



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE
Eightieth session
15 March - 2 April 2004

DECISION

Communication No. 1024/2001

Submitted by: Manuela Sanlés Sanlés (represented by
Mr. José Luis Mazón Costa)

Alleged victim: Ramón Sampedro Cameán

State party: Spain

Date of communication: 28 March 2001 (initial submission)

Document references: Special Rapporteur's rule 91 decision, transmitted
to the State party on 6 November 2001
(not issued in document form)

Date of adoption of the decision: 30 March 2004

[ANNEX]

* Made public by decision of the Human Rights Committee.

Annex

**DECISION OF THE HUMAN RIGHTS COMMITTEE UNDER THE
OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT
ON CIVIL AND POLITICAL RIGHTS**

Eightieth session

concerning

Communication No. 1024/2001**

Submitted by: Manuela Sanlés Sanlés (represented by
Mr. José Luis Mazón Costa)

Alleged victim: Ramón Sampedro Cameán

State party: Spain

Date of communication: 28 March 2001 (initial submission)

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

Meeting on 30 March 2004,

Adopts the following:

Decision on admissibility

1. The author of the communication, dated 28 March 2001, is Manuela Sanlés Sanlés, a Spanish national, who claims violations by Spain of article 2, paragraph 1, and articles 7, 9, 14, 17, 18 and 26 of the Covenant in respect of Ramón Sampedro Cameán, who declared her his legal heir. The author is represented by counsel. The Optional Protocol to the Covenant entered into force for Spain on 25 January 1985.

The facts as submitted by the author

2.1 On 23 August 1968, Ramón Sampedro Cameán, aged 25 at the time, had an accident which resulted in the fracture of a cervical vertebra and irreversible tetraplegia.

** The following members of the Committee participated in the examination of the present communication: Mr. Abdelfattah Amor, Mr. Nisuke Ando, Mr. Prafullachandra Natwarlal Bhagwati, Mr. Alfredo Castillero Hoyos, Ms. Christine Chanet, Mr. Franco Depasquale, Mr. Maurice Glèlè Ahanhanzo, Mr. Walter Kälin, Mr. Ahmed Tawfik Khalil, Mr. Rafael Rivas Posada, Sir Nigel Rodley, Mr. Martin Scheinin, Mr. Ivan Shearer, Mr. Hipólito Solari Yrigoyen, Mr. Roman Wieruszewski and Mr. Maxwell Yalden.

On 12 July 1995, he initiated an act of non-contentious jurisdiction in the Court of First Instance in Noia, La Coruña, pleading his right to die with dignity. Specifically, he requested that his doctor should, without having criminal proceedings brought against him, be authorized to supply him with the substances necessary to end his life. On 9 October 1995, the court dismissed his request, on the ground that it was punishable under article 143 of the Spanish Criminal Code as the offence of aiding and abetting suicide, carrying a penalty of 2 to 10 years' imprisonment.

2.2 Ramón Sampedro lodged an appeal with the Provincial High Court in La Coruña, which rejected it on 19 November 1996, confirming the decision of the court of first instance.

2.3 On 16 December 1996, Ramón Sampedro lodged an application for *amparo* (constitutional protection) with the Constitutional Court, pleading a violation of his dignity and his rights to the free development of his personality, to life, to physical and psychological integrity, and to a fair trial. The appeal was accepted for consideration on 27 January 1997, and the 20-day period for Mr. Sampedro to formulate his final arguments commenced on 10 March 1997.

2.4 In the early hours of 12 January 1998, Ramón Sampedro committed suicide, with the help of persons unknown. Criminal proceedings were instituted against the person or persons who may have aided and abetted his death. The case was dismissed, however, since no person could be identified as responsible.

2.5 The author of the communication was named as Ramón Sampedro's heir in his will. On 4 May 1998, she sent a letter to the Constitutional Court, claiming the right to continue the proceedings brought by the alleged victim, and reworded the pleadings of the application for *amparo*. The new contention was that the Provincial High Court should have acknowledged Mr. Sampedro's right to have his own doctor supply to him the medication necessary to help him to die with dignity.

2.6 On 11 November 1998, the Constitutional Court decided to dismiss the case, and to refuse the author the right to pursue the proceedings. Among its arguments the Court stated that, although the right of heirs to continue the proceedings of their deceased relatives in cases of civil protection of the right to honour, personal and family privacy and image was acknowledged in the Spanish legal system, in the case of Mr. Sampedro there were no specific or sufficient legal conditions which justified the author's continuing the proceedings. The Court also stated that the matter could not be identified with the rights cited by her, in view of the eminently personal nature, inextricably linked to the person concerned, of the claimed right to die with dignity. It further considered that the voluntary act in question concerned the victim alone and that the appellant's claim had lapsed from the moment of his death. It went on to point out that this conclusion was reinforced by the nature of the remedy of *amparo*, which was established to remedy specific and effective violations of fundamental rights.

2.7 On 20 April 1999, the author applied to the European Court of Human Rights pleading violation of the right to a life of dignity and a dignified death in respect of Ramón Sampedro, the right to non-interference by the State in the exercise of his freedom, and his right to equal treatment. The European Court pronounced the application inadmissible *ratione personae*, on the ground that the heir of Ramón Sampedro was not entitled to continue his complaints. With reference to the alleged excessive duration of the proceedings, the European Court stated that, even if the author could be considered a victim, in the circumstances the duration of proceedings

had not been so great as to lead to the conclusion of a clear violation of the Convention; it accordingly declared the complaint manifestly ill-founded.

The complaint

3.1 The author argues that in, considering the intervention of a doctor to help Mr. Ramón Sampredo to die as an offence, the State party was in breach of the latter's right to privacy without arbitrary interference, as provided for in article 17 of the Covenant. The author contends that, as the alleged victim stated in his book, he requested euthanasia for himself alone and not for other persons, and that accordingly the interference of the State in his decision was unjustified.

3.2 The author contends that the State's "criminal interference" in Ramón Sampredo's decision constituted a violation of his right not to be subjected to inhuman or degrading treatment, as provided for in article 7 of the Covenant; the tetraplegia from which he suffered had considerable repercussions on his daily life as he was never able to get up. He required the assistance of other persons in order to eat, dress himself and attend to all his needs, including the most intimate; and the lack of mobility to which circumstances condemned him entailed accumulated and unbearable suffering for him. The author contends that, although in this case the suffering was not caused directly by the voluntary intervention of a State agent, the conduct of the State organs was not neutral, since a criminal provision prevented Mr. Sampredo from ending his life with the assistance that was essential in order to enable him to achieve his purpose. The author stresses that the situation created by the State party's legislation constituted ill-treatment for Ramón Sampredo and caused him to lead a degrading life.

3.3 The author asserts that there has been a violation of article 6 of the Covenant, arguing that life as protected by the Covenant refers not only to biological life, under any circumstances, but to a life of dignity, in contrast to the humiliating situation Mr. Sampredo suffered for over 29 years. She maintains that the right to life does not mean the obligation to bear torment indefinitely, and that the pain suffered by Ramón Sampredo was incompatible with the notion of human dignity.

3.4 The author maintains that article 18, paragraph 1, of the Covenant has been violated, and asserts that Ramón Sampredo's decision was based on freedom of thought and conscience and the right to manifest his personal beliefs through practices or deeds. She claims that Mr. Sampredo was reduced to "*enslavement to a morality he did not share, imposed by the power of the State, and forced to exist in a state of constant suffering*".

3.5 The author maintains that article 9 of the Covenant has been violated in that the liberty of the individual may only be restricted if the law establishes such restrictions and only when they constitute necessary means of protecting public security, order, health or morals or the rights or fundamental freedoms of others. She asserts that State interference in Mr. Sampredo's decision cannot be equated with any of these hypotheses, and furthermore, the right to freedom must be envisaged as the right to do anything that does not impair the rights of others; the alleged victim requested euthanasia only for himself and not for others, for which reason the interference of the State in his decision was unjustified.

3.6 The author maintains that the right to equal protection of the law as set out in article 2, paragraph 1, and in article 26 of the Covenant has been violated. In her opinion, it is paradoxical

that the State should respect the decision of a person committing suicide but not that of disabled persons. She argues that any self-sufficient person who is mobile and experiences extreme suffering is able to commit suicide and will not be prosecuted if he does not succeed, unlike a person whose range of action is severely restricted, as in the case of Ramón Sampedro, who was reduced to complete immobility and could not be assisted, on pain of criminal prosecution. In the author's opinion, this constitutes discrimination vis-à-vis the law. She considers that the State, as the embodiment of the community, has the obligation to be understanding and to act humanely with a sick person who does not wish to live, and must not punish any person who assists him in carrying out his determination to die; otherwise, it incurs the risk of an unjust difference of treatment with regard to a person who is capable of action and wishes to die.

3.7 The author states that article 14 of the Covenant was violated because the Constitutional Court refused to acknowledge her legitimacy in the proceedings regarding Mr. Sampedro. She claims compensation from the State for the violations of the Covenant perpetrated against Mr. Sampedro when he was alive.

The State party's observations on admissibility and the merits

4.1 The State party, in its written submission dated 2 January 2002, maintains that the communication is inadmissible under article 5, paragraph 2 (a), of the Optional Protocol, on the ground that the communication submitted to the Committee on this occasion concerns exactly the same matter as was submitted by the same person to the European Court of Human Rights. It adds that the inadmissibility decision by the European Court in this matter was not a mere formality, but was reached after a genuine examination of the merits, since the Court examined the nature of the right claimed by Mr. Sampedro when he was alive, i.e. the right to assisted suicide without criminal repercussions.

4.2 According to the State party, the author of the communication wishes the Committee to review the decision on the merits previously adopted by another international body, and to find, contrary to the decision of the European Court of Human Rights, that "the right to die with dignity" or "assisted suicide without criminal repercussions" requested by Mr. Sampedro before his voluntary death is not an eminently personal or non-transferable right. It adds that the Spanish Constitutional Court was unable to take a decision on the matter because of the voluntary death of Mr. Sampedro, which caused the abatement of the *amparo* proceedings.

4.3 The State party recalls that Ramón Sampedro's heir has expressly asserted that he "died with dignity", that no one has been or is currently being prosecuted or charged for assisting him to commit suicide, and that the criminal proceedings initiated have been dismissed. In the State party's view, the author's complaint is pointless since it is neither legally nor scientifically possible to recognize a dead person's right to die.

4.4 In its observations dated 13 April 2002, the State party maintains that the author is exercising an *actio popularis* by claiming that the so-called right "to die with dignity" should be pronounced in respect not of herself but of a deceased person. It adds that the author's claims distort the rights recognized in the Covenant. It affirms that, according to the judgement of the European Court in the *Pretty v. United Kingdom* case,¹ the right to life could not, without a

¹ Judgement 2346/02 of 29 April 2002.

distortion of language, be interpreted as conferring the diametrically opposite right, namely, a right to die, whether at the hands of a third person or with the assistance of a public authority.

The author's comments on admissibility and the merits

5.1 In her written statement dated 11 July 2002, the author maintains that the European Court did not examine the merits of the case but, on the contrary, emphasized that the prime complaint concerning the State's interference in Ramón Sampedro's decision to die in peace was not examined, since it considered that his heir and sister-in-law was exercising an *actio popularis*. For that reason, it refused her the right to pursue the action, considering the complaint incompatible *ratione personae*.

5.2 The author is of the opinion that the European Court only examined the merits of the case in respect of the complaint concerning the undue length of the proceedings; with regard to her other arguments, she observes that, according to the Committee's jurisprudence,² a matter declared inadmissible by the European Court on grounds of form is not a matter "examined" within the meaning of article 5, paragraph 2 (a), of the Optional Protocol. She adds that the European Court further did not examine the complaint concerning the right to freedom.

5.3 The author asserts that she is not exercising an *actio popularis* since she is the successor of the victim who died without reparation or response as to the merits of his case. She adds that she was denied the right to continue the case initiated by Ramón Sampedro during his lifetime by an arbitrary decision of the Constitutional Court.

5.4 The author maintains that article 9, paragraph 7, of the Civil Procedure Act permits, without exceptions, the continuation of proceedings on the death of the complainant if the heir comes to court with a new power of attorney, as happened in her case. Under article 661 of the Civil Code, "the heirs succeed the deceased solely as a result of his death in respect of all his rights and obligations".

5.5 Article 4 of Organization Act No. 1/1982 clearly states: "*The exercise of actions for the civil protection of the honour, privacy or image of the deceased is incumbent on the person who has been designated by him for that purpose in his will*". In the case of Mr. Sampedro, a violation of the right of privacy, in relation to his private life, has been argued.

5.6 The author asserts that the Constitutional Court is applying unequal jurisprudence as regards the authorization of the continuation *mortis causa* of her status as complainant, since while she as heir of Ramón Sampedro was denied continuity, in judgement No. 116/2001 of 21 May 2001 the same chamber of the Court granted procedural continuity to the heir of a complainant who died during proceedings concerning an appeal against a measure providing for suspension of union militancy. The chamber handed down the decision in this regard despite the "eminently personal" nature of the case.

5.7 The author points out that the Committee has accepted the continuation of the proceedings by the heir of a complainant who died in the course of the proceedings, even during

² She quotes communications Nos. 808/1998, *Georg Rogl v. Germany*, and 716/1996, *Dietmar Pauer v. Germany*.

the phase prior to the consideration of the complaint by the Committee itself.³ With reference to the decision in the *Pretty v. United Kingdom* case, referred to by the State party, the author points out that what Sampedro was asking for was not a positive measure on the part of the State, but that it should abstain from action and allow matters to take their course, in other words, not interfere in his decision to die.

5.8 The author contends that Ramón Sampedro died without acknowledgement of the fact that his claim to die with dignity was backed by a human right. In her view, these constitute sufficient grounds to permit his heir to continue the case. She adds that she was not granted any compensation for the suffering she had to bear.

5.9 The author makes reference to a judgement by the Constitutional Court of Colombia in 1997, concerning euthanasia, which stated that article 326 of the Colombian Criminal Code, which refers to *compassionate homicide*, did not criminally implicate the doctor who assisted terminally-ill persons to die if the free will of the passive subject of the act was exercised. That Court linked the prohibition of the punishment of assisted suicide to the fundamental right to a life of dignity and to protection of the independence of the individual.⁴ The author asserts that the law makes progress through the search for a just and peaceful order, and that to assist someone suffering from an incurable and painful illness to die is a normal reaction of solidarity and compassion innate in human beings.

5.10 She asserts that the State party indirectly obliged Ramón Sampedro to experience the suffering entailed by immobility. A constitutional State should not be permitted to impose that burden on a disabled person, and subordinate his existence to the convictions of others. In her opinion, the interference of the State in Ramón Sampedro's right to die is incompatible with the Covenant, which in its preamble states that all the rights recognized in it derive from the inherent dignity of the human person.

5.11 As regards the alleged violation of the right not to be subjected to arbitrary interference provided for in article 17, the author asserts that, even in the *Pretty* case, the European Court acknowledged that the State's "criminal law prohibition" concerning the decision to die of a disabled person experiencing incurable suffering constituted interference in that person's privacy. Although the European Court had added that such interference is justified "for the protection of the rights of others", this argument is in her view meaningless since no harm is done to anyone and even the family tries to assist the person taking the decision to die.

5.12 In written submissions dated 22 January and 20 March 2003, the author maintains that, contrary to the assertions of the State party, Mr. Sampedro was not able to die as he wished and

³ Communications Nos. 164/1984, *Croess v. Netherlands*, and 774/1997, *Brok v. Czech Republic*. Also cited is the jurisprudence of the Committee against Torture in case No. 14/1994, *M'Barek Ben v. Tunisia*.

⁴ Judgement of 20 May 1997. Action for constitutional review brought by José Eurípides Parra Parra.

that his death was neither peaceful, gentle nor painless. Rather, it was distressing since he had had to resort to potassium cyanide.

Issues and proceedings before the Committee

6.1 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 International Covenant on Civil and Political Rights.

6.2 Although the State party appears to assert that the communication is inadmissible under article 1 of the Optional Protocol because the author is not a « victim » in the meaning of that provision, the Committee notes that the author seeks to act on behalf of Mr. Ramón Sampedro Cameán, who according to the author was a victim of a violation of the Covenant in that the authorities of the State party refused to allow his assisted suicide by granting protection from prosecution, to the doctor who would assist him in committing suicide. The Committee considers that the claims presented on behalf of Mr. Ramón Sampedro Cameán, had become moot prior to the submission of the communication, by the decision of Mr. Ramón Sampedro Cameán to commit, on 12 January 1998, suicide with the assistance of others, and the decision of the authorities not to pursue proceeding against those involved. Consequently, the Committee considers that at the time of submission on 28 March 2001, Mr. Ramón Sampedro Cameán could not be considered a victim of an alleged violation of his rights under the Covenant in the meaning of article 1 of the Optional Protocol. Consequently, his claims are inadmissible under this provision.

6.3 As to the author's claim that her rights under article 14 of the Covenant were violated by the denial of her right to continue the procedures initiated by Mr. Ramón Sampedro Cameán before the Constitutional Court, the Committee considers that the author not having been a party to the original amparo proceedings before the Constitutional Court, has not sufficiently substantiated for the purposes of admissibility the existing of a violation of article 14, paragraph 1 of the Covenant. Consequently, this part of the communication is inadmissible under article 2 of the Optional Protocol.

6.4 In the light of the conclusions reached above, the Committee need not address the State party's arguments related to article 5, paragraph 2 (a) of the Optional Protocol and the possible application of the State party's reservation to that provision.

7. The Human Rights Committee therefore decides:

- (a) That the communication is inadmissible under article 1 and 2 of the Optional Protocol;
- (b) That this decision shall be communicated to the State party and to the author of the communication.

[Adopted in English, French and Spanish, the Spanish 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.]
