

HUMAN RIGHTS COMMITTEE

J. K v. Canada

Communication No. 174/1984

26 October 1984

ADMISSIBILITY

Submitted by: J. K (name deleted) on 7 May 1984

Alleged victim: The author

State party: Canada

Declared inadmissible: 26 October 1984 (twenty-third session)

Decision on Admissibility

1. The communication, dated 7 May 1984, is submitted (through a Swiss lawyer) by J.K., a Canadian citizen living in Canada, born in 1925 in Yugoslavia.
2. The author states that on 12 December 1970, his house at Port Alberni, County of Nanaimo, British Columbia, Canada, burned down and that he was accused and convicted of committing arson with the motive of collecting the insurance on the property, and that on 2 April 1971 he was sentenced to a term of 18 months' imprisonment. An appeal before the Court of Appeals of Vancouver was rejected on 24 November 1971. A petition to the Supreme Court of Canada for leave to appeal was denied in February 1973.
3. The author alleges that he is innocent and submits a number of affidavits purporting to show that he was in the United States on 12 December 1970 and that therefore he could not have committed the crime imputed to him. He contends that his first defence lawyer failed to prepare an adequate defence and to present all the evidence available and necessary for acquittal. He further alleges that the Court of Appeal erred in not considering or not properly evaluating the new evidence submitted on appeal.
4. Although all the events took place prior to the entry into force of the International Covenant on Civil and Political Rights and the Optional Protocol for Canada (19 August 1976), the author maintains that the stigma of the allegedly unjust conviction and the social and legal consequences thereof, including the general prejudice in society against convicted persons, make him a victim today of article 14, paragraphs I and 3 (a) to (c), and article 25

of the Covenant-of article 14 . because he was allegedly denied a fair trial and of article 25, because his conviction bars him from equal access to public service and from running for public office, and because his criminal record puts him at a disadvantage, particularly in the field of employment.

5. The author requests the Committee to invite the State party to ensure an annulment of the conviction, to take all necessary measures to rehabilitate him and to pay him an equitable indemnity for the injuries suffered as a consequence of his conviction.

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

7.1. The Committee notes that in so far as the communication relates to events that occurred prior to 19 August 1976, the date when the Covenant and the Optional Protocol entered into force for Canada, the communication is inadmissible *rationes temporis*.

7.2. The Committee further observes that it is beyond its competence to review findings of fact made by national tribunals or to determine whether national tribunals properly evaluated new evidence submitted on appeal.

7.3. As to the author's contention that the continuing consequences of his conviction make him a victim today of violations of the Covenant, the Committee observes that in the circumstances referred to in paragraph 7.1 and 7.2 above, the consequences as described by the author do not themselves raise issues under the International Covenant on Civil and Political Rights in his case. The Committee, accordingly, concludes that the author has no claim under article 2 of the Optional Protocol.

8. The Human Rights Committee therefore decides:

The communication is inadmissible.