

HUMAN RIGHTS COMMITTEE

Bozize v. Central African Republic

Communication No. 428/1990

8 July 1992

CCPR/C/45/D/428/1990*

ADMISSIBILITY

Submitted by: Yvonne M'Boissona

Alleged victim: Her brother, François Bozize

State party: Central African Republic

Date of communication: 14 November 1990 (initial submission)

Documentation references: Prior decisions - Special Rapporteur's rule 91 decision, transmitted to the State party on 13 February 1991 (not issued in document form)

Date of present decision: 8 July 1992

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

Decision on admissibility

1. The author of the communication is Yvonne M'Boissona, a citizen of the Central African Republic residing in Stains, France. She submits the communication on behalf of her brother, François Bozize, currently detained at a penitentiary in Bangui, Central African Republic. She claims that her brother is a victim of violations of his human rights by the authorities of the Central African Republic, but does not invoke any provisions of the International Covenant on Civil and Political Rights.

The facts as submitted by the author

2.1 The author states that her brother was a high-level military officer of the armed forces of the Central African Republic. On 3 March 1982, he instigated a coup d'état; after its failure, he went

into exile in Benin. On 24 July 1989, the author's brother was arrested at a hotel in Cotonou, Benin, together with eleven other citizens of the Central African Republic; all were presumed members of the political opposition, the Central African Movement of National Liberation (Mouvement centrafricain de libération nationale). On 31 August 1989, Mr. Bozize and the other opposition activists were repatriated by force, allegedly with the help of a Central African Republic military commando allowed to operate within Benin; this "extradition" is said to have been negotiated between the governments of Benin and of the Central African Republic. The forced repatriation occurred without a formal extradition request having been issued by the Central African Republic Government.

2.2 Upon his return to Bangui, Mr. Bozize was imprisoned at Camp Roux, where he allegedly suffered serious maltreatment and beatings. The author claims that her brother was not allowed access to a lawyer of his own choosing, nor to a member of his family. Allegedly, not even a doctor was allowed to see him to provide basic medical care. Furthermore, the sanitary conditions of the prison are said to be deplorable and the food allegedly consists of rotten meat mixed with sand; as a result, the weight of Mr. Bozize dropped to 40 kilograms by the summer of 1990.

2.3 During the night of 10 to 11 July 1990, the prison authorities of Camp Roux reportedly stage-managed a power failure in the sector of town where the prison is located, purportedly to incite Mr. Bozize to attempt an escape. As this practice is said to be common and invariably results in the death of the would-be escapee, Mr. Bozize did not leave his cell. The author contends that in the course of the night, her brother was brutally beaten for several hours and severely injured. This version of the events was confirmed by Mr. Bozize's lawyer, Maître Thiangaye, who was able to visit his client on 26 October 1990 and who noticed numerous traces of beatings and ascertained that Mr. Bozize had two broken ribs. The lawyer also reported that Mr. Bozize was kept shackled, that his reading material had been confiscated, and that the prison guards only allowed him out of his cell twice a week. Allegedly, this treatment is known to, and condoned by, President Kolingba and the Ministers of Defence and of the Interior.

2.4 The authorities of the Central African Republic consistently maintain that Mr. Bozize indeed attempted to escape from the prison, and that he sustained injuries in the process. This is denied by the author, who points to her brother's weak physical condition in the summer of 1990 and argues that he could not possibly have climbed over the three metre high prison wall.

2.5 Mr. Bozize's wife, who currently resides in France, has requested the good offices of the French authorities. By letter of 29 October 1990, the President of the National Assembly, Laurent Fabius, informed her that the French foreign service had ascertained that Mr. Bozize was alive and that he had been transferred to the Kassai prison in Bangui.

2.6 As to the issue of exhaustion of domestic remedies, it is submitted that criminal proceedings against Mr. Bozize were to have been opened on 28 February 1991, allegedly in order to profit from the momentary absence, due to a trip abroad, of his lawyer. However, the trial was postponed for "technical reasons". Since then, the trial has apparently been postponed on other occasions. Mrs. Bozize complains that in months following his arrest, her husband was denied access to counsel; later, the family retained the services of a lawyer to defend him. The lawyer, however, was denied authorization to visit his client; the lawyer allegedly also suffered restrictions of his freedom of

movement on account of his client.

The complaint

3. It is submitted that the events described above constitute violations of Mr. Bozize's rights under the Covenant. Although the author does not specifically invoke any provisions of the Covenant, it transpires from the context of her submissions that her claims relate primarily to articles 7, 9, 10, 14 and 19 of the Covenant.

Issues and proceedings before the Committee

4.1 By decision of 13 February 1991, 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 Committee's rules of procedure, to submit information and observations in respect of the admissibility of the communication. The State party did not forward any such information, in spite of two reminders addressed to it on 18 July and 17 September 1991.

4.2 The Committee has ascertained, as it is required to do under article 5, paragraph 2(a), of the Optional Protocol, that the matter has not been submitted to another instance of international investigation or settlement.

4.3 The Committee notes with concern the absence of co-operation from the State party on the matter under consideration. In particular, it observes that the State party has failed to comment on the issue of the admissibility of the communication, despite two reminders addressed to it. It is implicit in rule 91 of the rules of procedure that States parties make available to the Committee all the information at their disposal; this includes, at the stage of admissibility, sufficiently detailed information about domestic remedies pursued by, or available to, the author.

4.4 In the absence of any information about the nature of available remedies and in the light of the State party's failure to cooperate under rule 91 of the rules or procedure, the Committee is unable to conclude that, in the particular circumstances of the case, there are effective domestic remedies available to the author which he would be required to pursue for purposes of the Optional Protocol.

4.5 As to the substance of the author's allegations, the Committee notes that they appear to raise issues under articles 7, 9, 10, 14, paragraphs 1 and 3, and 19 of the Covenant; they should, accordingly, be considered on their merits.

5. The Human Rights Committee therefore decides:

(a) that the communication is admissible in so far as it appears to raise issues under articles 7, 9, 10, 14, paragraphs 1 and 3, and 19 of the Covenant.

(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 the author be requested to submit to the Committee further clarifications and relevant documentation pertaining to the state of health of her brother;

(d) that this decision may be reviewed pursuant to rule 93, paragraph 4, of the rules of procedure in the light of any explanations or statements submitted by the State party;

(e) 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 she or her brother may wish to submit thereon should reach the Committee, in care of the Centre for Human Rights, United Nations Office at Geneva, within six weeks of the date of the transmittal;

(f) that this decision shall be communicated to the State party and the author of the communication.

*/ All persons handling this document are requested to respect and observe its confidential nature.