

HUMAN RIGHTS COMMITTEE

Hruska v. Czech Republic

Communication No 1191/2003

30 October 2003

CCPR/C/79/D/1191/2003*

ADMISSIBILITY

Submitted by: Ms. Elizabeth Hruska (Not represented by counsel)

Alleged victim: The author

State party: Czech Republic

Date of communication: 31 March 2003 (initial submission)

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

Meeting on 30 October 2003

Adopts the following:

Decision on admissibility

1. The author of the communication is Elizabeth Hruska. She claims to be a victim of a violation by the Czech Republic of her rights under articles 2, 5, 18, 19, and 26 of the Covenant.¹ The author is not represented by counsel.

The facts as presented

2.1 On 3 March 2001, the State Social Security Administration, Prague Office, (Ceska sprava socialniho zabezpeceni Praha) issued a decision regarding the calculation of the author's disability benefits.

2.2 On 13 April 2001, the author appealed this decision in the Regional Court at Brno requesting

a review of the decision to the effect that it include an additional insurance period for purposes of calculating her disability benefits. The Regional Court at Brno, by judgment of 12 September 2002, upheld the decision of the Social Security Administration, considering the author's claim to be unreasonable.

2.3 The author appealed to the High Court at Olomouc on 24 October 2002, claiming that the decision of the Regional Court violated the ICCPR, the International Covenant on Economic, Social and Cultural Rights, and Article 95, para 1, of the Czech Constitution.

2.4 On 16 December 2002, the High Court halted the proceedings and informed the author that as a consequence of an amendment of the law and the resulting expiry of the Court's jurisdiction in the matter, the author would need to submit her appeal to the Supreme Administrative Court. The author was also informed that complainants before the Supreme Administrative Court are required to have a representative who is a lawyer or has at least higher legal education.

The complaint

3.1 The author claims a violation of articles 2, 5, 18, 19 and 26 of the Covenant, in that she is discriminated against on the basis of her lack of education in a Czech law school; she has no remedy against arbitrary decisions of the lower courts; she does not have the right to think on legal issues or develop her own legal ideas, conclusions or objections; she is denied the right to hold opinions without interference on any legal issue and the right to express her opinion in any court before any judge; and in that she does not have any law school education but wishes to act on her own behalf in civil cases.

Issues and proceedings before the Committee

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

4.2 The Committee recalls its jurisprudence to the effect that it does not consider that the requirement of legal representation before the highest national judicial instance is not based on objective and reasonable criteria.² The author has not advanced any arguments in support of her claim, beyond the mere assertion that this requirement was discriminatory. The Committee accordingly considers that she has not substantiated her claim, for purposes of admissibility.

5. Accordingly, the Committee decides:

- a) that the communication is inadmissible under article 2 of the Optional Protocol.
 - b) that the decision will be transmitted to the author and, for information, to the State party.
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[Adopted in English, French and Spanish, the English text being the original version. Subsequently to be issued also in Arabic, Chinese and Russian as part of the Committee's annual report to the General Assembly.]

* The following members of the Committee participated in the examination of the present communication: Mr. Abdelfattah Amor, Mr. Nisuke Ando, Mr. Prafullachandra Natwarlal Bhagwati, Mr. Alfredo Castillero Hoyos, Ms. Christine Chanet, Mr. Franco Depasquale, Mr. Maurice Glèlè Ahanhanzo, Mr. Walter Kälin, Mr. Ahmed Tawfik Khalil, Mr. Rajsoomer Lallah, Mr. Rafael Rivas Posada, Sir Nigel Rodley, Mr. Martin Scheinin, Mr. Hipólito Solari Yrigoyen, Ms. Ruth Wedgwood, Mr. Roman Wieruszewski and Mr. Maxwell Yalden.

Notes

1. The Covenant and the Optional Protocol entered into force in respect of Czechoslovakia on 23 March 1976 and 12 June 1991, respectively. On 22 February 1993 the Czech Republic deposited an instrument of succession, related to both treaties.

2. See decision on case no. 866/1999, decision of 31 August 2001, Marina Torregrosa Lafuente et al. v. Spain, para. 6.3.