

IN THE HUMAN RIGHTS COMMITTEE

SUBMISSIONS OF AGORA INTERNATIONAL HUMAN RIGHTS GROUP

FOR THE CONSIDERATION OF THE 8th PERIODIC REPORT

OF THE RUSSIAN FEDERATION

UNDER THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

INTRODUCTION

1. These submissions are made by Agora International Human Rights Group, a network of over 100 lawyers taking human rights court cases, for the consideration of the 8th Periodic Report of the Russian Federation under the International Covenant on Civil and Political Rights at the 134th session of the Human Rights Committee.
2. These submissions are solely focused on the poisoning of Mr Petr Verzilov, a Russian activist investigating the murder of Russian journalists in the Central African Republic in 2018, artist, co-founder and publisher of *Mediazona*, an online media covering prisons, police, criminal justice and related issues in Russia, Belarus and Central Asia.
3. Item 13 *in fine* of the List of Issues in relation to the 8th Periodic Report of the Russian Federation (CCPR/C/RUS/Q/8) requested that the Government “[r]espond to allegations related to the poisoning of human rights activist Pyotr Verzilov in 2018 and the lack of an investigation into that incident”.
4. However, the Reply to the List of Issues (CCPR/C/RUS/RQ/8) is totally silent on the matter.
5. These submissions will, in the absence of any information presented by the Government of the Russian Federation, set out the facts of the poisoning, the attempts to open investigation and to obtain judicial review of decisions not to open it. The submissions will then provide conclusions as to the Russian Federation’s failure to comply with the provisions of the Covenant and the remedial measures necessary to ensure compliance.

FACTS

6. On 11 September 2018 Mr Verzilov went to the Basmanny District Court in central Moscow to attend hearings in the cases of Ms Veronika Nikulshina and Ms Diana Dedenko, his friends and members of the *Pussy Riot* art group, both charged with an administrative offence of disobeying a police officer. Even though he arrived at the courthouse at 10 am, the hearing did not start until 1 pm, so he had lunch prior to the hearing.
7. At around 2pm the judge sentenced Ms Nikulshina to the time she had already served in police custody and at around 4pm Ms Dedenko's case ended with the same outcome.
8. At around 5.30 pm Mr Verzilov and Ms Nikulshina arrived at the latter's apartment in central Moscow. Mr Verzilov suddenly fell asleep. At 7.30 pm he went out, but felt dizzy and was losing eyesight. At 9pm he and Ms Nikushina attempted to have a dinner at a nearby restaurant, but Mr Verzilov's pupils became visibly dilated, he started losing spatial orientation, so they returned home and at 10 pm an ambulance was called.
9. At around 11.20 pm Mr Verzilov lost consciousness which he did not regain until 24 September 2018.
10. Basic tests were made on arrival to and during further treatment of Mr Verzilov at the Bakhrushin Brothers' Hospital of Moscow, yet the tests proved inconclusive as to the cause of Mr Verzilov's condition. While any substance abuse was excluded as a cause of his condition, no further attempt to establish the cause has ever been undertaken whether by doctors or by investigation. In particular, no specific testing for poisonous metals, plants, nerve agents and/or radioactive elements has been made.
11. The lapse of time between lunch at 1pm and the first symptoms at 5.30-7.30 pm excludes food poisoning.
12. CT (computed tomography) and MRI (magnetic resonance imaging) scanning were performed on Mr Verzilov, both returned negative results, i.e., stroke and/or encephalitis were excluded as causes of his condition.
13. Mr Verzilov was then treated at the Charité Hospital in Berlin, which concluded that he had been poisoned.

ATTEMPTS TO OBTAIN INVESTIGATION

14. On 24 September 2018 Mr Verzilov's lawyer complained to the police of his poisoning and requested a criminal investigation be opened.
15. Between 24 September 2018 and 12 August 2019 the complaint was tossed back and forth between the Basmanny Police Station and the Basmanny Investigative Department (both in Moscow) on no less than 7 occasions, each of the bodies having considered the other one competent to investigate.

16. On 2 October 2019 an investigator of the Basmanny Police Station took the first decision not to open criminal proceedings into the poisoning of Mr Verzilov. Two days later it was quashed by a supervising prosecutor.
17. Only on 11 November 2019, more than a year after the events, Mr Verzilov was first questioned by the investigator and Ms Nikulshina was questioned on 15 November 2019. On 16 November 2019 the investigator again took the decision not to open criminal proceedings.
18. On 28 July 2020 a supervising prosecutor again quashed the decision not to open criminal proceedings of 2 October 2019, probably intending to quash a similar decision of 16 November 2019, the one in force on the date of the prosecutorial decision. Importantly, the prosecutor ordered a forensic medical examination be carried out. No such examination has ever taken place.
19. On 7 September 2020 the investigator again decided not to open criminal investigation.

JUDICIAL REVIEW OF DECISION NOT TO OPEN CRIMINAL PROCEEDINGS

20. Article 125 of the Russian Code of Criminal Procedure allows interested parties to challenge investigators' decisions before courts. On 29 December 2020 Mr Verzilov's lawyer sought judicial review of the decision of 7 September 2020 not to open criminal investigation into Mr Verzilov's poisoning before the Basmanny District Court of Moscow.
21. On 4 December 2020 the supervising prosecutor quashed the decision not to open criminal proceedings of 7 September 2020. On 4 February 2021 the Basmanny District Court discontinued the proceedings for the reason that the investigator's decision under review had been quashed.
22. Mr Verzilov's lawyer appealed arguing that there had been no substantial examination of the grounds invoked in his application for judicial review, but on 7 July 2021 the Moscow City Court dismissed the appeal.
23. Following the prosecutorial decision of 4 December 2020 to quash the investigator's decision not to open criminal proceedings, the investigators took similar decisions on at least three further occasions, most recently on 26 April 2021. Two of those three decisions not to open criminal proceedings had been quashed by the supervising prosecutors.

ANALYSIS AND CONCLUSIONS

24. The case of Mr Verzilov raises issues under multiple articles of the Covenant.
25. Firstly, Mr Verzilov became a victim of a life-threatening poisoning. Under Articles 6 and 7 of the Covenant the Russian authorities were under obligation to establish the cause of his condition and to investigate it (see General Comment no. 36, CCPR/C/GC/36, 2 November 2018, paras. 31-32; compare *Amirov and Amirova v. Russian Federation*, CCPR/C/

95/D/144/2006, 22 April 2009, paras. 11.4 and 11.6;). The cause has never been established and the investigation has never been opened, which is contrary to the said provisions of the Covenant.

26. Mr Verzilov was also deprived of the right to an effective remedy under Article 3(a) of the Covenant: he was unable to obtain a merits review of the decision not to open criminal proceedings. Even though the decision he challenged was quashed by the supervising prosecutor, the latter failed to remedy the total absence of an investigation because no investigation followed. On the contrary, three similarly-worded decisions not to open criminal proceedings were taken, so judicial review was ineffective in bringing about the investigation — as was prosecutorial supervision.
27. Finally, insofar as the poisoning, not investigated by the authorities, could put an end and indeed effectively suspended Mr Verzilov's public activities as an investigative activist and media publisher, it would constitute a violation of Article 19 of the Covenant (compare *Saidov v. Tajikistan*, CCPR/C/122/D/2680/2015, 20 September 2018, para. 9.9).
28. In view of the above considerations the Committee is invited to request that the Government of the Russian Federation:
 - open a criminal investigation into the poisoning of Mr Verzilov, as was requested by Russian prosecutors on multiple occasions;
 - undertake a forensic medical examination leading to the identification of the cause of Mr Verzilov's condition, as was requested by Russian prosecutors;
 - provide Mr Verzilov and his lawyer(s) with access to the investigation, including the possibility to participate in the nomination of forensic medical experts and to put questions to them, as provided for by the Russian Code of Criminal Procedure;
 - identify and bring to justice those responsible, as required under Russian law and the Covenant.
29. The Committee is further invited to request that the Government of the Russian Federation provide detailed information on the measures undertaken to remedy the violations of the Covenant in the case of Mr Verzilov within 180 days from the adoption of the Committee's Concluding Observations on the 8th Periodic Report of the Russian Federation.

Respectfully submitted,

this twenty-eighth of January,

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