her with another woman. These interrogation techniques lasted for hours, during which the author was denied water or a beverage of any kind. The author menstruated while in police custody and urinated on herself several times during the interrogations, without once being allowed to wash. According to the author, she frequently wanted to die. During one of the interrogation sessions on the second day of her time at the General Directorate of Security, Antonio González Pacheco was especially cruel to the author, whose nervous system collapsed, causing her body to go rigid and her arms to remain outstretched, palms downward and hands in a claw-like position, with her fingers partially bent and spread apart. Her neck was hyperextended, with her head tilted back. The nervous fit was the consequence of extreme physical and psychological suffering brought on by many hours of interrogation, blows, humiliation, lack of adequate food and sleep deprivation. Immediately after she suffered the collapse, the author was taken to a doctor, who examined her and administered oral medication, although she does not remember precisely what medication it was. From that point on, the violence of the interrogations lessened, and whenever Antonio González Pacheco entered the interrogation room, the police officers would tell him to leave, as his presence made the author extremely tense.

2.5 On 10 October 1974, the General Directorate of Security of the Ministry of the Interior fined the author 200,000 pesetas (approximately 1,200 euros), owed the moment she was notified of the decision on 11 October 1974. As she could not pay the fine, the author was sentenced to 60 days' detention as from the date of her arrest, in accordance with the provisions of the decision. On 11 October 1974, she was brought before Public Order Court No. 2. On 14 October 1974, pursuant to the administrative penalty, she was taken to the women's penitentiary in Madrid, where she remained until 6 December 1974.

2.6 On 25 September 1975, the author was sentenced by Public Order Court No. 2 to 2 years, 4 months and 1 day of imprisonment for the offence of unlawful association.

[1] José Babiano Mora (doctor of contemporary history), Gutmaro Gómez Bravo (doctor of history) and Antonio Míguez Macho (doctor of history), "El franquismo y la violación sistemática de los derechos humanos" ("The Franco regime and the systematic violation of human rights"), expert report.

2.7 On 23 November 1975, General Franco died. On 25 November 1975, upon the proclamation of Juan Carlos de Borbón as King of Spain, a general pardon was granted, pursuant to which, on 3 July 1976, the author was pardoned by decision of Public Order Court No. 2 and, therefore, never returned to prison.

2.8 On 26 October 1977, the Amnesty Act (No. 46/1977) was adopted, leading to the implementation of a State policy and official position of forgetting and ignoring the alleged international crimes committed during the dictatorship.

2.9 On 14 April 2010, a number of associations initiated legal action for crimes against humanity committed during the dictatorship before National Criminal and Correctional Court No. 1 of Argentina, pursuant to the principle of universal jurisdiction. The author subsequently joined the class action in 2012. On 18 September 2013, based on, inter alia, the facts reported by the author, the Argentine court issued a ruling in which it attributed offences of torture, as provided for in article 144 ter (1) of the Criminal Code of Argentina, to police officer Antonio González Pacheco. The court further ruled that the offences constituted crimes against humanity and, therefore, that legal action and punishment were not time-barred and that the principle of universal jurisdiction applied. On 23 September 2013, Central Investigating Court No. 5 of the National High Court of Spain initiated a passive extradition procedure. On 29 November 2013, the Council of Ministers authorized the judicial extradition procedure to continue. On 30 April 2014, the Criminal Chamber of the National High Court issued a decision denying the extradition request for Antonio González Pacheco on the grounds that, in accordance with Spanish law, the statute of limitations for the offence had expired and he was therefore no longer criminally liable.

2.10 On 14 November 2017, the author lodged a criminal complaint with the Investigating Courts of Madrid against Antonio González Pacheco and all those who were directly or indirectly involved in the events, in which she submitted that the facts constituted crimes against humanity concurrent with offences of torture. The criminal complaint included an expert report[2] concluding that the author "was subjected, beyond the shadow of a doubt, to methods of physical and psychological torture, based on: (a) the methods used during her detention; (b) related indicators; and (c) applicable law". The report also established that the author's account was credible.

2.11 On 7 February 2018, Investigating Court No. 39 of Madrid ruled that any criminal liability that might have arisen from the proceedings against the subject of the complaint, Antonio González Pacheco, had expired. The author filed an appeal against the ruling, which was dismissed by the Provincial High Court of Madrid on 1 October 2018. The Provincial High Court based its decision on the following grounds for dismissal: (a) the definition of crimes against humanity, codified in Organic Act No. 15/2003 of 25 November 2003, which came into effect on 1 October 2004, could not be applied retroactively in keeping with the principle of legality; (b) the statute of limitations for the offences had expired in accordance with articles 131 (1) and 132 of the Criminal Code of Spain; (c) the facts fell within the scope of the Amnesty Act (No. 46/1977) of 15 October; and (d) the facts could not constitute a crime against humanity because the element of a collective and systematic attack had not been proven, as no one other than the subject of the complaint had been accused.

2.12 On 27 November 2018, the author applied for *amparo* against the decision of the Provincial High Court of Madrid. On 18 March 2019, the Constitutional Court dismissed the application for *amparo* for lack of special constitutional significance.

Complaint

3.1 The author submits that the lack of investigation and the refusal to extradite Antonio González Pacheco constitute a violation of her rights under articles 2 (1), 2 (3) and 14 (1), read in conjunction with article 7, and article 15 (2), read in conjunction with articles 2 (3) and 14 (1), of the Covenant.

[2] Expert report of 25 October 2017, drafted in accordance with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) by the therapeutic, legal and psychosocial support network of the Community Action Group.

3.2 The author submits that the dismissal of her criminal complaint on the basis of the principle of legality, the expiry of the statute of limitations for the offences and the application of the Amnesty Act amount to a violation of articles 2 (1), 2 (3) and 14 (1), read in conjunction with article 7, of the Covenant. The author maintains that the facts alleged in the complaint have never been criminally investigated by the courts of the State party despite being international crimes, which include genocide and crimes against humanity, as codified in the Rome Statute of the International Criminal Court of 17 July 1998 on the basis of the Principles of International Law recognized in the Charter of the Nürnberg Tribunal and in the Judgment of the Tribunal. The obligation to criminally prosecute crimes against humanity is also set forth in General Assembly resolution 3074 (XXVIII). Moreover, Spain undertook further obligations by acceding to several international instruments that include the obligation to criminally prosecute international crimes committed in its territory. The author considers that her case deals with acts committed by State officials that are recognized as crimes under *jus cogens* norms of international law, both conventional and customary, and that they have effects *erga omnes*. Therefore, the author submits that, notwithstanding the date of the facts of the complaint or the date of the adoption of the relevant international instruments, the instruments codify the customary principles and norms that were internationally accepted and recognized by the various States, including the obligation to investigate acts of torture. The author recalls that the Committee against Torture has expressed in its concluding observations[3] its concern at the failure to investigate offences committed during the civil war and the Franco regime owing to the statute of limitations or the application of the Amnesty Act.

3.3 The author is of the view that the rejection of the extradition request also amounts to a violation of articles 2 (1), 2 (3) and 14 (1), read in conjunction with article 7, of the Covenant. She claims that, pursuant to the "extradite or prosecute" principle in international law (*aut dedere aut judicare*), the State party had the specific obligation to investigate and prosecute the offence of torture she reported. In the case of another extradition request by Argentina in connection with offences committed during the Franco regime, a group of United Nations human rights experts[4] reminded the State party that it was obliged to extradite perpetrators of serious human rights violations if no measures were being taken by the Spanish justice system to guarantee access to justice and the right to the truth for victims. Accordingly, the author reiterates that the obligation of States to criminally prosecute international crimes committed in their territory is a *jus cogens* norm with effects *erga omnes* and stems not solely from the adoption of international instruments by the international community but also from international custom, which unequivocally imposes on States the obligation to take all appropriate steps to investigate and prosecute such crimes. Thus, by refusing to investigate an international crime, the Spanish State is in grave violation of its obligation.

3.4 The author then analyses each of the arguments raised by the Spanish justice system for refusing to investigate her claims and institute proceedings. Concerning the principle of legality, she underscores that, although the criminal offence of crimes against humanity provided for in article 607 bis of the current Criminal Code did not exist in domestic law at the time of the events, it did exist in international criminal law and constituted *lex certa*, as it met the requirements of certainty, accessibility and foreseeability. In that connection, she recalls that article 15 (2) of the Covenant establishes the principle of legality in criminal law by providing that the existence of a crime under international law can serve as a basis for indictment. The author submits that, in judgment No. 16/2005 of the third section of the Criminal Chamber of 19 April 2005 (*Scilingo* case), the National High Court itself established that article 607 bis applied to events that occurred prior to its entry into force given that such acts had been a punishable offence in international law for decades, since the ban on torture, as an international *jus cogens* norm, was a rule of general application for all States. The judgment also established that the acts involved were not such as to be uncertain

[3] CAT/C/ESP/CO/6, para. 15.

[4] See the statement published on 27 March 2015, "España debe extraditar o juzgar a los responsables de violaciones graves de DD HH – Expertos de la ONU" ("Spain must extradite or prosecute those responsible for serious human rights violations, say United Nations experts"). Available at www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15765&LangID=S.

or unforeseeable in terms of the obligation or prohibition they entailed or the applicable punishment. The National High Court had convicted Adolfo Scilingo of crimes against humanity for his involvement in 30 premeditated killings, unlawful detention and torture. The author believes that it is contradictory for the State party to apply one doctrine in investigating, prosecuting and sentencing a perpetrator of international crimes and then apply the opposite doctrine in her case, strictly enforcing the principle of legality in criminal law without adapting it where appropriate, as required under article 15 (2) of the Covenant. The contradiction is all the more serious in the author's case as it was a matter of investigating international crimes committed in the State party itself. Finally, to investigate the events would be in line with the principle of legality in criminal law because the prohibition of crimes against humanity under international customary and conventional law predates the acts constituting such offences that are the object of her complaint.

3.5 Regarding the statute of limitations for the offences reported by the author, she points out that the most important instrument in that regard is the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, adopted by the United Nations General Assembly on 26 November 1968. Further, article 29 of the Rome Statute of the International Criminal Court establishes the non-applicability of statutes of limitations to the crimes within the jurisdiction of the Court. The author maintains that the 1968 Convention crystallizes a general principle that has existed since at least the adoption of the Nuremberg Charter. In the European system, the European Court of Human Rights has consistently held that crimes against humanity, irrespective of the date of commission, are not subject to any temporal limitation. In the *Kononov* case,[5] the Court maintained that in 1944 there had been a sufficiently clear legal basis at the international level to prosecute perpetrators of war crimes to which the domestic rules on statutory limitations did not apply or which were not time-barred under international law. In *Mocanu and Others v. Romania*, the Grand Chamber recalled that, in cases concerning torture or ill-treatment inflicted by State agents, "criminal proceedings ought not to be discontinued on account of a limitation period, and also that amnesties and pardons should not be tolerated in such cases".[6] In that same judgment, the European Court of Human Rights also stated that "the procedural obligations arising under … the Convention can hardly be considered to have been met where an investigation is terminated, as in the present case, through statutory limitation of criminal liability resulting from the authorities' inactivity".[7]

3.6 As for the application of the Amnesty Act, the author recalls that the Act has been criticized by various United Nations mechanisms: the Committee on Enforced Disappearances,[8] the Working Group on Enforced or Involuntary Disappearances,[9] the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence[10] and the Human Rights Committee itself.[11] The author points out that, in its judgment of 27 February 2012, the Supreme Court recognizes that: "A law on amnesty that excludes the possibility of criminal liability can be considered as an act that restricts or impedes a victim's ability to seek an effective remedy for a rights violation."[12] She also recalls that, according to the above-mentioned judgment of the European Court of Human Rights in *Mocanu and Others v. Romania* (para. 346), amnesty should not apply in cases concerning torture inflicted by State agents.

3.7 In the light of the foregoing, the author is of the view that the State party had the obligation to investigate the allegations of torture and to prosecute her alleged torturer following her complaint and that this absence of an investigation, as well as the refusal to extradite him, constitute a violation of articles 2 (1), 2 (3) and 14 (1), read in conjunction

[5] See European Court of Human Rights, *Kononov v. Latvia*, application No. 36376/04, Grand Chamber judgment of 17 May 2010.

[6] European Court of Human Rights, *Mocanu and Others v. Romania*, para. 326.

[7] Ibid., para. 346.

[8] CED/C/ESP/CO/1, para. 12.

[9] E/CN.4/2006/56, para. 49.

[10] A/HRC/27/56/Add.1, paras. 69–70.

[11] CCPR/C/ESP/CO/5, para. 9.

[12] See https://vlex.es/vid/prevaricacion-crimenes-franquismo-injusticia-356948146.

with article (7), and of article 15 (2), read in conjunction with articles 2 (1) and 14 (1), of the Covenant.

3.8 The author requests that the Committee recommend to the State party that it: (a) conduct an effective judicial investigation into the events of 1974 reported in her complaint, with a view to determining and defining the criminal liability of the perpetrators of these serious human rights violations; (b) effectively apply article 15 (2) of the Covenant to her case; (c) recognize that the offence reported in her complaint is not subject to a statute of limitations; (d) acknowledge that the Amnesty Act of 1977 does not prevent the judicial investigation or prosecution of the offence reported in the complaint; (e) appropriately disseminate the Committee's Views in the relevant editions of the Official Gazette.

3.9 In addition, the author explains that the length of time between the events and her complaints, first in Argentina and later in Spain, is due to various factors. First, the Amnesty Act (No. 46/1977) and the State's policy and narrative of "national reconciliation" were imposed on society as a whole as an unavoidable component of the effort to ensure the country's democratic transition and development. The author claims that it was always clear to her that the State did not have the slightest intention to introduce any element of reparation for the offences committed during the dictatorship. It was only two decades later, when civil society had begun to coordinate and organize a call for the full recognition of the dictatorship's victims, that it became possible for some victims such as herself to lodge petitions in Spain or abroad, in keeping with the principle of universal jurisdiction. She notes that, after Judge Garzón of the National High Court began, in 2006, to investigate reports of offences committed during the dictatorship, he himself was indicted on the charge of malfeasance, though he was later acquitted. The author further recalls that the Amnesty Act continues to be applied today in keeping with the jurisprudence of the Supreme Court in the above-mentioned judgment of 27 February 2012. It is precisely because of this judgment that the author understood that she would not obtain justice in her country and decided to join the class action before the Argentine courts. The author states that her desire to report the events was clear and unequivocal, but it was only after civil society managed to coordinate a memorialization movement that she was able to obtain support in accessing justice. She further states that there is no abuse of the right of submission in her case, as fewer than nine months elapsed between the time she exhausted available remedies and the time she submitted her communication, and that, while there may be a gap between the events and her first complaint, that gap in no way constitutes an abuse of the right of submission. In that regard, she recalls that the Committee's decision in *Hincapié Dávila v. Colombia*,[13] in which it had found the communication inadmissible owing to the amount of time that had elapsed, included a dissenting opinion, indicating that the members of the Committee were not unanimous.

Issues and proceedings before the Committee

Consideration of admissibility

4.1 Before considering any claim contained in a communication, the Committee must decide, in accordance with rule 97 of its rules of procedure, whether the communication is admissible under the Optional Protocol.

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

4.3 The Committee notes the author's argument that the State party had the obligation, under the Covenant, to investigate and prosecute the acts of torture to which she was subjected in October 1974 and to authorize the extradition of her alleged torturer to Argentina. However, the Committee notes that the author did not take legal action in relation to the events of 1974 until 2012, when she did so in a jurisdiction other than that of the State party, and that she did not do so in the State party's jurisdiction until 14 November 2017. The Committee also notes that the author, despite being of the view that legal remedies in the

[13] See CCPR/C/122/D/2490/2014/Rev.1.

State party were blocked by the application of the Amnesty Act (No. 46/1977), did not submit an individual communication between the entry into force of the Optional Protocol in 1985 and 2019, 34 years later.

4.4 The Committee recalls that, although there is no explicit period within which to submit a communication under the Optional Protocol, pursuant to rule 99 (c) of its rules of procedure, "abuse of the right of submission is not, in principle, a basis of a decision of inadmissibility *ratione temporis* on grounds of delay in submission. However, a communication may constitute an abuse of the right of submission when it is submitted five years after the exhaustion of domestic remedies by the author of the communication, or, where applicable, three years from the conclusion of another procedure of international investigation or settlement, unless there are reasons justifying the delay, taking into account all the circumstances of the communication." The Committee also recalls its jurisprudence, according to which the right of submission is considered to have been abused when an exceptionally long period of time has elapsed, without sufficient justification, between the relevant events in the case or the exhaustion of domestic remedies and the submission of the communication in question.[14]

4.5 In the present case, the Committee notes that 38 years elapsed between the alleged acts of torture and the first legal action undertaken by the author in Argentina. It also notes the author's claim that it was always clear to her that the State party did not have the slightest intention to provide reparations for the offences committed during the dictatorship. Nevertheless, the Committee is of the view that the author has not shown how the State's unwillingness prevented her from filing a report or complaint, given that she later did just that without there being any evidence of a change in the position of the authorities of the State party. In the absence of adequate justification, and taking into account that the events in the case took place in 1974, the Committee is of the view that the more than 40-year delay in submitting the communication was not sufficiently justified and is incompatible with the *ratione temporis* requirement under rule 99 of its rules of procedure. The communication is, therefore, inadmissible.

4.6 In addition, the Committee notes that, in the present case, the author's statement regarding the infringement of the obligation to prosecute and convict her alleged torturer and to accede to the extradition request by Argentina relates to the acts of torture of which she was allegedly the victim in October 1974, nearly three years before the entry into force of the Covenant for the State party (27 July 1977) and 10 years before the entry into force of the Optional Protocol (25 April 1985). The Committee notes the author's submission that the acts which she claims were not investigated are offences under *jus cogens* norms of international law, both conventional and customary, and that they have effects *erga omnes*. Therefore, the author states that, irrespective of the dates on which the acts in question were allegedly committed and the relevant international instruments were adopted, the instruments codify customary principles and norms that are internationally accepted and recognized by States, including the obligation to investigate acts of torture.

4.7 The Committee notes that it is competent under article 1 of the Optional Protocol to examine allegations of violations of any of the rights set forth in the Covenant. However, the Committee is not competent to examine violations of other norms of international law or of the obligation to investigate such violations. The Committee recalls that it is precluded *ratione temporis* from examining alleged violations that occurred prior to the entry into force of the Covenant for the State party, unless those violations continued after the Covenant and the Optional Protocol became effective for the State party.[15] Under article 2 (3) (a) of the Covenant, each State party undertakes to ensure that any person whose rights or freedoms as

[14] *Hincapié Dávila v. Colombia*, para. 10.4; *J.B. and E.B. v. Australia* (CCPR/C/120/D/2798/2016), para. 7.7; *C.L.C.D., V.F.C. and A.F.C. v. Colombia* (CCPR/C/116/D/2399/2014), para. 6.5; *Fillacier v. France* (CCPR/C/86/D/1434/2005), para. 4.3; and *M.B. v. Czech Republic* (CCPR/C/106/D/1849/2008), para. 7.4.

[15] Human Rights Committee, general comment No. 33 (2008), para. 9; *K.K. et al. v. Russian Federation* (CCPR/C/127/D/2912/2016), para. 6.3; *Lovelace v. Canada*, communication No. R.6/24, para. 10; *Simunek et al. v. Czech Republic*, communication No. 516/1992, para. 4.5; and *E. and A.K. v. Hungary*, communication No. 520/1992, para. 6.4.

recognized in the Covenant are violated shall have an effective remedy. However, the right to an effective remedy, as provided for in the Covenant, arises when the substantive violation has taken place, or has been determined prima facie, after the entry into force of the Covenant and the Optional Protocol. Thus, the right applies to events that occurred before the entry into force of these instruments only in specific circumstances and if the substantive violation in question amounts to a continuous violation or when an author has been granted victim status after the entry into force of the Covenant and the Optional Protocol.[16]

4.8 In the present case, the Committee notes that the State party was not bound by article 7 of the Covenant prior to 1977 and that a violation of this treaty obligation could not have been the object of an individual communication before 1985, when the Optional Protocol became effective for the State party. In view of the significant passage of time since the events of 1974 and the absence, since then, of a formal acknowledgement by the State party that the author's rights were violated, the Committee cannot conclude that in 1985, after the entry into force of the Optional Protocol for the State party, the State party had an obligation under the Covenant to investigate the author's alleged torture.[17] Therefore, the Committee finds itself precluded *ratione temporis* from examining the author's claim of lack of effective investigation into the acts of torture in keeping with article 2 (1) and (3), read in conjunction with article 7, of the Covenant.

4.9 Regarding the author's claims under article 14 of the Covenant, the Committee notes that they are essentially the same as those made in relation to article 2 (3), read in conjunction with article 7, of the Covenant. In these circumstances, the Committee does not consider examination of whether the State party also violated its obligations under article 14 to be distinct from examination of the violation of the author's rights under article 2 (3). Consequently, the Committee does not consider it necessary to deal separately with the author's claim under article 14 of the Covenant.[18]

4.10 As for the author's claims under article 15 (2), read in conjunction with articles 2 (3) and 14 (1), of the Covenant, the Committee notes that the author refers to the application of article 15 (2) to the case of her alleged torturer. The Committee considers that this claim does not relate to the author's rights and therefore finds it incompatible *ratione personae* with article 2 of the Optional Protocol.

5. The Committee therefore decides:

(a) That the communication is inadmissible under articles 1, 2 and 3 of the Optional Protocol;

(b) That the present decision shall be transmitted to the State party and to the author.

[16] See, mutatis mutandis, *K.K. et al. v. Russian Federation*, para. 6.4.

[17] *K.K. et al. v. Russian Federation*, para. 6.5; European Court of Human Rights, *Janowiec and Others v. Russia*, applications Nos. 55508/07 and 29520/09, judgment of 21 October 2013, para. 157.

[18] *Moreno de Castillo v. Bolivarian Republic of Venezuela* (CCPR/C/121/D/2610/2015 and Corr.1), para. 8.5.