

HUMAN RIGHTS COMMITTEE

Petkov v. Bulgaria

Communication N° 844/1998

25 March 1999

CCPR/C/65/D/844/1998

ADMISSIBILITY

Submitted by: Ivan Petkov

Alleged victim: The author

State party: Bulgaria

Date of communication: 20 September 1996 (initial submission)

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

Meeting on 25 March 1999

Adopts the following:

Decision on admissibility

1. The author of the communication is Mr. Ivan Petkov, a Bulgarian citizen. He claims to be a victim of a violation by Bulgaria of paragraph 1 of article 14 and article 26 of the Covenant.

The facts as submitted by the author

2.1 On 5 June 1992, the author was dismissed from his work at the Christo Botev School, apparently for disciplinary reasons. According to the author, his dismissal was unlawful, because it was done without the written consent of the Podkrepa Confederation of Labour.

2.2 On 6 June 1992, the director of the school cancelled the previous order of dismissal. The author, however, refused to receive the second order. He then initiated proceedings before

the Kurdjali Regional Court, claiming reinstatement and damages.

2.3 It appears that on 6 July 1992, the author was again dismissed (this time apparently regularly), but this second dismissal order is not the subject of the complaint.

2.4 On 23 November 1992, the Regional Court declared the author's complaint devoid of legal interest, since the order complained of had been cancelled by the School director. This judgement was confirmed by the District Court in a decision of 29 January 1993. The Sofia Supreme Court, on 8 September 1993, referred the case back to the Court of first instance, ruling that the claim was a constitutive one.

2.5 The Regional Court again declared the author's complaint void of legal interest on 3 January 1994. The District Court confirmed this judgement on 10 March 1994. The Supreme Court, on 6 December 1994, rejected the author's appeal.

The complaint

3. The author claims that the above shows that his right to fair trial within a reasonable time by an independent and impartial court has been violated, since the courts have refused to rule on the subject matter of his complaint.

Issues and proceedings before the Human Rights Committee

4.1 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.

4.2 The Committee notes that the facts submitted by the author show that the domestic courts rejected his claim of unlawful dismissal based on the order of 5 June 1992, since this order had been revoked. The Committee refers to its jurisprudence that it cannot review the facts and evidence evaluated by domestic courts unless it is manifest that the evaluation was arbitrary or amounted to a denial of justice. The arguments advanced by the author and the material he provided do not substantiate his claim that the courts' decisions suffered from such defects. Accordingly, the communication is inadmissible under article 2 of the Optional Protocol.

5. The Committee therefore decides:

(a) That the communication is inadmissible;

(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

communication: Mr. Afbdelfattah Amor, Mr. Nisuke Ando, Mr. Prafullachandra N. Bhagwati, Mr. Thomas Buergenthal, Lord Colville, Ms. Elizabeth Evatt Mr. Eckart Klein, Mr. David Kretzmer, Mr. Rajsoomer Lallah, Mr. Fausto Pocar, Mr. Martin Scheinin, Mr. Hipólito Solari Yrigoyen, Mr. Roman Wieruszewski, Mr. Maxwell Yalden and Mr. Abdallah Zakhia.

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