

HUMAN RIGHTS COMMITTEE

I. N. v. Sweden

Communication No. 1055/2002

8 July 2002

CCPR/C/75/D/1055/2002

ADMISSIBILITY

Submitted by: Mr. Asbjörn Skjoldager

State party concerned: Sweden

Date of registered communication: 14 July 1998 (initial submission)

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

Meeting on 8 July 2002,

Adopts the following:

Decision on admissibility

1.1 The author of the communication is Mr Asbjörn Skjoldager, a Swedish national. Referring to the authorization from the parents of the alleged victim, he purports to present the communication on behalf of Mr. I.N., an incapacitated mental health patient. The author does not specify the articles of the Covenant claimed to be violated, but the matters complained of would appear to raise issues primarily under article 9 and subsidiary issues under article 7.

1.2 The International Covenant on Civil and Political Rights and the Optional Protocol both entered into force for the State party on 23 March 1976. Upon acceding to the Optional Protocol, the State Party entered a reservation to the Optional Protocol which reads: "On the understanding that the provisions of article 5, paragraph 2, of the Protocol signify that the Human Rights Committee provided for in article 28 of the said Covenant shall not consider any communication from an individual unless it has ascertained that the same matter is not being examined or has not been examined under another procedure of international investigation or settlement."

The complaint

2.1 The author contends that the alleged victim, who suffers from a measure of mental disability, has been detained in an institution for the mentally disabled without legal authorization on an ongoing basis. The author contends that the conditions of detention are such that detainees are unable to properly exercise normal freedom of movement. The author contends that the alleged victim has exhausted available domestic remedies concerning this situation.

2.2 On 23 January 1996, the author introduced an application concerning the same facts and issues to the European Commission of Human Rights. On 22 February 1996, the application was registered under file No. 30274/96. On 9 March 1998, a Committee of the Commission, established by article 20, paragraph 3, of the European Convention on Human Rights, had the case transferred to it by the Commission, received a report provided for in Rule 47 of the Commission's Rules of Procedure, and, after deliberation, found that the matters complained of 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

3.1 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.

3.2 The Committee notes that on the basis of the material submitted by the author it is not clear whether the author has proper authorization to represent the alleged victim, whether the communication is intended to address the individual case of Mr. I.N. or a more general situation, whether the domestic remedies were in fact exhausted or whether the same matter was not already examined by the European Commission of Human Rights in the meaning of the reservation by the State party referred to in paragraph 1.2 above. Nevertheless, the Committee considers that even if these matters were clarified, the author has not substantiated, for purposes of admissibility, any claim of a violation of the Covenant.

4. The Committee therefore decides:

(a) that the communication is inadmissible under article 2, of the Optional Protocol;

(b) that this decision shall be communicated to the author, and, for information, to the State party.

* The following members of the Committee participated in the examination of the present communication: Mr. Nisuke Ando, Mr. Prafullachandra Natwarlal Bhagwati, Ms. Christine Chanet, Mr. Louis Henkin, Mr. Ahmed Tawfik Khalil, Mr. Eckart Klein, Mr. David Kretzmer, Mr. Rajsoomer Lallah, Ms. Cecilia Medina Quiroga, Mr. Rafael Rivas Posada, Mr. Martin Scheinin, Mr. Ivan Shearer, Mr. Hipólito Solari Yrigoyen, Mr. Patrick Vella and Mr. Maxwell Yalden.

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