



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. 3144/2018*, **

<i>Communication submitted by:</i>	A.S. (not represented by counsel)
<i>Alleged victim:</i>	The author
<i>State Party:</i>	Russian Federation
<i>Date of communication:</i>	15 January 2018 (initial submission)
<i>Document references:</i>	Decision taken pursuant to rule 92 of the Committee's rules of procedure, transmitted to the State Party on 19 June 2018 (not issued in document form)
<i>Date of adoption of decision:</i>	17 July 2025
<i>Subject matter:</i>	Detention of a person with healthcare needs
<i>Procedural issues:</i>	Exhaustion of domestic remedies; lack of substantiation of claims; admissibility <i>ratione materiae</i>
<i>Substantive issues:</i>	Arbitrary detention; torture; presumption of innocence; healthcare in detention
<i>Articles of the Covenant:</i>	7, 9 (3) and (4), 10 (1), 11, 14 (2) and 26
<i>Articles of the Optional Protocol:</i>	2, 3 and 5 (2) (b)

1. The author of the communication is A.S., a citizen of Kazakhstan born in 1977. He claims to be the victim of a violation, by the Russian Federation, of his rights under articles 7, 9 (3) and (4), 10 (1), 11, 14 (2) and 26 of the Covenant. The Optional Protocol entered into force for the Russian Federation on 1 January 1992. The author is not represented by counsel.

Factual background

2.1 On 25 February 2011, the author moved from Kazakhstan to the Russian Federation. On 12 October 2016, he was arrested by the police in Novosibirsk for the purpose of extradition to Kazakhstan. The extradition request from the Office of the Prosecutor General of Kazakhstan was based on criminal charges brought against the author in 2012 under article 177 (3) of the Criminal Code of Kazakhstan of 1997, relating to a fraud involving a

* Adopted by the Committee at its 144th session (23 June–17 July 2025).

** The following members of the Committee participated in the examination of the communication: Wafaa Ashraf Moharram Bassim, Rodrigo A. Carazo, Yvonne Donders, Carlos Ramón Fernández Liesa, Laurence R. Helfer, Konstantin Korkelia, Dalia Leinarte, Bacre Waly Ndiaye, Hernán Quezada Cabrera, Akmal Saidov, Ivan Šimonović, Soh Changrok, Teraya Koji, Hélène Tigroudja and Imeru Tamerat Yigezu.



large amount in 2010. On 19 November 2012, a police arrest warrant was issued for the author in Kazakhstan. On 30 November 2012, Ust-Kamenogorsk Court No. 2, East Kazakhstan Oblast, authorized the author's detention for two months. An international arrest warrant for the author was issued on 3 June 2014.

2.2 On 14 October 2016, the Oktyabrsky District Court of Novosibirsk ordered the author's detention pending extradition for 40 days. In 2015, the author had had an accident and had broken his right leg. He had had three surgeries to have metal plates inserted and needed two further surgeries and rehabilitation treatment at the time of his arrest.

2.3 On 23 December 2015, criminal proceedings were initiated against the author in the Russian Federation under article 159 (2) of the Criminal Code of the Russian Federation (fraud) for deceitfully obtaining large amounts of money from several persons, with no intention of repaying them. On 18 October 2016, the Oktyabrsky District Court of Novosibirsk ordered the author's detention in this connection, until 17 December 2016. The author's extradition was suspended while the criminal investigation proceeded, and his extradition detention was substituted with pretrial detention. In November 2016, the author was transferred to pretrial detention facility No. 1 in Krasnoyarsk. His detention was extended by the Sovetsky District Court of Krasnoyarsk on 15 December 2016, 13 February 2017 and 15 March 2017, until 31 August 2017. On 22 August 2017, the Sovetsky District Court of Krasnoyarsk found the author guilty on three counts under article 159 (2) of the Criminal Code and sentenced him to two years in prison.

2.4 In March 2017, the author's trial started, and he was brought to the court on several occasions. He claims that the transport caused him extreme suffering, as he could not bend his right leg. On 11 August 2017, he requested medical assistance at the medical unit of the pretrial detention facility because his leg had become swollen. On 16 August 2017, he informed the court that his health condition was deteriorating, and he motioned the court to conduct an independent medical examination and to request medical certification of his health condition from the detention facility. The court rejected his motion insofar as the independent medical examination was concerned and requested the detention facility to provide the author's medical certificate. The author had leg surgery at the medical unit of the detention facility on 17 and 18 August 2017 and was brought to the court hearings on 21 and 22 August 2017.

2.5 On 21 January 2018, the author was taken to Krasnoyarsk Krai tuberculosis hospital No. 1 in Krasnoyarsk, where, on 26 January 2018, he was operated on to remove part of the metal plates in his leg. In June and July 2018, he once again experienced complications with the metal plates in his leg. In August 2018, the mobile medical team examined the author and diagnosed him with an inguinal hernia and a possible tumour on his back. The author was to be transferred to Krasnoyarsk Krai tuberculosis hospital No. 1 in September but he refused because his sentence was nearing its end. On 27 November 2018, the author had surgery to remove a basal cell carcinoma on his back. On 28 November 2018, his leg was operated on.

2.6 On 21 September 2018, the author was released from prison. He was immediately arrested by the police and detained for the purpose of extradition. On the same date, the Sovetsky District Court of Krasnoyarsk authorized the author's extradition detention for two months. The duration of the author's extradition detention was extended on 12 November 2018 and 12 March 2019. The author appealed each decision, contesting the legitimacy of the extradition request and of his arrest, claiming excessively prolonged detention because of the failure of the prosecutorial authorities to conduct an extradition review while he had been in pretrial detention, and raising his health concerns. His appeals and cassation appeals were rejected.

2.7 On 19 February 2019, the author submitted a civil claim for compensation for unlawful detention between 18 October and 21 November 2016 to the Zheleznodorozhny District Court of Krasnoyarsk. He claimed that, although there had been a prosecutor's decision of 18 October 2016 to release him from detention, he was never released. His claim was rejected by the court for lack of territorial jurisdiction.

2.8 On an unspecified date, the author filed an application with the European Court of Human Rights, which was returned without examination on the ground that he had failed to complete the application form correctly.

Complaint

3.1 The author claims that his rights under article 7 of the Covenant were violated on account of his continuous detention and transportation to court hearings in disregard of his serious and deteriorating medical condition.

3.2 The author argues that his rights under article 9 (3) and (4) of the Covenant were violated because the decisions of the domestic courts to order his detention and further extend it lacked reasoning and that the courts failed to consider his personal circumstances and medical condition. He further claims that he was arrested twice for the purpose of extradition on the basis of the same decision of Ust-Kamenogorsk Court No. 2. Therefore, his arrest on 21 September 2018 was unlawful. The author also claims that, after his initial detention for the purpose of extradition on 14 October 2016, the prosecutorial authorities had one year and eight months to conduct the extradition review. He claims that his extradition detention was excessively long.

3.3 The author claims that his continuous detention led to a deterioration in his health, in violation of article 10 (1) of the Covenant.

3.4 The author claims that article 11 of the Covenant was violated because no one should be imprisoned for failure to meet contractual obligations, whereas he was accused and detained for having borrowed money on several occasions.

3.5 The author alleges that, because of his bad health condition and pain, he could not adequately prepare for and meaningfully participate in the trial court hearings on 16, 21 and 22 August 2017.¹ He was transported to the trial court hearings against the advice of the detention facility medical unit. The trial court requested a medical certificate from the detention facility but delivered its verdict without obtaining the certificate.

3.6 The author further alleges that, by postponing extradition verification, the prosecutorial authorities violated the presumption of innocence under article 14 (2) of the Covenant, since he was not found guilty by the court until 22 August 2017.

3.7 The author claims that he was discriminated against on the basis of his foreign nationality, in violation of article 26 of the Covenant.

State Party's observations on admissibility and the merits

4.1 On 17 December 2019, the State Party submitted its observations on admissibility and the merits. In response to the author's claims about inadequate medical care in detention, it states that the Sovetsky District Court of Krasnoyarsk considered his health as a mitigating factor during sentencing, while the Krasnoyarsk Krai Court found, on appeal, that the medical certificate of 16 December 2017 showed no evidence of an inability to receive adequate care in custody. The court decisions of 2016 and 2017 authorizing detention do not indicate that the author informed the courts of his leg injury or rehabilitation needs. On 21 September 2018, the Krasnoyarsk Krai Court reviewed his health information but found no medical grounds precluding detention. The State Party adds that compensation for harm to health in detention can be sought under the Code of Administrative Procedure, noting that, in 2017, 1,902 out of 3,917 such claims were granted, leading to compensation totalling 75,901,437 roubles. It therefore considers the author's claims under articles 7 and 10 (1) of the Covenant inadmissible for failure to exhaust domestic remedies.

4.2 The State Party considers that the author's claim under article 11 of the Covenant is unsubstantiated, since the author was found guilty of intentionally misappropriating the property of others by way of deception.

4.3 The State Party submits that the author did not clarify his claims under article 14 (2) of the Covenant. Neither did the author explain how he was discriminated against under article 26 of the Covenant. The State Party considers both claims unsubstantiated.

¹ The author raised this issue with the prosecutor's office. On 22 June 2018, the Krasnoyarsk Krai prosecutor's office found that the author had been transported to the court hearing on 16 August 2017 contrary to medical advice. The head of the Krasnoyarsk Krai Department of the Federal Penitentiary Service was issued with a formal warning, which was then placed under review.

4.4 On the merits, the State Party rebuts the author's allegations, under articles 7, 9 and 10 (1) of the Covenant, that his detention disregarded his health condition and amounted to torture or inhuman or degrading treatment and presents detailed information on medical treatment provided to the author in detention.

4.5 Regarding the author's claims of unlawful and arbitrary detention under article 9 of the Covenant, the State Party affirms that the decisions of the domestic courts confirm that sufficient grounds existed for pretrial detention. The author's detention was reviewed and extended with proper legal justification and judicial oversight.

4.6 On the allegations under article 14 of the Covenant, the State Party responds that the author was represented by his defence counsel throughout the trial and actively exercised his right to defence, including through appeals.

4.7 The State Party denies that any discriminatory treatment took place in violation of article 26 of the Covenant. The author's citizenship was only one of the grounds taken into account by the courts in choosing a preventive measure.

Author's comments on the State Party's observations on admissibility and the merits

5. On 1 April 2019, the author provided his comments on the observations of the State Party. He reiterates his claims under all the articles that he originally invoked and insists on their admissibility and that his rights were violated.

State Party's additional observations

6. On 20 January 2020, the State Party submitted additional observations. The State Party provides clarifications regarding the author's claim that his detention on 18 October 2016 was arbitrary. The State Party explains that, although the prosecutor issued a decision on 18 October 2016 to end the extradition-related detention, the author was not released because, on the same day, a new preventive measure – detention pending criminal investigation and trial for unrelated charges committed on the territory of the Russian Federation – was imposed. The State Party argues that all procedural steps were lawfully conducted, that the author was fully informed of the measures taken against him, and that his claims of unlawful and arbitrary detention are unsubstantiated and not supported by domestic or international law.

Issues and proceedings before the Committee

Consideration of admissibility

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

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

7.3 The Committee notes the allegation of the author that his rights under articles 7 and 10 (1) of the Covenant were violated because he was detained despite his health condition and that his health deteriorated in detention, that transportation in a vehicle to the court hearings caused him severe pain and that he was brought to the court hearings on 21 and 22 August 2017 contrary to medical advice. His claims concerning transportation to the court hearing on 16 August 2017 were addressed by the prosecutor's office on 22 June 2018. However, they were not pursued further by the author. The Committee notes that the author did not raise the issue of his transportation before the domestic courts and finds this part of the claim inadmissible for lack of exhaustion of domestic remedies under article 5 (2) (b) of the Optional Protocol.

7.4 Regarding the remainder of the author's claims under articles 7 and 10 (1) of the Covenant, the Committee observes that the documents available on file, as well as the submission of the State Party, clearly suggest that the author's health-related claims were assessed by the domestic authorities and courts when ordering his detention. In 2016 and

2017, the author did not bring his medical concerns to the attention of the courts when they decided on his detention. In 2018 and 2019, despite his claims, the courts found that his illnesses could be treated in detention and thus that his detention was not precluded under domestic law. The Committee does not detect any sign of a manifest error or denial of justice by the courts in assessing the author's health concerns when they adopted decisions on extradition and pretrial detention. The Committee further notes that the author was under the constant supervision of medical specialists in pretrial detention facility No. 1 and in prison, that his health concerns were addressed in a timely manner, and that he received hospital treatment, including surgical treatment, when it was needed, including in November 2018, when he was detained for the purpose of extradition. The author did not bring domestic complaints about inadequate provision of medical care in detention.

7.5 In addition, judging from the letter from the Krasnoyarsk Krai prosecutor's office of 2 October 2018 (see above), the advice of the medical unit of the detention facility not to participate in the investigative and judicial proceedings for medical reasons concerned the period from 11 to 17 August 2017. No such restrictions were established for 21 and 22 August 2017, when the author was brought to the court hearings. On the basis of the facts before it, the Committee finds the author's allegations under articles 7 and 10 (1) of the Covenant insufficiently substantiated and inadmissible under article 2 of the Optional Protocol. The Committee does not find it necessary to consider other inadmissibility grounds raised by the State Party regarding this part of the submission.

7.6 The Committee takes note of the author's claims under article 9 (3) and (4), including the author's allegations that his pretrial and extradition detention was unlawful; that he was not released from custody when his extradition detention order of 14 October 2016 was cancelled by the prosecutor on 18 October 2016; and that his extradition detention in 2018 and 2019 was excessively long. The Committee notes that the author's detention was requested by the law enforcement authorities and ordered by the courts on each occasion, in a timely manner, with an indication of the reasons for which non-custodial measures could not be applied. The duration of his detention did not exceed the terms set out in national law, and this was clarified by the courts. The Committee also observes that the courts and the prosecutor's office provided the author with detailed explanations about the substitution of his extradition detention with pretrial detention in connection with a criminal investigation in the State Party. The Committee finds no indication of arbitrariness in the responses of the authorities and courts to the author that would warrant a re-evaluation of the facts, evidence or the application of national law. The Committee considers the author's claims under article 9 (3) and (4) of the Covenant insufficiently substantiated and inadmissible under article 2 of the Optional Protocol.

7.7 The author's claim under article 11 of the Covenant alleging his imprisonment for inability to return borrowed money does not correspond to the facts of his criminal case as available on file. The author was not imprisoned for failing to fulfil a contractual obligation, but pursuant to a court conviction for misappropriating large sums of money from others by using a false identity and deceit, which constitutes a criminal offence under the State Party's Criminal Code. Article 11 of the Covenant does not provide protection from imprisonment for criminal fraud. The Committee finds that the author's claim falls outside the scope of article 11 and is inadmissible *ratione materiae* under article 3 of the Optional Protocol.

7.8 The Committee notes that the author did not bring to the attention of domestic courts his allegations under article 14 of the Covenant about the impossibility of adequately preparing for and meaningfully participating in the trial court hearings because of the pain in his leg. It finds this claim inadmissible for lack of exhaustion of domestic remedies, under article 5 (2) (b) of the Optional Protocol.

7.9 The author does not provide any substantiation of his claim under article 14 (2) of the Covenant. The Committee, therefore, finds it unsubstantiated and inadmissible under article 2 of the Optional Protocol.

7.10 The Committee, similarly, does not find sufficient substantiation for the author's claim under article 26 of the Covenant. It considers this part of the submission inadmissible under article 2 of the Optional Protocol.

8. The Committee therefore decides:

(a) That the communication is inadmissible under articles 2, 3 and 5 (2) (b) of the Optional Protocol;

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