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HUMAN RIGHTS COMMITTEE
Forty-third session

DECISIONS

Communication No. 439/1990

Submitted by : C.L.D.
Alleged victim : The author
State party : France
Date of communication : 26 December 1990
Documentation references : none
Date of present decision : 8 November 1991

Decision on admissibility

[Annex]

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DEC439.43

ANNEX¹

Decision of the Human Rights Committee under the Optional Protocol to the International Covenant on Civil and Political Rights - Forty-third session -

concerning

Communication No. 439/1990

Submitted by : C.L.D. [name deleted]

Alleged victim : The author

State party : France

Date of communication : 26 December 1990

The Human Rights Committee , established under article 28 of the International Covenant on Civil and Political Rights,

Meeting on 8 November 1991,

Adopts the following:

Decision on admissibility

1. The author of the communication is C.L.D., a French citizen born in 1956 and a resident of Lorient, Bretagne, France. He claims to be a victim of violations by France of articles 2, paragraphs 1 to 3, 14, 26 and 27 of the International Covenant on Civil and Political Rights. In 1987, the author had submitted a communication to the Human Rights Committee, in which he claimed

¹ Made public by decision of the Human Rights Committee.

that the refusal of the French postal authorities to issue his postal cheques in Breton violated articles 2, paragraphs 1 to 3, 19, paragraph 2, 26 and 27 of the Covenant. His previous communication was declared inadmissible on 18 July 1988 on the ground of non-exhaustion of domestic remedies.²

The facts as submitted by the author :

2.1 On 1 October 1988, the author was fined for refusing to pay parking fees in a street of Quimper, Bretagne. He requested to appear before the police tribunal of Quimper, which heard him on 28 February 1990. In court, he requested the assistance of an interpreter, or to be allowed to express himself in Breton, which he claims is the language in which he expresses himself with a maximum of ease. The judge refused his request, upon which C.L.D. in turn refused to resume his own defence; he was found guilty and fined 220 French Francs.

2.2 The author affirms that the judge's refusal to call an interpreter was discriminatory, and that the judgment incorrectly reflects his own attitude, because it notes that "the accused presented his defence and had the last word" ("le prévenu a présenté ses moyens de défense, ayant eu la parole le dernier").

2.3 As to the requirement of exhaustion of domestic remedies, the author claims that the judgment of the police tribunal of Quimper is final. On 14 November 1990, he addressed a letter to President François Mitterrand, requesting a presidential pardon. By letter of 7 December 1990, his request was rejected.

The complaint :

3. The author claims that the refusal of the judge to hear him in Breton or to call an interpreter violates his rights under articles 2, paragraphs 1 to 3, 14, 26 and 27 of the Covenant.

The issues and proceedings before the Committee :

² Decision in case No. 228/1987 (C.L.D. v. France), General Assembly, Official Records, Forty-third session, Supplement No. 40 (A/45/40), Annex VIII, sect. E.

4.1 Before considering any claims contained in a communication, the Human Rights Committee must, in accordance with rule 87 of its rules of procedure, decide whether or not it is admissible under the Optional Protocol to the Covenant.

4.2 The Committee has noted the author's claim to be a victim of violations of articles 14 and 26 of the Covenant. It considers that the author has failed to substantiate, for purposes of admissibility, how he was discriminated against within the meaning of article 26 and how his right to a fair trial was violated by the court's refusal to provide him with the services of an interpreter. The Committee reiterates that article 14, paragraph 1, juncto paragraph 3(f), does not imply that the accused be afforded an opportunity to express himself in the language which he normally speaks or in which he expresses himself with a maximum of ease. ³ In this respect, therefore, the author has failed to advance a claim within the meaning of article 2 of the Optional Protocol.

4.3 As to the author's claim of a violation of article 27 of the Covenant, the Committee reiterates that France's "declaration" made in respect of this provision ("in the light of article 2 of the Constitution... article 27 [of the Covenant] is not applicable so far as the Republic is concerned") is tantamount to a reservation and therefore precludes the Committee from considering complaints against France alleging violations of article 27 of the Covenant. ⁴

5. The Human Rights Committee therefore decides:

- (a) That the communication is inadmissible under article 2 of the Optional Protocol;
- (b) That this decision shall be communicated to the author and, for information, to the State party.

³ See communication No. 219/1986 (Guesdon v. France), views adopted on 25 July 1990, paragraph 10.3 (Annual Report 1990, A/45/40, Vol. II, Annex IX.G.).

⁴ See communication No. 220/1987 (T.K. v. France), declared inadmissible on 8 November 1989, paragraph 8.6 and Appendices I and II (Annual Report 1990, A/45/40, Vol. II, Annex. X.A.).

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Annex

English

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[Done in English, French, Russian and Spanish, the English text being the original version].

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