



## International Covenant on Civil and Political Rights

Distr.: General  
21 January 2021  
English  
Original: French

### Human Rights Committee

#### Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2731/2016\*, \*\*

<i>Communication submitted by:</i>	Déborah Kitumaini et al. (represented by counsel of TRIAL International and the Canadian Centre for International Justice)
<i>Alleged victims:</i>	The authors and Pascal Kabungulu
<i>State party:</i>	Democratic Republic of the Congo
<i>Date of communication:</i>	8 February 2016 (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 18 February 2016 (not issued in document form)
<i>Date of adoption of Views:</i>	6 November 2020
<i>Subject matter:</i>	Extrajudicial execution
<i>Procedural issue:</i>	Exhaustion of domestic remedies
<i>Substantive issues:</i>	Right to life; right to an effective remedy; cruel, inhuman or degrading treatment or punishment; security of person; unlawful interference with the home; right to family life
<i>Articles of the Covenant:</i>	2 (3), 6 (1), 7, 9 (1), 17 and 23
<i>Articles of the Optional Protocol:</i>	2 and 5 (2)

1. The authors of the communication are Déborah Kitumaini Kasiba (a Congolese and Canadian national), Heri Kabungulu (a Congolese and Canadian national), Patrick Baraka Kabungulu (a Congolese national), Pascal Debonheur Kibembi (a Congolese and Canadian national) and Divine Kibembi (a Congolese national). They claim that Pascal Kabungulu Kibembi, who was the husband of Déborah Kitumaini Kasiba and the father of the other authors and was born in 1950, was the victim of an assassination for which the State party may be held responsible under article 6 (1), read alone and in conjunction with article 2 (3), and under article 9 (1) of the Covenant. In addition, the authors claim that they themselves are victims of a violation of articles 7 and 17, read in conjunction with article 2 (3), and 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.



article 23 of the Covenant. The Democratic Republic of the Congo acceded to the Optional Protocol to the Covenant on 1 November 1976. The authors are represented by counsel of two non-governmental organizations: TRIAL International and the Canadian Centre for International Justice.

### **The facts as submitted by the authors**

2.1 Human rights defenders working in the east of the Democratic Republic of the Congo face an extremely precarious security situation, owing to the conflicts and permanent instability that have beset that part of the country for the last two decades. They are routinely subjected to multiple violations of their rights and freedoms in a climate of widespread impunity.

2.2 Pascal Kabungulu was a human rights defender who was working to combat corruption and impunity in the Democratic Republic of the Congo. A journalist by training, he occupied the post of Executive Secretary of Héritiers de la Justice (Inheritors of Justice), an organization that specializes in the promotion and protection of human rights in the Great Lakes Region, with a particular focus on South Kivu Province.<sup>1</sup> In 2000 and 2003, after he made allegations relating to corruption and impunity in the armed forces, he was summoned by the provincial authorities and suffered attempted assaults, as well as threats and intimidation.<sup>2</sup>

2.3 At around 3.30 a.m. on 31 July 2005, three armed men wearing masks and uniforms broke into Pascal Kabungulu's home in the city of Bukavu, caught him and shot him. The authors and other members of their family witnessed the attack but were not injured. The three men then fled, taking Pascal Kabungulu's computer and some of his personal belongings with them. With the help of some neighbours, his wife transported his unconscious body to the nearest health centre, Bukavu general hospital. When they arrived, however, the doctors could do nothing but certify his death. Given the status and international reputation of Pascal Kabungulu, non-governmental human rights organizations immediately condemned the events on the global stage.<sup>3</sup>

2.4 The next day, several soldiers came to the family home and began to investigate; they collected three or four cartridge cases that they found there. The same day, two officers – Lieutenant B.L. and Captain G.S. – were arrested and placed in detention at Bukavu central prison in connection with the assassination of Pascal Kabungulu. In the days that followed, B.L. and G.S. were smuggled out of the prison by Lieutenant T.I.,<sup>4</sup> before being arrested again a few hours later. After this incident, the prison clerk filed a complaint against Lieutenant T.I., Lieutenant R. and Major J. with the Bukavu Senior Military Prosecutor's

---

<sup>1</sup> As well as working for Héritiers de la Justice, Pascal Kabungulu was the Vice-President of the Ligue des droits de la personne dans la région des Grands Lacs (Human Rights League for the Great Lakes Region), a Kigali-based association that brings together human rights organizations from throughout the Great Lakes Region.

<sup>2</sup> In 2003, Pascal Kabungulu was summoned to the Military Prosecutor's Office after a complaint was lodged by Lieutenant T.I. – who was later charged in connection with the murder of Pascal Kabungulu – because he had published an article in which he condemned Lieutenant T.I.'s behaviour and accused him of imposing illegal revenue-sharing on the artisanal miners working in the South Kivu gold mines, which he partially controlled. The hearing was held in the presence of Lieutenant T.I., who publicly threatened Pascal Kabungulu with death. See Reporters Without Borders, “‘Bukavu, la cité des meurtres’ : rapport d’enquête sur les assassinats de journalistes dans la capitale du Sud-Kivu” (“Bukavu, murder city”: the findings of an investigation into the murders of journalists in the capital of South Kivu), updated on 20 January 2016.

<sup>3</sup> Human Rights Watch, Amnesty International and Front Line: International Foundation for the Protection of Human Rights Defenders explicitly called for the Congolese Government to “immediately start thorough and independent investigations into [the] assassination of human rights activist Pascal Kabungulu Kibembi” (Human Rights Watch, “DR Congo: Prominent Human Rights Defender Assassinated”, 31 July 2005).

<sup>4</sup> Before his death, Pascal Kabungulu had investigated allegations of crimes committed by Lieutenant T.I. and had concluded that the Lieutenant had been behind numerous cases of arbitrary arrest, torture, ransom, extortion of goods and misappropriation of funds since his arrival in the region.

Office on 4 August 2005. This complaint concerned the escape, organized by Lieutenant T.I., of the two suspects in the murder of Pascal Kabungulu.

2.5 After the assassination of Pascal Kabungulu, the authors were subjected to threats and no longer felt safe in the Democratic Republic of the Congo. They therefore had to flee the country and seek refuge in Kampala, Uganda. The family lived in Uganda, in difficult conditions, for almost a year before they obtained refugee status and moved to Canada in September 2006.

2.6 On 5 August 2005, Déborah Kitumaini filed a complaint against a person unknown with the Bukavu Senior Military Prosecutor's Office for the murder of her husband. On 6 August 2005, the Vice-Governor of South Kivu Province, D.K.K., set up an independent commission of inquiry to investigate the murder. On 10 August 2005, the Military Prosecutor of South Kivu issued a request to the Commander of the Tenth Military Region in Bukavu, asking that Lieutenant T.I., Lieutenant R. and Major J. be presented at the Senior Military Prosecutor's Office. The three soldiers were suspected of having organized the escape of Lieutenant B.L. and Captain G.S., the two suspects in the murder of Pascal Kabungulu. In addition to this charge, the three soldiers were accused of disobedience and attempted murder. In the same request, the Military Prosecutor asked for Captain G.S. and Lieutenant B.L. to be handed over to the central prison, in accordance with the provisional arrest warrant that had been issued for them.

2.7 On 11 October 2005, one of Déborah Kitumaini's lawyers filed a request with the Bukavu Senior Military Prosecutor's Office for a copy of the case file.

2.8 On 11 November 2005, the commission of inquiry published its final report, in which Army Corporal P.L.M. was identified, among the three men present on the night of the attack, as the one who had shot the victim at point-blank range. The commission condemned the behaviour of Lieutenant T.I., who, among other things, had tried to pay two soldiers to flee the country and take full responsibility for the assassination. The commission concluded with the proposal that "all the alleged perpetrators of the murder of Pascal Kabungulu should be brought to justice, the appropriate court being the military court at Bukavu garrison".

2.9 On 28 November 2005, the trial for the murder of Pascal Kabungulu began at the Bukavu garrison military court. At least four hearings were held in the weeks that followed and a total of six individuals were indicted on various charges relating to the murder. On 21 December 2005, the court handed down a judgment of refusal to exercise jurisdiction on the grounds that the defendants included Lieutenant T.I. and Vice-Governor D.K.K., who were subject to the jurisdiction of the Military High Court or the Supreme Court.<sup>5</sup> After this judgment was handed down, the judicial proceedings were disrupted and the resumption of the trial was delayed by a series of acts of intimidation and political manipulation, which were condemned by several human rights organizations in 2006. In the meantime, despite the ongoing proceedings against him, Lieutenant T.I. was promoted to the position of Integrated Brigade Commander in Goma in North Kivu Province.

2.10 Over the months that followed, there was a push for the trial to resume. In May 2006, Amnesty International sent a letter to the President of the Democratic Republic of the Congo, Joseph Kabila, calling for the investigation into the assassination of Pascal Kabungulu to continue and for the perpetrators to be arrested in accordance with the international instruments that the State had committed to implementing. Héritiers de la Justice commemorated the anniversary of Pascal Kabungulu's death every year, reminding people, through various publications and activities, that justice must be done in this case.

2.11 On 23 May 2007, Lieutenant B.L., who had remained in detention pending trial, filed a request for the trial to resume promptly, claiming that he had been detained illegally for more than 22 months. On 31 July 2007, the Réseau national des organisations non

---

<sup>5</sup> Reporters Without Borders reported that: "According to the crime scenario presented by the prosecution, Captain [G.S.] and Lieutenant [B.L.] transported the three murderers in their jeep, including Corporal [P.L.M.], who allegedly fired the fatal shots. The two soldiers, who served as lookouts, were allegedly acting on orders, in exchange for payment, at the behest of [T.I.]. The latter wanted to make the killing look like a violent crime, rather than an act of revenge committed by a man who was confident of his impunity and attached to his privileges."

gouvernementales des droits de l'homme de la République Démocratique du Congo (National Network of Human Rights NGOs of the Democratic Republic of the Congo) (RENADHOC) sent a letter signed by 75 Congolese human rights defenders to President Joseph Kabila, asking him to take steps to expedite the process. On 23 August 2008, RENADHOC sent a letter to the Congolese judicial authorities requesting that the legal proceedings be reopened.

2.12 On 29 August 2008, the South Kivu Military Court declined jurisdiction on the grounds that one of the defendants, Vice-Governor D.K.K., was subject to the jurisdiction of the Supreme Court, and it referred the case to the Supreme Court. However, according to conflicting information gathered by the authors, while this decision implied that the case would immediately be transferred to the Supreme Court, it was actually first transferred to the Military High Court. Only in 2009 was the case referred by the Chief Military Prosecutor attached to the Military High Court to the Prosecutor General of the Republic attached to the Supreme Court.

2.13 In the years that followed, a number of initiatives were taken, in the form of letters, petitions, press releases and public campaigns, to condemn the irregularities in the judicial proceedings in Pascal Kabungulu's case and to call on the authorities to act promptly in order to expedite the proceedings with a view to uncovering the truth about the murder, finding the perpetrators and making sure that they were given an independent and fair trial.<sup>6</sup> Throughout 2015, the authors made many efforts to locate the case file and move the process forward. Despite interviews with officials of the Military High Court<sup>7</sup> and the other bodies involved, and letters sent by TRIAL International and Déborah Kitumaini's counsel to the national authorities,<sup>8</sup> no file concerning the murder of Pascal Kabungulu was found.

2.14 Ten years after Pascal Kabungulu was killed, the family still has not obtained truth and justice or any form of reparation for the harm suffered. The circumstances of his death remain unresolved and the presumed perpetrators and instigators of his murder are still at liberty. All members of the family have suffered psychological trauma as a result of the events described. To this day, the authors live in fear of reprisals and are afraid that their attackers will reappear at any moment.

2.15 The authors argue that: (a) all available measures have been taken to exhaust domestic remedies; (b) the application of these remedies has been unreasonably prolonged, since the murder of Pascal Kabungulu remains unpunished 10 years after it was committed and the complaint was filed; (c) these remedies have proved ineffective and objectively have no chance of success, since the authorities continue to take no action and it is impossible to locate and gain access to the case file; and (d) it is dangerous for the authors to pursue domestic remedies because they fled the Democratic Republic of the Congo after being subjected to intimidation and threats by the suspected perpetrators of the murder of Pascal Kabungulu.

---

<sup>6</sup> On 29 July 2010, 30 July 2011 and 31 July 2012, RENADHOC sent letters to the President of the Republic, the Supreme Court, the Military High Court, the Prime Minister and the Senate of the Democratic Republic of the Congo requesting that the trial for the murder of Pascal Kabungulu be reopened. On 26 June 2013, the Canadian Centre for International Justice sent a letter to the Minister of Justice and Human Rights condemning the irregularities in the investigation and judicial proceedings in Pascal Kabungulu's case and calling on the Minister to act promptly in order to expedite the proceedings.

<sup>7</sup> Visits by TRIAL International to the Military High Court on 25 and 26 March and 21 and 22 May 2015, and to the Office of the Chief Military Prosecutor and the Office of the Prosecutor General of the Republic from 23 to 25 November 2015; and visit by Déborah Kitumaini's counsel to the Office of the Prosecutor General of the Republic on 22 June 2015.

<sup>8</sup> Letter of 11 June 2015 to the Office of the Chief Military Prosecutor in Kinshasa; letter of 28 June 2015 to the President of the Military High Court; letter of 2 August 2015 to the Prosecutor General of the Republic; and letters of 9 November 2015 to the National Human Rights Commission and to the Minister of Justice and Human Rights.

## The complaint

3.1 The authors claim that the State party is directly responsible for the fact that Pascal Kabungulu was arbitrarily deprived of his life, in violation of article 6 (1) of the Covenant.

3.2 Despite the investigations conducted in 2005 and the opening of the trial before the garrison military court, and despite the authors' approaches to the national judicial and political authorities, the judicial proceedings remain at a standstill. The circumstances of Pascal Kabungulu's death have not been resolved and the presumed instigators of his murder are still at liberty. The national authorities failed not only to conduct a proper investigation, but also to locate the case file or to explain what stage had been reached in the proceedings when the authors requested access to the file. There has been no explanation as to why the proceedings have not moved forward during all these years. Ten years after Pascal Kabungulu was killed, his family still has not obtained the truth, justice or any form of reparation for the harm suffered. This denial of justice, which must be considered in the light of the general climate of impunity for crimes against human rights defenders that has reigned in the country for years,<sup>9</sup> constitutes a violation by the State party of Pascal Kabungulu's rights under article 2 (3), read in conjunction with article 6 (1), of the Covenant.

3.3 Pascal Kabungulu had been the victim of threats, intimidation and attempted assault on several occasions before 31 July 2005, on account of his activities as a human rights defender. In particular, during a hearing before the Military Prosecutor's Office in 2003, Lieutenant T.I. publicly threatened Pascal Kabungulu with death if he did not stop his investigative work, which pointed to the Lieutenant's involvement in corruption in the mining sector (see footnote 2). The national authorities were aware of these threats, yet they did not take his objective need for protection seriously and they took no measures to protect him. The existence of a systematic practice of violence, including murder, against human rights defenders in South Kivu confirms that human rights defenders in the Democratic Republic of the Congo are a vulnerable group needing specific protection from the Government. Consequently, the State party failed in its obligation to provide Pascal Kabungulu with appropriate protection while there was still time, in violation of his right to security of person under article 9 (1) of the Covenant.

3.4 The authors endured the pain of losing a husband and a father while they were in a state of distress caused by the threats received before and after the event. On top of this, they suffered the anguish of being forced to flee their own country to avoid danger. Moreover, the fact that the family have been denied justice for over 10 years despite all their efforts has kept them in a continuous state of anxiety and prevented them from mourning their loss. The family's profound suffering has only been exacerbated by the uncertainty and the long wait caused by this denial of justice and by the inaction and indifference of the authorities, who have offered no explanation as to the status of the proceedings and have failed to provide the authors with access to the case file. The authors maintain that this suffering, combined with the State party's failure to conduct a prompt, thorough and effective investigation, constitutes treatment that violates their rights under article 7, read in conjunction with article 2 (3), of the Covenant.

3.5 The authors were also repeatedly subjected to unlawful interference with their privacy, family and home in the years before and after the murder. Their family life was disrupted by threats and intimidation on several occasions between 2003 and 2005. On 31 July 2005, the family home was broken into in the middle of the night by armed men who were identified as State agents. After the death of Pascal Kabungulu, husband and father, the authors received no protection as a family. Moreover, they were the subject of threats that forced them to flee the country and take refuge first in Uganda and then in Canada, leaving everything behind. These events constitute serious unlawful and arbitrary interference with their privacy, family and home, in violation of their rights under articles 7 and 17, read in conjunction with article 2 (3), and under article 23 of the Covenant.

---

<sup>9</sup> A/HRC/14/24/Add.3, paras. 92–93.

### **State party's failure to cooperate**

4. On 18 February 2016, 3 February 2017, 28 May 2018 and 14 September 2018, the Committee requested the State party to submit its observations on the admissibility and merits of the communication. The Committee regrets that the State party has failed to provide any information with regard to the admissibility or merits of the authors' allegations. It recalls that article 4 (2) of the Optional Protocol obliges States parties to examine in good faith all allegations brought against them and to make available to the Committee all information at their disposal. In the absence of a reply from the State party, due weight must be given to the authors' allegations, to the extent that they have been substantiated.

### **Issues and proceedings before the Committee**

#### *Consideration of admissibility*

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

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

5.3 Regarding the exhaustion of domestic remedies, the Committee recalls that the State party has a duty not only to carry out thorough investigations of alleged violations of human rights brought to the attention of its authorities, particularly violations of the right to life, but also to prosecute, try and punish anyone held to be responsible for such violations.<sup>10</sup> It recalls its jurisprudence to the effect that, for the purpose of article 5 (2) (b) of the Optional Protocol, the author of a communication must make use of all administrative or judicial avenues that offer a reasonable prospect of redress.<sup>11</sup> The Committee notes that the State party has not contested the admissibility of any of the claims submitted. In addition, it takes note of the information and supporting documents provided by the authors regarding the complaints and requests that they filed, through their representatives, with various authorities of the State party, none of which appear to have led to the completion of the trial. The Committee notes that, in the 15 years that have elapsed since the trial for the murder of Pascal Kabungulu began on 28 November 2005, no decision has been handed down on the substance and it has not even been possible to locate the case file. It also notes that the authors were forced to flee the country and were granted refugee status in Canada, meaning that they could not be expected to seek judicial remedies in the Democratic Republic of the Congo.<sup>12</sup> The Committee therefore finds that it is not precluded from considering the communication under article 5 (2) (b) of the Optional Protocol.

5.4 The Committee notes the authors' claim that the State party violated article 9 (1) of the Covenant by failing in its obligation to provide Pascal Kabungulu with appropriate protection before his death. It considers, however, that the authors have not sufficiently substantiated their allegations in this regard and notes that Pascal Kabungulu does not appear to have taken any action before the national authorities in connection with the alleged threats to his security. This part of the communication is therefore inadmissible under articles 2 and 5 (2) (b) of the Optional Protocol.

5.5 However, the Committee finds that the authors have sufficiently substantiated their other allegations for the purposes of admissibility and proceeds to consider the merits of the claims made under articles 2 (3), 6 (1), 7, 17 and 23 of the Covenant.

---

<sup>10</sup> *Boudjemai v. Algeria* (CCPR/C/107/D/1791/2008), para. 7.4.

<sup>11</sup> *Colamarco Patiño v. Panama* (CCPR/C/52/D/437/1990), para. 5.2.

<sup>12</sup> *Lumbala Tshidika v. Democratic Republic of the Congo* (CCPR/C/115/D/2214/2012), para. 5.3.

*Consideration of the merits*

6.1 The Committee has considered the present communication in the light of all the information submitted to it by the parties, in accordance with article 5 (1) of the Optional Protocol.

6.2 The Committee notes that the State party has not responded to the authors' allegations and recalls its jurisprudence to the effect that the burden of proof should not rest solely on the author of a communication, especially given that the author and the State party do not always have the same degree of access to evidence and that often only the State party is in possession of the necessary information.<sup>13</sup> Under article 4 (2) of the Optional Protocol, the State party has the duty to examine in good faith all allegations of violations of the Covenant made against it and its representatives, and to provide the Committee with the information available to it.<sup>14</sup> In the absence of any explanations from the State party in this regard, due weight must be given to the authors' allegations, provided they have been sufficiently substantiated.

6.3 The Committee notes the authors' claims that on 31 July 2005, Pascal Kabungulu was murdered by three men in uniform, in his home and in the presence of his wife and children. The Committee further notes that the defendants in the trial that began on 28 November 2005 for the murder of Pascal Kabungulu were mainly members of the military. Yet, after fifteen years, no decision has been handed down on the substance of the case and it is no longer even possible to locate the case file. In the absence of any rebuttal by the State party, the Committee gives due weight to the authors' allegations and finds that the State party denied Pascal Kabungulu the right to life in particularly serious circumstances, since he was clearly the victim of an extrajudicial execution carried out by State agents, in violation of article 6 (1) of the Covenant.

6.4 The Committee also notes the anguish and distress that the execution of Pascal Kabungulu caused to the authors, as his close relatives. It is of the opinion that the facts before it disclose a violation of article 7 of the Covenant with regard to the authors.<sup>15</sup>

6.5 The Committee notes that the State party has not provided any justification or clarification as to why soldiers entered Pascal Kabungulu's family home by force and without a warrant, in the middle of the night, and committed acts of violence against him, in the presence of the authors. The Committee also notes that, after the assassination, the authors received threats and had to leave the country and apply for refugee status in Canada. In the absence of observations from the State party and taking into account all the circumstances of the present case, the Committee considers that these facts constitute arbitrary and unlawful interference with the authors' privacy, home and family. Accordingly, the Committee concludes that the State party violated the authors' rights under article 17 of the Covenant.<sup>16</sup>

6.6 In view of the above, the Committee will not consider separately the claims made under article 23 (1) of the Covenant.<sup>17</sup>

6.7 The authors also invoke article 2 (3) of the Covenant, which requires States parties to ensure that individuals have accessible, effective and enforceable remedies for asserting the rights recognized in the Covenant. The Committee recalls the importance it attaches to the establishment by States parties of appropriate judicial and administrative mechanisms for addressing claims of violations of the rights enshrined in the Covenant.<sup>18</sup> It refers to its general comment No. 31 (2004), which states that a failure by a State party to investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant.

<sup>13</sup> See, inter alia, *El Abani v. Libyan Arab Jamahiriya* (CCPR/C/99/D/1640/2007), para. 7.4; and *Berzig v. Algeria* (CCPR/C/103/D/1781/2008), para. 8.3.

<sup>14</sup> *Mezine v. Algeria* (CCPR/C/106/D/1779/2008), para. 8.3; and *Medjnoune v. Algeria* (CCPR/C/87/D/1297/2004), para. 8.3.

<sup>15</sup> *Mezine v. Algeria*, para. 8.6; *Khirani v. Algeria* (CCPR/C/104/D/1905/2009), para. 7.6; *Berzig v. Algeria*, para. 8.6; *El Abani v. Libyan Arab Jamahiriya*, para. 7.5; and *El Hassy v. Libyan Arab Jamahiriya* (CCPR/C/91/D/1422/2005), para. 6.11.

<sup>16</sup> *Mezine v. Algeria*, para. 8.10.

<sup>17</sup> *Boudjema v. Algeria* (CCPR/C/121/D/2283/2013), para. 8.12.

<sup>18</sup> *Allioua and Kerouane v. Algeria* (CCPR/C/112/D/2132/2012), para. 7.11.

6.8 In the present case, the authors, and even one of the defendants, repeatedly requested that the trial for the murder of Pascal Kabungulu, which began on 28 November 2005, be continued so that the circumstances of his death could be resolved. Instead of instituting such proceedings, and despite the fact that the death was clearly an extrajudicial execution perpetrated by State agents, it appears that the State party's authorities refused to continue the proceedings after the South Kivu Military Court declined jurisdiction on 29 August 2008. Furthermore, the State party's authorities no longer seem able to locate the case file, which means that the authors continue to be deprived of any access to an effective remedy that would shed light on the murder of Pascal Kabungulu. The Committee finds that the facts before it disclose a violation of article 2 (3), read in conjunction with article 6, of the Covenant, with regard to Pascal Kabungulu, and of article 2 (3), read in conjunction with article 7, of the Covenant, with regard to the authors.

7. The Committee, acting under article 5 (4) of the Optional Protocol, finds that the facts before it disclose a violation by the State party of article 6 and of article 2 (3), read in conjunction with article 6, of the Covenant, with regard to Pascal Kabungulu. It also finds a violation by the State party of article 7, read alone and in conjunction with article 2 (3), and of article 17 of the Covenant, with regard to the authors.

8. Pursuant to 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 take appropriate steps to: (a) pursue in a prompt, effective, exhaustive, independent, impartial and transparent manner the investigation and prosecution of the murder of Pascal Kabungulu and provide the authors with detailed information on the outcome of these proceedings; (b) prosecute, try and punish those responsible for the violations committed; and (c) provide the authors with adequate compensation and appropriate measures of satisfaction. The State party is also under an obligation to prevent similar violations from occurring in the future.

9. 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 remedy when 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 present Views. The State party is also requested to publish the present Views and to have them widely disseminated in the official languages of the State party.

---