

HUMAN RIGHTS COMMITTEE

Linderholm V. Croatia

Communication N° 744/1997

23 July 1999

CCPR/C/66/D/744/1997

ADMISSIBILITY

Submitted by: Mrs. Dagmar Urbanetz Linderholm

Alleged victim: The author

State party: Croatia

Date of communication: 20 May 1996

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

Meeting on 23 July 1999

Adopts the following:

Decision on admissibility

1. The author of the communication is Mrs. Dagmar Urbanetz Linderholm. The author, who lives in London, England, claims to be a victim of violations by Croatia of articles 26 and 14, paragraph 1, of the Covenant. She states that her parents' hotel was expropriated in 1945 and 1948, and that, following the enactment of a transformation law in 1991, irregularities occurred in the determination of her rights to restitution.

2. The communication was transmitted to the State party on 27 February 1997. The State party's observations concerning the admissibility of the communication were received on 28 April 1997, and the author's comments thereon in July 1997.

3. In March 1998, the author introduced an application concerning the same facts and issues to the European Commission of Human Rights. On 29 May 1998, her application was

registered under file No. 41399/98. On 22 October 1998, the European Commission declared the communication inadmissible as it found that it did not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols.

Issues and proceedings before the Committee

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

4.2 The Committee notes that the European Commission of Human Rights has rejected, on 22 October 1998, the author's application concerning the same facts and issues as are before the Committee. Although the scope of article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms is different from article 26 of the Covenant, property rights are protected by the European Convention and no separate issue therefore arises under article 26 of the Covenant. The Committee further notes that the Republic of Croatia, when acceding to the Optional Protocol, made a declaration with respect to article 5, paragraph 2(a), of the Optional Protocol to the effect that the Committee shall not have competence to consider a communication from an individual if the same matter is being examined or has already been examined under another procedure of international investigation or settlement. On this basis, the Committee is therefore precluded from considering the present communication.

5. The Committee therefore decides:

- a) that the communication is inadmissible under article 5, paragraph 2(a), of the Optional Protocol;
- b) that this decision shall be communicated to the State party and to the author.

*The following members of the Committee participated in the examination of the present communication: Mr. Abdelfattah Amor, Mr. Nisuke Ando, Mr. Prafullachandra N. Bhagwati, Ms. Christine Chanet, Lord Colville, Ms. Elizabeth Evatt, Ms. Pilar Gaitán de Pombo, Mr. Eckart Klein, Mr. David Kretzmer, Mr. Rajsoomer Lallah, Mr. Martin Scheinin, Mr. Roman Wieruszewski, Mr. Maxwell Yalden and Mr. Abdallah Zakhia.

[Adopted in English, French and Spanish, the English text being the original version. Subsequently to be issued also in Arabic, Chinese and Russian as part of the Committee's annual report to the General Assembly.]