

HUMAN RIGHTS COMMITTEE

S.G. v. France

Communication No. 347/1988*

1 November 1991

CCPR/C/43/D/347/1988*/

ADMISSIBILITY

Submitted by: S.G. (name deleted)

Alleged victim: The author

State party: France

Date of communication: 12 December 1988 (initial submission)

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

Meeting on 1 November 1991,

Adopts the following:

Decision on admissibility**

1. The author of the communication dated 12 December 1988 is S.G., a French citizen born in 1954 and a resident of Rennes, Bretagne. He claims to be a victim of violations by France of articles 2, 19, 25, 26 and 27 of the International Covenant on Civil and Political Rights.

The facts as submitted by the author:

2.1 The author is an employee of the French Administration of Postal and Telecommunications (PTT) in Rennes. He was arrested during the night of 7 to 8 August 1987, on charges of having defaced several roadsigns in the area. His action, he states, was part of a campaign led by the movement "Stourm ar Brezhoneg" (Fight for the Breton Language), whose aim is the posting of bilingual roadsigns, in Breton and French, throughout the Bretagne.

2.2 In December 1987, the Tribunal de Grande Instance of Rennes fined the author 5,000 French Francs and sentenced him to four months of imprisonment (suspended). At the same time, he and two co-defendants, Hervé Barzhig¹ and G.B.², were sentenced to pay 53,000 French Francs, with interest, for the damage caused. On 4 July 1988, the Court of Appeal of Rennes confirmed the judgment of the court of first instance.

2.3 The author contends that since his arrest, he has been subjected to daily harassment by his employer. The official in charge of the administrative investigation against him initially proposed to suspend him from his post for a period of six months. At the end of January 1989, however, after several intercessions made on the author's behalf by concerned citizens and the mayors of several municipalities in Bretagne, the disciplinary committee of the P.T.T. in Rennes suspended him from his post for eight days; this sanction was itself suspended. After consultations with his counsel, S.G. did not appeal the decision of the disciplinary committee.

The complaint:

3. It is submitted that the facts described above constitute violations by France of articles 2, paragraphs 1 to 3, 19, paragraphs 1 and 2, 25, 26 and 27 of the International Covenant on Civil and Political Rights.

The State party's observations:

4.1 The State party contends that the communication is inadmissible on a number of grounds. As to the requirement of exhaustion of domestic remedies, it notes that the author failed to appeal the judgment of 4 July 1988 of the Court of Appeal of Rennes to the Court of Cassation.

4.2 As to the alleged violation of article 2 of the Covenant, the State party argues that this provision cannot be violated directly and in isolation. A violation of article 2 can only be admitted to the extent that other rights protected under the Covenant have been violated (paragraph 1) or if necessary steps to give effects to rights protected under the Covenant have not been taken. A violation of article 2 can only be the corollary of another violation of a Covenant right. The State party contends that the author has not based his argumentation on precise facts, and that he cannot demonstrate that he has been a victim of discrimination in his relations with the judicial authorities.

4.3 The State party rejects the author's allegation of a violation of his rights under article 19, paragraph 2, as an abuse of the right of submission. Apart from having failed to properly substantiate his allegation, the State party notes that the author was not prevented, at any stage of the proceedings against him, from freely expressing his views. Defacing roadsigns cannot, under any circumstances, be construed as a manifestation of the freedom of expression, within the meaning of article 19, paragraph 2.

4.4 Concerning the alleged violation of article 25, the State party notes that a disciplinary sanction of a six months' suspension of the author from his functions was never envisaged

against him. The State party further notes that article 25(c) only protects the **access** to public service; it cannot be interpreted as encompassing a right of security of tenure in public office. In this respect, therefore, the communication is deemed inadmissible as incompatible with the provisions of the Covenant, pursuant to article 3 of the Optional Protocol.

4.5 As to the claim of a violation of article 26, the State party notes that the author has failed to substantiate, for purposes of admissibility, how he was discriminated against on the ground of his language. Furthermore, he chose to express himself in French throughout the proceedings.

4.6 Finally, the State party recalls that upon ratification of the Covenant, the French Government entered the following declaration in respect of article 27: "In the light of article 2 of the Constitution of the French Republic, the French Government declares that article 27 is not applicable so far as the Republic is concerned."

Issues and proceedings before the Committee:

5.1 Before considering any claims 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 considered the material placed before it by the parties. As to the claims under articles 19, paragraph 2, 25(c) and 26 of the Covenant, it considers that the author has failed to substantiate, for purposes of admissibility, how he was denied his freedom of expression, how he was denied his right to access, under general terms of equality, to public service, and how he was discriminated against on the ground of language. The Committee observes that the defacing of road signs does not raise issues under article 19 and notes that the material before it shows that S.G. was able to express himself freely throughout the proceedings, that he chose to express himself in French, a language he did not claim not to understand, and that such sanctions as were imposed on him by the postal administration of Rennes were suspended and did not affect his employment in public service.

5.3 As to the claim of a violation of article 27, the Committee reiterates that France's "declaration" made in respect of this provision is tantamount to a reservation and therefore precludes the Committee from considering complaints against France alleging violations of article 27 of the Covenant³.

5.4 The author has also invoked article 2 of the Covenant. The Committee recalls that article 2 is a general undertaking by States parties and cannot be invoked, in isolation, by individuals under the Optional Protocol⁴. Since the author's claims relating to articles 19, 25 and 26 of the Covenant are inadmissible pursuant to article 2 of the Optional Protocol, it follows that the author cannot invoke a violation of article 2 of the Covenant.

6. The Human Rights 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 State party and the author of the communication.

[Done in English, French, Russian and Spanish, the English text being the original version].

Footnotes

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

*/ Made public by decision of the Human Rights Committee.

**/ An individual opinion by Mrs. Rosalyn Higgins is appended to the present document.

1/ Communication No. 327/1988, Views adopted at the Committee's 41st session, making a finding of no violation.

2/ Communication No. 348/1989 (G.B. v. France), also declared inadmissible on 1 November 1991.

3/ See communication No. 220/1987 (T.K. v. France), declared inadmissible on 8 November 1989, paragraph 8.6 and Appendices I and II (Annual Report 1990, A/45/40, Vol. II, Annex X.A).

4/ Communication No. 268/1987, **M.G.B. and S.P. v. Trinidad and Tobago**, declared inadmissible on 3 November 1989, paragraph 6.2.

Appendix

Individual opinion of Mrs. Rosalyn Higgins pursuant to rule 92, paragraph 3, of the Committee's rules of procedure concerning communication No. 347/1988 (S.G. v. France)

Taking the view already expressed in respect of communications Nos. 220/1987 (**T.K. v. France**) and 222/1987 (**H.K. v. France**)^a that the French "declaration" on article 27 is not properly to be interpreted as a reservation, I am unable to agree with the provisions of paragraph 5.3 of the decision, that the Committee is precluded from considering complaints against France alleging a violation of article 27 of the Covenant.

However, the facts of the case reveal to me no substantiation of a claim under article 27, and I therefore also reach the conclusion that there are no grounds for admissibility.

Rosalyn Higgins

a/ See Annual Report of the Human Rights Committee, Forty- fifth session (A/45/40), Vol. II, Annex X.A., Appendix II; Annex X.B., Appendix II.