

Distr.
RESTRICTED */

CCPR/C/49/D/544/1993
10 November 1993

Original: ENGLISH

HUMAN RIGHTS COMMITTEE
Forty-ninth session

DECISIONS

Communication No. 544/1993

Submitted by: K.J.L.
Alleged victim: The author
State party: Finland
Date of communication: 27 February 1993 (initial submission)
Documentation references: Prior decisions - none
Date of present decision: 3 November 1993

Decision on admissibility

[See Annex]

*/ All persons handling this document are requested to respect and observe its confidential nature.
DEC544.49 cm

ANNEX ^{}/**

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

concerning

Communication No. 544/1993

Submitted by: K.J.L. [name deleted]
Alleged victim: The author
State party: Finland
Date of communication: 27 February 1993 (initial submission)

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

Meeting on 3 November 1993,

Adopts the following:

Decision on admissibility

1. The author of the communication is K.J.L., a Finnish citizen born in August 1921, currently residing in Kymi, Finland. He claims to be a victim of violations of articles 2, 14, 17 and 26 of the International Covenant on Civil and Political Rights.

The facts as presented by the author :

2.1 The author's complaint concerns alleged irregularities in a project involving the planning and the construction of a private road. The process began in the summer of 1979, when the State land surveyor issued road construction permit No. 106,706, to be implemented in the community of Manthyarju. Under the permit, the author had to cede part of a land tract owned by him for the purpose of the construction of a private road. K.J.L. contends that both the issue and the execution of the permit were unlawful, and that applicable laws and rules and regulations were infringed on many occasions.

CCPR/C/49/D/544/1993
Annex
English
Page 2

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

2.2 The author contends that such compensation as he received for ceding part of his land was only a fraction of what was lawfully due to him. He therefore filed a complaint with the land court ("maaoikeus" in the Finnish language) about the way the area through which the road was to be built had been surveyed and the way the road had been mapped. In January 1981, the land court found against him in a split 3:2 decision. The author contends that the "professional lawyers" on the court¹ found in his favour, whereas the other members of the court, apparently laymen and including the district (land) surveyor, found against him.

2.3 The author complains that the procedure before the land court was irregular and flawed in many respects. He points to article 174 of the Act governing parcelling of land ("jakolaki" in Finnish), which lays down in detail how road construction permits should be implemented - allegedly, the procedure prescribed under the law was not respected. Notwithstanding, it was inscribed in the land register on 5 June 1981 that the permit had been properly executed.

2.4 The author appealed the order, but the Supreme Court of Finland denied leave to appeal on 15 May 1981.

2.5 Towards the beginning of 1982, the limit of the road bed was officially marked on the author's ground. The author affirms that this marking should have been done during the initial road survey more than a year earlier; he once more asserts that the district (land) surveyor did not respect the applicable regulations. He adds that in connection with the case, officials of the land court made numerous misleading or incorrect statements so that the police, the office of the Chancellor of Justice, the Parliamentary Ombudsman, among others, were led to believe that the entire road planning and marking process had been legal.

2.6 On 3 June 1982, road construction work started. According to the author, the law was again broken on many occasions in connection with the construction. Requests for assistance from the police went without reply. In order to correct the irregularities in the initial permit, a new road survey order, No. 112559-9 of 13 November 1982, was issued. The author affirms that this merely resulted in his losing what he refers to as 'lawful road rights'. Subsequently, apparently several years later and following another complaint lodged by the author, the office of the Chancellor of Justice suggested several amendments to the initial permit. In the author's opinion, this new road survey, No. 114 970-8 carried out on 11 May 1988, still did not correct the earlier mistakes. As a result, the situation of the road on his ground still has not been resolved.

2.7 The author notes that after being denied leave to appeal by the Supreme Court, he turned to the Chancellor of Justice, to obtain redress. Allegedly, the Chancellor investigated the case for over three years - while the investigation was pending, the author was told, he 'could not appeal anywhere else'.

2.8 On an unspecified date, the author once more appealed to the Land Court, requesting a reversal of the initial judgment of 1981. On 17 January 1990, the Land Court confirmed its earlier decision; on 4 December 1990, the Supreme Court rejected the author's further appeal, on the

¹ By this, he apparently refers to the professional judges on the court.

ground that he had been unable to "substantiate in his appeal any new grounds on which the Land Court ruling should be reversed". The author complains that the Supreme Court did not motivate its decision.

The complaint:

3. The author asserts that the entire procedure has caused him considerable "mental anguish" throughout the years, and that the judicial proceedings have been biased and unfair throughout. He claims that the above events, in so far as they are the result of the authorities' and the courts' actions, constitute violations of his rights under article 2, 14, 17 and 26 of the Covenant, as well as article 12 of the International Covenant on Economic, Social and Cultural Rights. He considers that compensatory payments of 20,000 Finnish markka per annum, retroactively to 1979, would be appropriate.

Issues and proceedings before the Committee :

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

4.2 The Committee notes that the author's claims relate essentially to an alleged violation of his right to property; the right to property, however, is not protected by the Covenant. Thus, since the Committee is only competent to consider allegations of violations of any of the rights protected under the Covenant, the author's allegations concerning the unlawfulness of the road construction through his land are inadmissible *ratione materiae*, under article 3 of the Optional Protocol, as incompatible with the provisions of the Covenant.

4.3 As to the author's claim concerning the alleged arbitrary and biased nature of the decisions - administrative and judicial - adopted against him, the Committee notes that they relate primarily to the evaluation of a complex factual situation by the Finnish authorities and courts. It is in principle for the State party's courts and not for the Committee to evaluate the facts and evidence in a particular case, unless it can be ascertained that the evaluation of the evidence by the court was arbitrary, or that the court manifestly violated its obligation of impartiality. On the basis of the information before it, the Committee has no indication that the proceedings in the case suffered from such defects. This part of the complaint is therefore also inadmissible as incompatible with the provisions of the Covenant, pursuant to article 3 of the Optional Protocol.

4.4 Finally, in respect of the author's allegations concerning discriminatory treatment and violations of his rights under article 17 of the Covenant, the Committee finds that these allegations have not been substantiated, for purposes of admissibility. Accordingly, the author has failed to advance a claim under the Covenant, within the meaning of article 2 of the Optional Protocol.

5. The Human Rights Committee therefore decides:
- (a) the communication is inadmissible under articles 2 and 3 of the Optional Protocol;
 - (b) that this decision shall be communicated to the author and, for information, to the State party.

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