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HUMAN RIGHTS COMMITTEE
Forty-third session

DECISIONS

Communication No. 457/1991

Submitted by : A.I.E.
Alleged victim : The author
State party : Libyan Arab Jamahiriya
Date of communication : 18 February 1991
Documentation references : none
Date of present decision : 7 November 1991

Decision on admissibility

[Annex]

*/ All persons handling this document are requested to respect and observe its confidential nature.

DEC457.43

ANNEX **/

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. 457/1991

Submitted by : A.I.E. [name deleted]
Alleged victim : The author
State party : Libyan Arab Jamahiriya
Date of communication : 18 February 1991

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

Meeting on 7 November 1991,

Adopts the following:

Decision on admissibility

1. The author of the communication is Abdelaziz Ibrahim Elwezah, an Egyptian citizen born in 1949 in Menofia, Egypt, currently residing in Marseille, France. He claims to be a victim of violations by the Libyan Arab Jamahiriya of his rights under the International Covenant on Civil and Political Rights, without, however, specifying which provisions of the Covenant he considers to have been violated. The Optional Protocol entered into force for the Libyan Arab Jamahiriya on 16 August 1989.

**/ Made public by decision of the Human Rights Committee.

The facts as submitted by the author :

2.1 On 17 April 1989, the author was arrested and detained by the Libyan authorities, on suspicion of having collaborated with the French and Egyptian secret services. He was tried before a military court and imprisoned. During captivity he claims to have been tortured and ill-treated. On 15 June 1989, he was brought to the airport and made to board a plane bound for Orly, France. He is currently under constant medical care, which is said to have become necessary because the trauma suffered by the torture inflicted on him in Libya. The French "Commission Technique d'Orientation et de Reclassement Professionnel" (COTOREP) and several medical certificates confirm that the author has become incapacitated, and that he suffers from "affective disorder". His disability is evaluated at 80%.

2.2 The author states that he is in no position to exhaust Libyan remedies given that, upon his release from prison, he was directly brought to the airport and expelled to France, and therefore had no opportunity to avail himself of any Libyan remedies. In France, he adds, he is unable to resort to such remedies.

The complaint :

3. Although the author does not invoke any of the provisions of the Covenant, it transpires from his submissions that he claims to be a victim of a violation of articles 7, 9 and 10 of the Covenant. In particular, he claims that his arrest was arbitrary, as there was no support for the charges against him, and that he was tortured and ill-treated between 17 April and 15 June 1989.

The issues and proceedings before the Committee :

4.1 Before considering any claims contained in a communication, the Human Rights Committee must decide, in accordance with rule

87 of its rules of procedure, whether or not it is admissible under the Optional Protocol to the Covenant.

4.2 With regard to the application of the Optional Protocol to the Libyan Arab Jamahiriya, the Committee recalls that it entered into force on 16 August 1989. It observes that the Optional Protocol cannot be applied retroactively and concludes that the Committee is precluded ratione temporis from examining acts said to have occurred between 17 April and 15 June 1989, unless these acts continued or had effects after the entry into force of the Optional Protocol, constituting in themselves a violation of the Covenant.

4.3 Accordingly, the Committee finds that it is precluded ratione temporis from examining the author's allegations.

5. The Human Rights Committee therefore decides:

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

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