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Human Rights Committee

Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2062/2011[*] [**]

Submitted by:	M.K., V.G., M.T. and J.Z. (represented by counsel, Mr. Ludovit Mraz)
Alleged victim:	The authors
State Party:	Slovakia
Date of communication:	14 June 2010
Document references:	Decision taken pursuant to rule 97 of the Committee's rules of procedure, transmitted to the State party on 20 May 2011 (not issued in document form)
Date of adoption of Views:	23 March 2016
Subject matter:	Dismissal of civil servants under duress
Procedural issues:	Exhaustion of domestic remedies
Substantive issues:	Right to have access to public service, right to equal protection of the law, right to an effective remedy
Articles of the Covenant:	2 (1), 2 (3), 25 (c) and 26
Articles of the Optional Protocol:	5 (2) (b)

[*] Adopted by the Committee at its 116th session (7-31 March 2016).

[**] The following members of the Committee participated in the examination of the communication: Yadh Ben Achour, Lazhari Bouzid, Sarah Cleveland, Olivier de Frouville, Yuji Iwasawa, Ivana Jelic, Duncan Muhumuza Laki, Photini Pazartzis, Mauro Politi, Sir Nigel Rodley, Victor Manuel Rodríguez-Rescia, Fabián Omar Salvioli, Dheerujlall Seetulsingh, Anja Seibert-Fohr, Yuval Shany, and Margo Waterval.
Three individual opinions signed by four Committee members are appended to the present Views.

1.1 The authors of the communication are M.K., V.G., M.T. and J.Z., Slovak nationals born in 1966, 1962, 1951 and 1963 respectively. They claim to be victims of a violation of articles 2, paragraphs 1 and 3; 25 (c) and 26 of the Covenant. They are represented by counsel. The Optional Protocol entered into force for the State party on 28 August 1993.

1.2 By decision of 29 July 2011, the Special Rapporteur on new communications and interim measures, acting on behalf of the Committee, denied the State party's request that the Committee consider the admissibility of the communication separately from the merits.

The facts as submitted by the authors

2.1 The authors are former civil servants having worked for the Slovak Information Service (SIS).[1] In 2003, they were called to a meeting with their supervisors and pressured to resign. The supervisors invoked a draft law according to which civil servants having served in the Federal Ministry of Interior of the Czechoslovak Social Republic before 1989, and specifically in the area of the "protection of the State and the economy", could no longer serve in the SIS. The supervisors threatened the authors with writing reports that determined the authors' professional incompetence if they failed to resign, in which case they would not benefit from their social entitlements. The authors note that, throughout their careers, they had never been subjected to a disciplinary action and they met all the required criteria to fulfil their functions. No law was in place forbidding them to serve in the SIS.

2.2 The authors refused at first to resign. However, given their age and the threat of losing their social benefits, they ended up resigning. In their written declarations, the authors stated that they were acting under pressure and not in free will. They ceased to serve in the SIS around 2003 and 2004.

2.3 *Act 241/2002 Z.z., protecting secret information*, establishes that the exercise of functions in the Federal Ministry of Interior of the Czechoslovak Social Republic before 1989, and specifically in the area of the "protection of the State and the economy", did not constitute a risk to security and did not exclude the possibility that these persons continued to serve in the SIS. Therefore, the authors claim that, by forcing them to resign, their supervisors did not act according to the law.

2.4 On 11 June 2003, the then SIS director presented the 2002 activity report to Parliament. In his speech, he referred to staff changes within the SIS and stated that "all problems affecting the SIS stemmed from old communist State security agents and that for this reason he himself would get rid of them before the end of the year."

2.5 On 21 May 2007, the authors filed a criminal complaint against their supervisors and the SIS director with the District Military Prosecutor's Office of Trencin for abuse of power and blackmailing. By decision of 16 September 2008, the complaint was dismissed, on the basis that the conduct did not constitute a crime. The Prosecutor considered that the authors' superiors could not commit abuse of power since they were not the ones adopting decisions but only transmitting information to the authors concerning the consequences of their security evaluation and performance report, and therefore, they were only exercising the tasks assigned to them by the SIS director.[2] The authors appealed this decision to the Superior Military Prosecutor's Office of Trencin. On 20 November 2008, the Superior

[1] Government intelligence service.

[2] In the decision of the Superior Military Prosecutor, the facts are established as follows: The defendants drew a list of persons incompetent to exercise their functions in the SIS without a legal basis and without knowing the results of the security evaluations by the National Security Agency. Then, under threat of exposing their incompetence and deprive them of their entitlements, they forced the authors to resign.

Military Prosecutor rejected the appeal, considering that the decision of first instance was well substantiated.

2.6 On 12 January 2009, the authors seized the Constitutional Court arguing that State institutions had not intervened to ensure the respect to their human rights. The authors invoked a violation of their constitutional rights and of articles 2, paragraph 3; 25 c); and 26 of the Covenant, as well as article 8 of the Universal Declaration of Human Rights. On 12 March 2009, the Court rejected the complaint stating that the authors had been able to exercise their rights in the criminal proceedings and that the District Prosecutor had addressed their claims and sufficiently substantiated its decision. Having found that the right to a fair hearing had been respected, the Court considered that the principle of prohibition of discrimination (articles 25 (c) and 26 of the Covenant) had also been respected.

The complaint

3.1 The authors claim a violation by the State party of articles 2, paragraphs 1 and 3; 25(c) and 26 of the Covenant.

3.2 The authors claim to be victims of discrimination with regard to civil servants who had started their service after 1989. They note that they were dismissed on the basis of these sole criteria and that their performance or professional capacity was not considered in the decision. They also claim that they were forced to resign under threat and without a legal basis, which constitutes an unreasonable restriction to their right to have access to public service.

3.3 The authors further claim that their right to an effective remedy was also violated, because the District Military Prosecutor dismissed their claim despite the fact that the SIS director and their supervisors should have been criminally prosecuted. This remedy was therefore ineffective. In similar cases, the civil jurisdiction declared the validity of such resignations and, therefore, the civil remedy is also ineffective. The constitutional remedy is also ineffective as it did not provide redress for the violations of their rights.

3.4 The authors request that the State party be required to pay compensation to them for moral and material damages.[3]

State party's observations on admissibility and merits

4.1 In its submissions of 21 June 2011 and 17 October 2011,[4] the State party challenges the admissibility of the communication. The State party notes that, as stated by the Constitutional Court, the authors were able to appeal against the decision of the District Military Prosecutor to the Superior Military Prosecutor, who was able to review the facts and the application of the law in the case. Therefore, the authors were given the possibility to exercise their rights during the criminal proceedings initiated by them.

4.2 The State party notes that the Constitutional Court found that the authors' claims related to issues under articles 25(c) and 26 of the Covenant were manifestly unfounded. The State party adds that the authors' complaint to the Constitutional Court questioned the decisions of the prosecuting authorities and not the conduct of the SIS itself related to the alleged discrimination in the authors' access to public service. Regarding this particular claim against the SIS, the authors could have availed themselves of the procedures related to their labour (or public service) relationship. The State party notes that the authors could

[3] The authors claim, as compensation for moral damages, the payment of 47,261 euros for Mr. M.K., 49,353 for Mr. V.G., 50,825 for Mr. M.T., and 44,980 for Mr. J. Z. The authors also claim payment of 1,000 euros to each to cover legal expenses.

[4] Both submissions had an identical content.

have brought this complaint but they did not. Therefore, the State party claims that domestic remedies have not been exhausted and that the complaint is inadmissible under article 5, paragraph 2, of the Optional Protocol.

Authors' comments on the State party's observations

5.1 On 14 December 2011, the authors note that the Constitutional Court declared their complaint admissible but not disclosing a violation of any fundamental rights.

5.2 The authors note that criminal proceedings are independent from labour (civil) proceedings. Therefore, their failure to file a civil complaint did not in any way preclude the consideration of their criminal complaint. The authors insist that, in similar cases, the civil jurisdiction declared the validity of such resignations and rejected civil claims filed by other former SIS staff having served before 1989. The authors argue that the State party cannot expect that the dismissals be annulled by the civil jurisdiction as a precondition to finding criminal responsibility of State institutions. The authors note that their superiors committed a crime as representatives of a State institution and in the exercise of their functions. The authors add that the State party is responsible for the actions of State agents in the exercise of their functions.

Further submissions from the parties

6.1 On 21 January 2016, the State party informed the Committee that civil service regulations applicable to members of the police, SIS and prison guards are contained in Act 73/1998 Coll. All claims regarding the service may be first addressed to a supervisor or director of the SIS. All decisions issued by the superiors, including a decision to dismiss from service may be subject to judicial review. Article 248 of the Act grants employees a right to petition for a judicial review of any decision of their superiors. The general courts have the right to rescind or amend the decision in question according to the Code of Civil Procedure (chapter 5, Administrative proceedings). The complaint must be filed within two months after a final decision has been issued. This right is equal to rights provided for in the Labour Act and Civil Service Act, which ensure that each employee may file a complaint against invalid termination of employment. This right was not exercised in the present case.

6.2 Protection against mobbing or bossing provided by the Anti-Discrimination Act came into force in July 2004, after the events in the present case. Accordingly, an action based on this Act could not have been filed.

6.3 Regarding the claim that "civil courts have already declared the validity of forced resignation of former SIS civil servants" the State party has no knowledge of such decisions. Nor do they seem likely, since if a resignation is proven to be forced it may not be valid. In any event, the courts must review each individual case separately, regardless of decisions made in other similar cases.

7. On 17 February 2016, the authors commented on the observations provided by the State party. They indicate that, at the time when the facts took place, there was not an affective remedy against discrimination under domestic law, as the State party has acknowledged. This also shows that the State party was unable to protect the authors' rights under the Covenant. As to whether national courts had rejected claims submitted by former SIS civil servants against their dismissals, this information is contained in the decision dated 16 September 2008 by which the District Military Prosecutor rejected their claims (see para. 2.5). The Prosecutor reached his decision on the basis of five judgments issued by the Supreme Court in which the Court did not consider that the dismissal of former SIS civil servants in similar cases was illegal. The State party should have provided the Committee with detailed information about the judgments in question.

Issues and proceedings before the Committee

Consideration of admissibility

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

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

8.3 The Committee takes note of the State party's argument that domestic remedies have not been exhausted as the authors did not use civil proceedings to claim the violation by the SIS of their rights related to discrimination in the access to public service. However, the Committee notes that the authors filed criminal claims against the SIS for blackmailing and abuse of power with the District Military Prosecutor and that they appealed against this decision to the Superior Military Prosecutor. The authors expressly invoked articles 2, paragraph 3, 25 and 26 of the Covenant in their claim to the Constitutional Court. The Committee also notes the authors' argument that civil proceedings are ineffective, as the civil jurisdiction has already declared the validity of forced resignations of SIS agents having served before 1989; and that in his decision dated 16 September 2008, the Prosecutor referred to five judgments in which the Supreme Court had not concluded that the dismissal of former SIS civil servants in similar cases was illegal. In light of the above, the Committee considers that domestic remedies have been exhausted.

8.4 Therefore, the Committee declares the communication admissible and proceeds to its examination on the merits.

Consideration of the merits

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

9.2 The Committee takes note of the authors' allegation that they were discriminated in relation to civil servants in the SIS who started their service after 1989. The Committee recalls that article 26 prohibits discrimination in law or in fact in any field regulated and protected by public authorities, and that not every differentiation of treatment will constitute discrimination, if the criteria for such differentiation are reasonable and objective and if the aim is to achieve a purpose which is legitimate under the Covenant.[5]

9.3 In particular, article 26 does not prevent State parties from vetting or removing civil servants who had collaborated with prior regimes and who, due to their positions, may pose a significant danger to human rights or democracy. However, for these vetting or removals to be compatible with the Covenant, they should comply with the non-discrimination principle, due process guarantees and other rights protected by the Covenant.[6]

9.4 In the present case, the Committee notes the authors' claim that they were forced to resign from public service under threat of losing social benefits to which they were entitled as civil servants, and that the sole argument for this decision provided by their supervisors was that the authors had initiated their service for the State intelligence agency before 1989.

[5] General Comment No. 18 (1989) on non-discrimination, paras. 12 and 13.

[6] See, in this line, the Final Opinion on the Law on Government Cleansing (Lustration Law) of Ukraine, adopted by the Venice Commission, CDL-AD(2015)012, paras. 18, 19, 20 and 108.

The supervisors invoked a draft law that allegedly made the service for the SIS and the former Czechoslovakian Ministry of Interior incompatible, even though *Act 241/2002* did not exclude the possibility that agents having served in the Interior Ministry before 1989 – and particularly in the area of "protection of the State and the economy"- could continue to serve in the SIS. The Committee further notes that the authors' performance or capacity to exercise their functions had not been called into question; that, after 1989, they continued to exercise their functions at the SIS for 14 years; that no individual assessment regarding their performance was conducted before they were forced to resign; that the State party has not put forward any argument to the effect that the different treatment among SIS agents having served at the SIS before and after 1989 was based on objective and reasonable criteria and aimed at achieving a legitimate purpose; and that the SIS director´s statement to Parliament suggested that the decision was rather based on political considerations. In light of this, and in the absence of explanations by the State party on how the measures impugned by the authors were consistent with the State party's obligations under article 26, the Committee considers that the decision to force the authors to resign from public service in their country resulted in discrimination on political grounds, in violation of article 26 of the Covenant.[7]

9.5 Having reached this conclusion the Committee will not examine, in the circumstances of the case, the authors' claims under article 25(c), read in conjunction with article 2(1) and(3). In the present communication these claims refer to the same State obligations as those stemming from article 26 of the Covenant.

10. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the facts before it reveal a violation of article 26 of the Covenant.

11. In accordance with article 2(3)(a) of the Covenant, the State party is under an obligation to provide the authors with an effective remedy. This requires it to make full reparation to individuals whose Covenant rights have been violated. Accordingly, the State party is obligated, inter alia, to provide the authors with adequate compensation. The State party is also under an obligation to take steps to prevent similar violations in the future.

12. Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether or not there has been a violation of the Covenant and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory or subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy where a violation has been established, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to the Committee's Views. The State party is also requested to publish the Committee's Views and to have them translated into the official language of the State party and widely distributed.

[7] See the Committee's Views in Communications No. 309/1998, *Carlos Orihuela Valenzuela v. Peru*, Views adopted on 14 July 1993, para. 6.4; No. 314/1988, *Chiiko Bwalya v. Zambia*, Views adopted on 14 July 1993, para. 6.7 ; No. 468/1991, *Oló Bahamonde v. Equatorial Guinea*, Views adopted on 20 Oct. 1993, para. 9.5; and No.1449/2006, *Giyasovich Umarov v Uzbekistan*, Views adopted on 19 October 2010, para. 8.8.

Annex I

Individual opinion of Committee member Yuval Shany (dissenting)

1. I regret that I cannot accept the Views of the Committee on the admissibility of the Communication.

2. The authors claim to have been victims of discrimination in that they have been forced to resign from the Slovak Information Service (SIS) solely because of their employment in the communist-era State security agency of Czechoslovakia. For reasons which are not properly explained in their Communication, they have chosen not to bring legal proceedings alleging discrimination, coercion or wrongful dismissal before the civil courts of Slovakia. Instead, they petitioned the District Military Prosecutor to initiate criminal proceedings against their supervisors, who have allegedly induced their resignation.

3. The position of the majority on the Committee according to which that the initiation of criminal proceedings satisfies in the circumstances of the case the requirement of exhaustion of domestic remedies is unpersuasive, as the claims of the authors appear to raise issues which do not appear to be predominantly criminal in nature, but rather falling under the jurisdiction of civil courts (applying contract law, administrative law or labor law). Moreover, the burden of proof required for the successful pursuit of criminal proceedings is typically higher than that required in civil proceedings. As a result, the inability of the authors to successfully initiate criminal proceedings does not necessarily establish the non-availability of civil proceedings, and I do not consider the launch of criminal proceedings as satisfying the authors' duty to exhaust all effective domestic remedies, including all available civil remedies.

4. The majority on the Committee also took the position that since civil courts have already dismissed on five previous occasions petitions by similarly situated individuals forced to resign from the SIS, no effective civil remedies are available to the authors in the circumstances of the case. Still, there is nothing on record which suggest that any of these five previous cases raised the issues of discrimination or violation of the Covenant contained in the present Communication, as opposed to the question of whether or not resignation from the SIS was coerced. Moreover, since questions of coercion involve the evaluation of facts, it is difficult to accept without a detailed analysis of factual similarities, that the outcomes of previous cases should necessarily predetermine the outcome of the present case, which may be factually similar but not identical. It is worth noting in this regard the consistent case law of the Committee, according to which the "mere doubts about the effectiveness of local remedies or the prospect of financial costs involved did not absolve an author from pursuing such remedies".[a] In my view, the authors - who have not appended to their Communication the cases relating to the other SIS employees - have not dispelled the doubts about the relevance of the five past judgments to the present Communication, about the factual identity of the respective cases and, as a result, about the existence of effective domestic remedies.

5. Since I am of the view that the Communication should not have been found admissible, I do not need to reach firm conclusions on the merits of the case. I would note, however, in this regard that I have doubts whether it has been shown to the Committee that inducing the authors to resign from the SIS constituted a form of prohibited discrimination.

[a] A v Australia, Comm. No. 560/1993, Views of the Committee of 3 April 1997, para. 6.4.

Lustrations or vetting practices have been used in recent decades in several post-communist societies as a transitional justice mechanism designed to protect new democracies from threats posed by individuals affiliated with the pre-transition totalitarian regime, to rebuild trust in new political institutions and to sanction those involved in human rights violations.[b] Such practices are not unlawful per se, provided that vetting is applied on an individualised basis, in which vetted individuals enjoy basic guarantees of fairness.[c]

6. In the present case, it is not clear whether all communist-era agents were in fact pressurised to resign from the SIS. In fact, it appears that Act 241/2002 Z.z., protecting secret information did not require all such agents to resign-a legal norm which is consistent with an individualised application of a vetting policy. Moreover, the failure of the authors to directly challenge before civil courts the grounds for their induced resignation, makes it difficult for us to find that the State party deprived them of basic guarantees of fairness. This is because access to judicial review, which the authors chose not to invoke, constitute a basic guarantee of fairness which was available to them.

[b] Cf. Venice Commission Interim Opinion on the Law on Government Cleansing (Lustration Law) of Ukraine, 16 Dec. 2014, para. 15; OHCHR, Rule-of-Law Tools for Post-Conflict States: Vetting - an Operational Framework (2006) p. 4.

[c] OHCHR, supra note 2, at pp. 25-26.

Annex II

Individual opinion of Committee member Dheerujlall B. Seetulsingh (dissenting)

1. In my opinion the Communication is inadmissible. I note the State party's argument that domestic remedies have not been exhausted as the authors did not use civil proceedings to claim the violation by the SIS of their rights related to discrimination in the access to public service. Instead the authors filed a criminal complaint against their supervisors and the SIS director with the District Military Prosecutor's Office for abuse of power and blackmailing. When the case was dismissed, they appealed to the superior Military Prosecutor's Office. Following a dismissal of their appeal, they seized the Constitutional Court which rejected their case. This course of action was ill-advised.

2. The authors have stated that, in similar cases, civil courts have declared the validity of forced resignations of former SIS agents having served before 1989. However, the authors have failed to identify any specific case where civil courts would have ruled in favour of the validity of forced resignations by former SIS civil servants in the same circumstances as the authors. Furthermore, mere doubts about the effectiveness of domestic remedies do not absolve them from exhausting such remedies. It is often through actual litigation that cases which appear to be generally similar are distinguished or reevaluated by domestic courts. Therefore I consider that the authors have failed to demonstrate that civil proceedings would have been ineffective in the present case. In light of the above, and noting the predominance of the labour dispute and administrative issues at stake, I conclude that domestic remedies have not been exhausted and find the communication inadmissible pursuant to article 5, paragraph 2(b) of the Optional Protocol.

Annex III

Individual opinion of Committee members Anja Seibert-Fohr joined by Yuji Iwasawa (dissenting)

1. We are unable to agree with the Views of the majority in this case. The Committee should have declared the communication inadmissible for the following reasons.

2. Pursuant to article 5, paragraph 2(b) of the Optional Protocol, the Committee shall not consider any communication from an individual unless it has ascertained that the individual has exhausted all available domestic remedies. In order to ascertain whether domestic remedies have been exhausted, the Committee needs to consider the author's claims.

3. The authors in the present case claim to be victims of discrimination because they were forced to resign as civil servants from the Slovak Information Service (SIS). They contend that they have exhausted domestic remedies with respect to this claim by filing a criminal complaint against their supervisors and the SIS director for blackmailing and abuse of power, by appealing the decision of the District Military Prosecutor's Office to the Superior Military Prosecutor's Office and challenging the decision of the prosecuting authorities before the Constitutional Court. However, in order to have their discrimination claim against the SIS recognized and remedied by the State party, it was neither sufficient nor necessary to pursue criminal proceedings against their superiors. The issue of criminal responsibility for blackmailing and abuse of power is different in nature than that of discrimination. While the authors invoked the Covenant before the Constitutional Court in challenging the decision of the prosecuting authorities, their claim related to the decision of the prosecuting authorities and not the alleged acts of discrimination by the SIS. Individuals alleging discrimination in access to civil service cannot claim that they have exhausted domestic remedies by filing a criminal complaint against their superiors and failing to avail themselves of available civil or administrative remedies.

4. According to the submission by the State party, the authors could have petitioned for judicial review to complain against the termination of their employment under article 248 of Act 73/1998 Coll. before the general courts. They failed to do so and claim instead that this remedy is ineffective. They refer to the Committee's jurisprudence according to which domestic remedies need not be exhausted if they objectively had no prospect of success. This jurisprudence applies where, under applicable domestic laws, the claim would *inevitably be dismissed*, or where established jurisprudence of the highest domestic tribunals *precluded* a positive result.[a] The authors' submissions are insufficient to show the ineffectiveness of the proceedings. They merely claim that in similar cases the civil jurisdiction declared the validity of similar resignations and rejected civil claims. In support of this claim, they refer only generally to five judgments of the Supreme Court, mentioned in the decision of the Prosecutor, in which the Court did not consider that the dismissal of former SIS civil servants in allegedly similar cases was illegal. They have failed to give more information about the content and reasoning of these judgments in order for the Committee to determine whether these judgments justify the conclusion that they preclude a positive result in the authors' case. Cases which appear to be generally similar may be distinguished by domestic courts in actual litigation. From the facts before the Committee we cannot conclude that the authors' claims would have inevitably been dismissed. The

[a] Communication No. 327/1988, *Barzhig* v. *France*, Views adopted on 11 April 1991, para. 5.1; and *Young* v. *Australia*, Views adopted on 6 August 2003, para. 9.4.

Committee has the long-established jurisprudence that mere doubts about the effectiveness of domestic remedies do not absolve the authors from exhausting them.[b] Accordingly, the Committee should have found that domestic remedies have not been exhausted in respect of the authors' claims under articles 26, and 25(c) read in conjunction with 2(1) of the Covenant.

5. The failure of the authors to pursue available judicial proceedings which would have clarified matters and the lack of more detailed information on the specific functions performed by the authors as security agents in the Slovak Information Service rendered it difficult for the Committee to find their pressured resignation which left their social entitlements unaffected to be unreasonable and discriminatory, given the background of a lustration process which sought to address a repressive regime that the SIS had been part of. Absence of resort to judicial proceedings equally made it difficult for the Committee to find that there was no individual assessment in the authors' case. The authors cannot take advantage of their failure to pursue available judicial proceedings and claim the benefit of doubt on the merits. The Committee should have found the authors' claims under article 26 of the Covenant inadmissible for non-exhaustion of domestic remedies and should not have found its violation.

6. The authors' claim under article 2(3) of the Covenant that they did not have an effective remedy because the prosecutor dismissed their claim despite the fact that the SIS director and the authors' supervisors should have been criminally prosecuted is inadmissible *ratione materiae*. According to the long-established jurisprudence of the Committee, the Covenant does not provide a right for individuals to require that the State criminally prosecute a third party.[c] This claim is therefore incompatible with the provisions of the Covenant and should have been declared inadmissible under article 3 of the Optional Protocol.

[b] E.g., Communications No. 224/1987, A. and S.N. v. Norway, 11 July 1988, para.6.2; No. 1511/2006, Garcia Perea et al. v. Spain, 26 March 2009, para.6.2, No.1639/2007, Vargay v. Canada, 28 July 2009, para.7.3.

[c] Communication No. 563/1993, Bautista de Arellana v. Colombia, Views adopted on 27 October 1995, paragraph 8.6; Communication No. 1885/2009, Horvath v. Australia, Views adopted on 27 March 2014, para 8.2.