

## **HUMAN RIGHTS COMMITTEE**

### **C.A. v. Italy**

**Communication No. 127/1982**

**31 March 1983**

### **ADMISSIBILITY**

*Submitted by: C.A. (name deleted) on 26 June 1982*

*Alleged victim: The author*

*State party: Italy*

*Declared inadmissible: 31 March 1983 (eighteenth session)*

### **Decision on Admissibility**

1. The author of the communication, dated 26 June 1982, is C. A., an Italian citizen living in Italy.

2. The author complains of a violation of article 14 (1) of the Covenant which reads, in part, as follows:

1. . . . In the determination of . . . his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent independent and impartial tribunal established by law...

3.1. The author has a university degree in "naval mechanical engineering". In 1972-1973, he took a special course to qualify as a teacher in a number of fields relating to his academic qualifications. He was Successful in the final examinations. However, he received from the Interregional Education Office for Lazio and Umbria a certificate, dated 16 November 1973, authorizing him to teach "mechanical technology" only. The author felt that the certificate, as formulated unduly restricted his professional activities and that this caused him considerable prejudice.

3.2. On 20 May 1976, he appealed to the Interregional Education Office in order to have his certificate changed, but his appeal was rejected by an administrative decision in accordance with Presidential Decree No. II 99 of 24 November 197 1. A second appeal made through official channels on 9 June 1976 remained unanswered.

3.3. On 9 September 1976, he appealed to the President of the Republic through an exceptional (administrative) recourse procedure. By Presidential Decree of 26 January 1979, the appeal was rejected.

3.4. On 20 July 1979, he appealed again to the President of the Republic, through the Ministry of Public Education, in order to obtain the repeal of the Presidential Decree of 26 January 1979. By Presidential Decree of 8 July 1981, this second appeal was rejected and the Ministry of Public Education provided the author with a copy of the Decree on 1 March 1982.

3.5. The author submits that domestic remedies have thus been exhausted. There is no indication that the same matter has been submitted to another procedure of international investigation or settlement.

4.1. The author states that the objective of his communication is not to seek a remedy for the prejudice caused to him by the decisions of the administrative authorities to limit the scope of his professional activities. On the other hand, he requests the Committee to consider first the claim that Presidential Decree No. 1199 of 24 November 1971 is not in conformity with article 14 (1) of the Covenant and also violates article 113 of the Italian Constitution. This Decree establishes recourse procedures in administrative matters, including the exceptional procedure by way of appeal to the President of the Republic. The author claims that the Decree excludes the possibility for those who choose to appeal through the exceptional procedure to have their rights determined in a suit at law before a judicial tribunal. (Article 8 of Presidential Decree No. 1199 lays down that when an appeal is made against an administrative decision through a jurisdictional procedure ("*ricorso giurisdizionale*"), the same appeal cannot be dealt with under the exceptional procedure.)

4.2. Secondly, the author claims that Decree No. 1199 does not guarantee the competence, the independence and the impartiality of the organ called upon to decide on the legitimacy of an administrative decision which, in the case of the exceptional procedure, is the Council of State. (The Council of State is, according to article 100 of the Italian Constitution, "an advisory organ on judicial-administrative matters and ensures the legality of public administration".)

4.3. Thirdly, the author claims that the exceptional procedure to appeal to the President of the Republic does not respect the right of everyone to be entitled to a fair and public hearing.

4.4. Finally, the author claims that, in general, legal provisions dealing with exceptional recourse procedures in the field of administration are not in conformity with the provisions of the Covenant.

5. Before considering any claims contained in a communication, the Human Rights Committee shall, in accordance with rule 87 of its provisional rules of procedure, decide whether or not it is admissible under the Optional Protocol to the Covenant.

6. The Human Rights Committee observes that, according to the author's own submission,

it was open to him to pursue his case by means of proceedings before domestic courts. Instead, he chose to avail himself of the procedure by way of appeal to the President of the Republic. In these circumstances, the author cannot validly claim to have been deprived of the right guaranteed under article 14 (1) of the Covenant to have the determination of "rights . . . in a suit at law" made by a competent, independent and impartial tribunal. Without having to determine whether article 14 (1) is at all applicable to a dispute of the present nature, the Human Rights Committee therefore decides:

That the communication is inadmissible.