

## HUMAN RIGHTS COMMITTEE

### Dias v. Angola

Communication No. 711/1996

20 March 1998

CCPR/C/62/D/711/1996\*

### ADMISSIBILITY

*Submitted by: Carlos Dias and Carolina de Fatima da Silva Francisco*

*Alleged victim: The author*

*State party: Angola*

*Date of communication: 28 March 1996*

*Date of present decision: 20 March 1998*

The Human Rights Committee, acting through its Working Group pursuant to rule 87, paragraph 2, of the Committee's rules of procedure, adopts the following decision on admissibility.

### **Decision on admissibility**

1. The author of the communication is Mr. Carlos Dias, a Portuguese national. He submits the communication on his own behalf and of that of Carolina de Fatima da Silva Francisco, an Angolan national, killed on 28 February 1991. He does not invoke any articles of the Covenant, but the communication appears to raise issues under articles 6, 7, and 9 of the Covenant. The Covenant and the Optional Protocol thereto entered into force for Angola on 9 February 1992.

#### Fact as submitted by the author

2.1 The author has a business in Angola, with a head office in Luanda. In February 1991, he was away on business and his business partner and companion Carolina Francisco stayed at the premises in Luanda. She was killed in the night of 28 February 1991. The author arrived back from his trip the following morning. The guard on duty was found severely wounded and later died of his injuries. The safe was found open and a large sum of money removed.

2.2 The author states that the murder was never seriously investigated by the Angolan police, despite several urgent requests made by him. The author then decided to start his own investigations and, in the beginning of 1993, published a series of advertisements in newspapers in Angola and in other countries, despite the fact that the Angolan authorities refused to give permission for these publications and actually threatened him if he would do so. Following the advertisements, the author came in contact with an eye witness to the crime.

2.3 This eye witness, an Angolan national born on 16 June 1972, in a statement made on 23 November 1993 in Rio de Janeiro, stated that at the time she was the girlfriend of one Victor Lima, adviser to the President of Angola in charge of international affairs. In the evening of 27 February 1991, Mr. Lima came to pick her up to go for a drive in his car. Later that night they picked up four friends of his. According to the witness the five men started to complain about Angolans who worked for white men, and said that they would eliminate 'this black girl who is working with the whites'. After a while they stopped at a house, and a black woman, whom the witness did not know, but who apparently knew Mr. Lima and his friends, opened the door. They went inside, took drinks, and then the men said that they wanted to speak to the woman alone, upon which they retired to a side room. The witness remained behind. After a while she heard loud voices, and then the woman started to scream. The witness became afraid and wanted to flee, but was prevented from leaving by the security guard. She then took up a position in the room from where she could see what was happening, and saw the woman being raped by the men. Mr. Lima, the last one to rape her, then took her neck and twisted it. Upon leaving the premises, the witness was threatened by the men and told never to reveal what she had seen. Soon thereafter the witness left Angola out of fear.

2.4 The witness's sister was married to an inspector for secret services of the Angola Ministry of the Interior. In a statement, made on 15 September 1993 in Rio De Janeiro, he confirms that Carolina Francisco was being kept under surveillance by the secret police, officially for being suspected of furnishing political-military information to the South African Government, through her contacts with whites, but according to the statement, in reality because she had rejected the amorous proposals of the Chief of the Security Services of the Cabinet of the President and National Director of the Secret Service, Mr. Jose Maria.

2.5 The author states that the eye witness' brother-in-law, the inspector who gave the statement referred to above, disappeared on 21 February 1994, while in Rio de Janeiro.

2.6 The author informed the President of Angola about his discoveries in a letter sent by his lawyers, pointing out that the perpetrators of the crime belonged to his inner circle. On 8 March 1994, a meeting was held with the Angolan consul in Rio de Janeiro, who informed the author that the Government might send a mission to Rio de Janeiro. However, nothing happened. On 19 April 1994, the judicial adviser to the President, in a letter to the author's lawyer, stated that he was aware of the urgency of solving the case, and on 26 June 1994, a meeting took place in Lisbon between the judicial adviser and the Secretary of the Council of Ministers on the one side and the author and his lawyer on the other. However, no further progress seems to have been achieved, and on 8 September 1994, an official communique was issued by the Angolan Minister of the Interior, stating that the police contested declarations on the death of Carolina Silva and accusing the author of trying to bribe the Government.

2.7 Since then, the author has continued to try in vain to have the perpetrators of the murder brought to justice. In March 1995, he began a civil action against Angola in the civil court of Lisbon, to recover unsettled debts. In July 1995, he applied to the Criminal Court in Lisbon against the perpetrators of the murder, apparently under article 6 of the Convention against Torture.

2.8 According to the author, the murder of his companion was planned by the Head of the Military House of the President, the vice-Minister of the Interior, the Minister of State Security and the Minister of Foreign Affairs. In this connection, he states that Carolina Francisco had been arrested on 6 October 1990 and kept in detention for 36 hours, because she had refused to open the safe of the enterprise owned by the author.

2.9 The author states that since the murder, he has not been able to live and to his business in Angola, because of threats. He has left Angola, leaving his properties (real estate, furniture, vehicles) behind. He has not been able to bring a case in the Angolan court, since no lawyer wants to take the case, as it involves Governmental officials. In this context, he states that the lawyer who was representing Carolina's mother, withdrew from the case on 15 March 1994.

### The Complaint

3. The author claims that Angola has violated the Covenant, since it failed to investigate the crimes committed, keeps those responsible for the crimes in high positions, and harasses the author and the witnesses so that they can't return to Angola, with as a consequence for the author that he has lost his property. The author argues that, although the murder occurred before the entry into force for Angola of the Covenant and the Optional Protocol thereto, the above mentioned violations continue to affect the author and the witnesses.

### Issues and proceedings before the Committee

4. By decision of 6 August 1996, the Special Rapporteur on New Communications of the Human Rights Committee transmitted the communication to the State party, requesting it, under rule 91 of the rules of procedure, to submit information and observations in respect of the admissibility of the communication. The State party has not forwarded such information, despite of several reminders addressed to it, the latest on 17 September 1997. The Committee recalls that is implicit in the Optional Protocol that States parties make available to the Committee all information at its disposal and regrets the lack of cooperation of the State party.

5.1 Before considering any claim 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 Covenant.

5.2 The Committee has ascertained, as required under article 5, paragraph 2(a), of the Optional Protocol, that the same matter is not being examined under another procedure of international investigation or settlement.

5.3 The Committee notes that the author has submitted the communication on his own behalf and on behalf of Carolina de Fatima da Silva Francisco. The Committee notes that it is precluded from

considering the claim submitted on behalf of Ms. Da Silva Francisco, ratione temporis. In the absence of observations from the State party, the Committee is not aware of any other obstacles to the admissibility of the communication and considers that the communication submitted on behalf of Mr. Dias may raise issues, in particular under articles 6, 7, 9, 13, 14 and 26 of the Covenant, which should be examined on their merits.

6. The Human Rights Committee therefore decides:

(a) that the communication is admissible;

(b) that, in accordance with article 4, paragraph 2, of the Optional Protocol, the State party shall be requested to submit to the Committee, within six months of the date of transmittal to it of this decision, written explanations or statements clarifying the matter and the measures, if any, that may have been taken by it;

(c) that any explanations or statements received from the State party shall be communicated by the Secretary-General under rule 93, paragraph 3, of the rules of procedure to the author, with the request that any comments which he may wish to make should reach the Human Rights Committee, in care of the Office of the High Commissioner for Human Rights, United Nations Office at Geneva, within six weeks of the date of the transmittal;

(d) that this decision shall be communicated to the State party and to the author.

(Done in English, French and Spanish, the English text being the original version).