

**UNITED  
NATIONS****International covenant  
on civil and  
political rights****CCPR**Distr.  
GENERALCCPR/C/GC/32  
23 August 2007

Original: ENGLISH

HUMAN RIGHTS COMMITTEE  
Ninetieth session  
Geneva, 9 to 27 July 2007

## General Comment No. 32

## Article 14: Right to equality before courts and tribunals and to a fair trial

**I. GENERAL REMARKS**

1. This general comment replaces general comment No. 13 (twenty-first session).
2. The right to equality before the courts and tribunals and to a fair trial is a key element of human rights protection and serves as a procedural means to safeguard the rule of law. Article 14 of the Covenant aims at ensuring the proper administration of justice, and to this end guarantees a series of specific rights.
3. Article 14 is of a particularly complex nature, combining various guarantees with different scopes of application. The first sentence of paragraph 1 sets out a general guarantee of equality before courts and tribunals that applies regardless of the nature of proceedings before such bodies. The second sentence of the same paragraph entitles individuals to a fair and public hearing by a competent, independent and impartial tribunal established by law, if they face any criminal charges or if their rights and obligations are determined in a suit at law. In such proceedings the media and the public may be excluded from the hearing only in the cases specified in the third sentence of paragraph 1. Paragraphs 2 – 5 of the article contain procedural guarantees available to persons charged with a criminal offence. Paragraph 6 secures a substantive right to compensation in cases of miscarriage of justice in criminal cases. Paragraph 7 prohibits double jeopardy and thus guarantees a substantive freedom, namely the right to remain free from being tried or punished again for an offence for which an individual has already been finally convicted or acquitted. States parties to the Covenant, in their reports, should clearly distinguish between these different aspects of the right to a fair trial.
4. Article 14 contains guarantees that States parties must respect, regardless of their legal traditions and their domestic law. While they should report on how these guarantees are

32. Subparagraph 3 (b) provides that accused persons must have adequate time and facilities for the preparation of their defence and to communicate with counsel of their own choosing. This provision is an important element of the guarantee of a fair trial and an application of the principle of equality of arms.<sup>64</sup> In cases of an indigent defendant, communication with counsel might only be assured if a free interpreter is provided during the pre-trial and trial phase.<sup>65</sup> What counts as “adequate time” depends on the circumstances of each case. If counsel reasonably feel that the time for the preparation of the defence is insufficient, it is incumbent on them to request the adjournment of the trial.<sup>66</sup> A State party is not to be held responsible for the conduct of a defence lawyer, unless it was, or should have been, manifest to the judge that the lawyer’s behaviour was incompatible with the interests of justice.<sup>67</sup> There is an obligation to grant reasonable requests for adjournment, in particular, when the accused is charged with a serious criminal offence and additional time for preparation of the defence is needed.<sup>68</sup>

33. “Adequate facilities” must include access to documents and other evidence; this access must include all materials<sup>69</sup> that the prosecution plans to offer in court against the accused or that are exculpatory. Exculpatory material should be understood as including not only material establishing innocence but also other evidence that could assist the defence (e.g. indications that a confession was not voluntary). In cases of a claim that evidence was obtained in violation of article 7 of the Covenant, information about the circumstances in which such evidence was obtained must be made available to allow an assessment of such a claim. If the accused does not speak the language in which the proceedings are held, but is represented by counsel who is familiar with the language, it may be sufficient that the relevant documents in the case file are made available to counsel<sup>70</sup>

34. The right to communicate with counsel requires that the accused is granted prompt access to counsel. Counsel should be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications.<sup>71</sup> Furthermore, lawyers should be able to advise and to represent persons charged with a criminal offence in accordance with generally recognised professional ethics without restrictions, influence, pressure or undue interference from any quarter.

35. The right of the accused to be tried without undue delay, provided for by article 14, paragraph 3 (c), is not only designed to avoid keeping persons too long in a state of uncertainty about their fate and, if held in detention during the period of the trial, to ensure that such deprivation of liberty does not last longer than necessary in the circumstances of the specific case, but also to serve the interests of justice. What is reasonable has to be assessed in the

---

<sup>64</sup> Communications No. 282/1988, *Smith v. Jamaica*, para. 10.4; Nos. 226/1987 and 256/1987, *Sawyers, Mclean and Mclean v. Jamaica*, para. 13.6.

<sup>65</sup> See communication No. 451/1991, *Harward v. Norway*, para. 9.5.

<sup>66</sup> Communication No. 1128/2002, *Morais v. Angola*, para. 5.6. Similarly Communications No. 349/1989, *Wright v. Jamaica*, para. 8.4; No. 272/1988, *Thomas v. Jamaica*, para. 11.4; No. 230/87, *Henry v. Jamaica*, para. 8.2; Nos. 226/1987 and 256/1987, *Sawyers, Mclean and Mclean v. Jamaica*, para. 13.6.

<sup>67</sup> Communication No. 1128/2002, *Márques de Morais v. Angola*, para. 5.4.

<sup>68</sup> Communications No. 913/2000, *Chan v. Guyana*, para. 6.3; No. 594/1992, *Phillip v. Trinidad and Tobago*, para. 7.2.

<sup>69</sup> See concluding observations, Canada, CCPR/C/CAN/CO/5 (2005), para. 13.

<sup>70</sup> Communication No. 451/1991, *Harward v. Norway*, para. 9.5.

<sup>71</sup> Communications No. 1117/2002, *Khomidova v. Tajikistan*, para. 6.4; No. 907/2000, *Siragev v. Uzbekistan*, para. 6.3; No. 770/1997, *Gridin v. Russian Federation*, para. 8.5.